

IN THE COURT OF DISTRICT & ADDL. SESSIONS JUDGE-IX, GAYA

Criminal Revision No. 110/2025 (S.J.)

Arising out of Wazirganj P.S. Case No. 539/2025

Aas Mohammad Vs The State of Bihar & Others

Present :- AJIT KUMAR SINGH

District & Additional Sessions Judge-IX, Gaya

VOICING FOR VOICELESS

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Arising out of Wazirganj P.S. Case No. 539/2025

U/s 317(5) r/w 3(5) of B.N.S. & Section 11(1)(a), 11(1)(d), 11(1)(e), 11(1)(f) of Protection of Animal Cruelty Act, 1960

1. Aas Mohammad, S/o Meharban,
R/o Village – Baghpat, P.S. - Baghpat, District – Baghpat.

Versus

- 1. The State of Bihar**
- 2. Vrushabhanath Foundation Charitable Trust,
Khajwati Math, Bodh-Gaya, Gaya**

Learned Advocate for :- 1. Sri Vikash Kumar
Revisionist 2. Md. Qaiser Sarfuddin

Learned Advocate for State :- 1. Sri. Kumar Vishwaranjan,
2. Learned D.P.O.

Learned Advocate for Opposite Party No.:-

1. **Miss. Neha Kumari**
2. **Sri. Shashank Dhar Shekhar**

Present :- AJIT KUMAR SINGH
District & Additional Sessions Judge-IX, Gaya

ORDER

09.12.2025

PURPOSE FOR FILING THIS CRIMINAL REVISION

1. This Criminal Revision has been filed on behalf of the Revisionist Aas Mohammad for release of Cattle seized in connection with Wazirganj P.S. Case No. 539/2025 which were seized on 11-08-2025 and pursuant to seizure cattle were handed

over to Vrishabhnath Foundation, Bodhgaya.

IMPUGNED ORDER

2. In the instant case the Learned Counsel for the Revisionist **Md. Qaiser Sarfuddin** has assailed the order dated 16-09-2025 passed by Learned Judicial Magistrate First Class Sri Ajay Kumar, which is reproduced below for better understanding of the issues involved and to have the better idea about the facts of the case, points raised by respective sides before the Learned Court below and the grounds on which the Learned Court has been pleased to pass the impugned order.

“16-09-2025 The case record is put up for passing order after hearing both sides on petition dated 26.08.2025 filed on behalf of the petitioner namely Aas Mohammad for release of seized cattle. It has been submitted on behalf of the petitioner is that the petitioner is a Bonafide owner of the seized buffaloes- 47 & Para- 21, total number of cattle 68.

A report was called for on petition dated 26.08.2025 from the I.O. of this case. The I.O., has submitted his report dated 10.09.2025 along with report of the secretary of Vrishabhnath Foundation Charitable Trust Gaushala, Khajwati Math, Bodhgaya.

The I.O. in his report has reported that if the owner of the cattle pays the expenses of maintenance of the cattle, then he has no objection in releasing the seized cattle.

However, the secretary of said. Gaushala has reported

that all the said cattle was lawfully handed over to him on 14.08.2025 under the provision of Prevention of Cruelty to animal Act, under rule 3(b) of prevention of cruelty to animals (Care and Maintenance of Case Property Animals) Rules, 2017 & Transport of Animals Rule 1978.

He has further reported that all the cattle were loaded into a single double-deck vehicle and were tied their tail and hung from the ceiling. The cattle on the upper floor were brutally tied with plastic ropes, causing many to have their tails and legs injured. It is further reported that this is first time cattle tied in such a brutal manner have been handed over to the Gaushala. It is further reported that while being unloaded from the vehicle, two buffaloes were breathing their last and approximately 20 were unable to stand. Two buffaloes did not survive even after treatment.

It is submitted by the learned counsel for the petitioner that petitioner is Bonafide owner of the above-mentioned cattle (buffaloes- 47 and para-21= total 68), which has been seized by Wazirganj Police Station on 14.08.2025 and since that the above mentioned 68 cattle have been lying at Vrisbhnnath Foundation, Khajwati, Bodhgaya. It is further submitted that no any release petition of said 68 cattle ever been filed before this court or any superior court. The petitioner has already been granted regular bail on 25.08.2025. It is further submitted that all said cattle have been purchased from Hatt Reti Mela, Ramna Sherghati, Dist-Gaya by the petitioner. The petitioner is ready to

furnish surety of amount of said cattle to the satisfaction of the court. It is, lastly prayed on behalf of the petitioner to release the said cattle in favour of the petitioner.

Learned A.PO and learned counsel for the Gaushala vehemently opposed this release petition and submitted that the cattle may not be released in favour of the petitioner during the pendency of the case.

Heard learned counsel for the petitioner, learned A.PO. and learned counsel for the Gaushala and perused the documents filed on record. From perusal of case record, it transpires that the FIR has been registered u/s 317(5), 3(5) of BNS & 11(1)(a), 11(1)(d), 11(1)(e) & 11(1)(f) of Prohibition of Animal Cruelty Act against four accused persons.

The prosecution story in brief as per written report of informant is that while the informant was on evening patrolling with armed forces, villagers of Kenarchatti informed him that a container truck has been stopped in which a large number of cattle have been brutally loaded and the villagers are creating ruckus. When Patrolling team reached to the spot, they found that 47 buffaloes and 21 Para crammed into a cargo container bearing registration No. BR02GC-8666 in inhumane condition. All 68 cattle were found cruelly loaded on top of each other and mouth and tail of some buffaloes were found tied.

A perusal of report of the secretary of Goshala revealed that the cattle were brutally crammed into the vehicle and

two cattle died after handing over the custody to Goshala.

On perusal of record, it is evident that after seizure of the 68 cattle, the custody of the cattle has been handed over to Vrishabhnath Foundation Charitable Trust Gaushala, Khajwati Math, Bodhgaya, Gaya. It is come on record that, after handing over custody, two cattle have died.

It also transpires that the petitioner has violated the provisions of Prevention of Cruelty to Animals Act, 1960 and inhumane treatment meted out to the cattle, by transporting the cattle in a goods vehicle. The petitioner has not complied with Rule 56 of the Transport of Animals Rules, 1978. Hence. I am not inclined to release the seized cattle in favour of the petitioner. Accordingly, the petition dated 26.08.2025 for release of the cattle is dismissed.

GROUND TAKEN BY REVISIONIST

3. Learned Counsel for the Revisionist **Md. Qaiser Sarfuddin** has assailed the order in this Revision primarily on the grounds that:-

- a. The Revisionist is valid owner of the Cattle.
- b. The Investigating Officer has not expressed any objection in Release of Cattle in favour of Revisionist after payment of 2,45,625/- (Two Lakhs Fourty Five Thousands Six Hundred Twenty Five) in favour of Vrishabhnath Foundation, Khajwati, Bodhgaya, Gaya hereinafter referred to as Foundation which it incurred in keeping the Cattle in its

Gaushala.

- c. The Learned Magistrate has not considered the reports of Police.
- d. That this is the first offence of Revisionist and that this is a police case and said cattle was handed over to said Foundation to maintain and take care as caretaker and the Foundation has no right and title over the Cattle whereby it actively resisted the release of Cattle before the Learned Court below.
- e. The Learned Counsel further submits that the Foundation has no locus to resist the release of cattle and it has been impleaded as Opposite Party No. 2 by the Revisionist simply because the cattle seized in this case are lying in its possession.
- f. It has been further submitted that the Foundation has no adequate infrastructure and Investigating Officer has handed over the cattle to such private Foundation and not any Government Body as Investigating Officer and Foundation are in collusion with each other.
- g. It has been submitted that Foundation is not working for charitable purpose and Revisionist had not purchased the cattle for purpose of slaughtering as such.

In the light of such submissions the Learned Counsel for the Revisionist prays for setting aside impugned order dated 16-09-2025 and direct the Learned Court below to release the

seized cattle in its favour as the Revisionist is the actual owner of cattle and he has duly purchased cattle from Sherghati Cattle Market which has been supported by investigating officer as well.

**GROUND TAKEN BY LEARNED D.P.O AND THE
LEARNED COUNSEL FOR FOUNDATION**

4. The Learned D.P.O. **Sri. Kumar Vishwaranjan** submits that the impugned order passed by Learned Court below does not require any interference.

The Learned Counsel for Foundation **Sri. Shashank Dhar Shekhar** has relied on THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 in general and Section 8 of said Rules in particular which prohibits the release of Cattle in favour of owner pending trial and it mandates devolution of ownership of Cattle at conclusion of trial which is enumerated in Section 8 which reads as:-

Status of animal upon disposal of litigation- (1) If the accused is convicted, or pleads guilty, the magistrate shall deprive him of the ownership of animal and forfeit the seized animal to the infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala already having custody for proper adoption or other disposition.

(2) If the accused is found not guilty of all charges the seized animal shall be returned to the accused or owner of the animal and the unused portion of any bond amount executed shall be returned to the person who executed the bond.

**ORDER WITH RESPECT TO PRAYER OF RELEASE OF
CATTLE**

5. Therefore after hearing both sides and grounds so taken by them, it can be safely concluded, instead of going into details of the argument advanced by Learned Counsel for the Revisionist that since the **legislature has clearly barred** the release of cattle pending trial and therefore the cattle can not be allowed to be released in favour of Revisionist pending trial. It can only be released in favour of accused, if he is found not guilty of all charges as per Section 8(2) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017.

6. Though the Learned Court below in impugned order dated 16-09-2025 has in addition to accused having violated the provisions of Prevention of Cruelty to Animals Act 1960 in which case has been registered by the police has further relied on Rule 56 of the Transport of Animal Rules, 1978 in which this case has not been registered and held it to be a ground for not releasing the cattle is not legally tenable.

Section 3 of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, says **when an animal has been seized under the provision of the Act or the rules made thereunder** that bars the release of cattle pending trial as per Section 8 dealt above.

In the instant case the animal have been seized under provisions of the Act which according to Section 2(a) of THE PREVENTION

OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 means The Prevention of Cruelty to Animal Act 1960, under provisions of which this case has been registered and cattle have been seized and as this case has not been registered under Section 56 of Transport of Animal Rules 1978, so the cattle cannot be said to have been seized under the provision of the Act as enumerated in the opening line of section 3 of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 as discussed above.

Therefore except that part of the order with respect to violation of **Section 56 of Transport of Animal Rules 1978** the order of Learned Court below dated 16-09-2025 does not require any interference.

7. Since there is clear legislative bar in release of cattle in favour of owner pending trial therefore any decision with respect to disposition of cattle can be done only after conclusion of trial.

INTERRELATED ISSUES AND CONCERNS WHICH HAVE COME TO FORE DURING HEARING OF THIS MATTER WITH RESPECT TO CONCERNS OF CATTLE BEING IGNORED AND RULES BEING BYPASSED BY THE STAKEHOLDERS UNDER THE ACT.

8. During course of hearing while such legal provisions were raised and discussed in the Court the Learned Counsel for the Revisionist **Md. Qaiser Sarfuddin** has submitted that the Foundation is not taking custody of cattle in such cases for

charitable purpose rather it has its own vested interest to take custody of cattle seized in such cases and the Foundation is more interested in resisting the release of cattle before each forums while citing THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 so that cattle may be ultimately forfeited in its favour as per Section 8(1).

The Learned Counsel has submitted that the Foundation is **unjustly enriched** in this process and the Investigating Officers in cases of such nature are straight away handing over the cattle seized in such cases to such Gaushala having no charitable purpose that too without obtaining the permission of the Court and without exploring the possibility of handing over cattle to Government Run Gaushala so that in the event of final disposal if accused is convicted the cattle can be forfeited in the favour of Government and the cattle may be given in adoption by the Government in fair and transparent manner which are not being done by the private Gaushala. Such forfeiture in favour of private Gaushala is also causing loss to the Government.

9. The Learned Counsel further submitted that as a matter of fact the Foundation has not adequate infrastructure and proper place for keeping the cattle and few more cattle have already died. In support of his claim the Learned Counsel had shown a video in the Court wherein the cattle are seen tied under open sky and they being lodged in muddy patches and therefore a report was called for from Foundation on last date.

10. In the instant case, a report was therefore earlier called for

on 06-12-2025 by this Court from Foundation with respect to the status of cattle as to how many cattle are still surviving in this case which have been seized and if cattle have died then whether postmortem has been done or not ?

11. In this connection, learned counsel appearing on behalf of Foundation **Sri. Shashank Dhar Shekhar** has filed a petition stating therein that out of 68 cattle seized in this case, 66 are still surviving. He has further submitted that because of paucity of space, the seized cattle have been shifted to another unit of the same foundation situated in Banka District which is at the distance of around 250 kms from Bodhgaya where cattle were initially housed. The Learned Counsel has submitted that postmortem of dead cattle was not done.

The learned counsel for Foundation has also submitted the photographs of buffaloes seized in this case in which the geographical location and date and time is also mentioned showing the cattle to be in Banka District.

12. The investigating officer of this case is present in the court. On being asked that whether he has information about such shifting of cattle from Bodhgaya to Banka, he has stated that he was not informed.

13. That being position this Court cannot ignore such serious lapses on the part of stakeholders under THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017.

14. This court had also on earlier dates during course of hearing

of this Revision expressed its concern with respect to **selective compliance** of provisions of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 and non-compliance of provision contained in Rule 3 which are actually meant for purpose of protecting health concerns, identity concerns of the seized cattle during its custody pending litigation.

15. THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 have been made in exercise of the powers conferred by sub-sections (1) and (2) of section 33 of The Prevention of Cruelty to Animal Act 1960, and obviously to further its **object**.

The object of THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960 as enumerated in the Act is:-

“ An Act to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the Law relating to the prevention of cruelty to animals”

16. Therefore both The Prevention of Cruelty to Animal Act 1960, and THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 have been enacted **for prevention of the infliction of unnecessary pain or suffering on animals**.

However in practice it seems that this very object is being not only ignored but it is sadly flagrantly violated by the protectors of this Act and other stakeholders who have been entrusted with the noble duty of **prevention of the infliction of unnecessary**

pain or suffering on animals.

17. This Court has observed that not only in this case but almost in all cases of such nature Section 3 of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 is not being observed by the stakeholders in right perspective.

18. This Court would here like to discuss Rule 3 and relevant Rules of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 which are obviously enacted by legislature for **prevention of the infliction of unnecessary pain or suffering on animals** with a view to alleviate the pain and sufferings of Animals by ensuring its implementation in right perspective.

19. This Court in that process would try to draw distinction between what is provided as per Rule and what is implemented in practice which this Court has observed in this case as well.

20. Section 3 is the most important rule for welfare of seized cattle which reads as:-

“Custody of animals pending litigation.- When an animal has been seized under the provision of the Act or the Rules made thereunder-

(a) the authority seizing the animal shall ensure health inspection, identification and marking such animal, through the jurisdictional veterinary officer deployed at Government

Veterinary Hospital of the area and marking may be done by ear tagging or by chipping or by any less irksome advance technology but marking by hot branding, cold branding and other injurious marking shall be prohibited;

(b) the magistrate may direct the animal to be housed at an infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala during the pendency of the litigation.”

21. Therefore this Rule is most important in the sense that it provides for **health inspection** of seized cattle and for ear tagging or chipping of cattle by less irksome method for protecting health concerns and identification concerns of cattle, so that the cattle may be identified with adequate certainty at the time of deciding its ownership at conclusion of trial as per Section 8 as discussed above.

This exercise has to be done in mandatory manner before housing the cattle to any infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala during the pendency of the litigation.”

As cattle of different cases are housed in same Foundation or Gaushala, the health inspection by veterinary Doctor and ear tagging as per Section 3(a) assumes significance for preventing other cattle from getting infected by any disease in case any such seized cattle is suffering from such contagious disease which are most common in cattle and for the purpose of identification with certainty before housing the cattle in any infirmary, pinjrapole, SPCA or Gaushala during pendency of the litigation as per Section

3(b).

22. In this case the Investigating Officer is present in the Court and he has denied to have ensured the compliance of Section 3 and he has not ensured health inspection of cattle and ear tagging or chipping of cattle before handing over cattle to Foundation.

23. There is one more serious lapse which has been noted by this Court in terms of handing over the custody of the seized animals.

Section 3(b) envisages that **it is the Learned Magistrate who has to direct the housing of animal either at an infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala during pendency of the litigation.** However in such cases the custody of cattle are straight away handed over by the investigating agency to any such agency, Gaushala or Foundation as in this case without even ascertaining this fact that such agency has even adequate infrastructure to house such cattle or not which is obviously there in this case because due to paucity of space seized cattle have been shifted to Banka by the Foundation.

In this case the cattle were straight away handed over to Foundation without taking prior permission of the Court which is obviously required to be checked in such cases by Learned Trial Court.

In this case if the accused, arrested were produced before the Court within 24 hours by the Investigating Officer then this Court fails to understand as to what prevented the investigating officer from seeking direction of the Court and letting the Court decided

as per Section 3(b) with respect to housing of seized animals pending litigation and instead of that he himself chose to hand over seized cattle in favour of Foundation for the reason best known to him in contravention with mandate contained in Section 3(b).

24. Thus neither health inspection of seized cattle were done nor ear tagging were done nor the direction of magistrate was taken with respect to housing of seized cattle in this case which requires to be done in such cases. There cannot be **selective compliance** of the certain provisions of Act while ignoring the vital part of the Act which are meant for ensuring health concerns and welfare of seized animals.

25. When the Learned Counsel for the Foundation **Sri. Shashank Dhar Shekhar** has been asked that if he is so conversant with the **THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017** and he has so thorough idea about Section 8(1) on basis of which he has resisted release of cattle then why did the Foundation he represents receive cattle without health inspection and ear tagging or chipping as per Rule 3 which are meant for welfare of cattle then he has replied in writing today that this rule was not supposed to be observed and implemented by him and the seizing authority should have done it.

This Court when further asked that whether the Foundation had sought prior permission of Court before shifting of cattle from Bodhgaya to Banka which obviously involves painful process and adds to **infliction of unnecessary pain or suffering on**

animals which is against the object of the Act, in that regard it has been answered that he has informed the investigating officer and Court however the investigating officer who is present in the Court denies to have any such information.

26. This is a very shocking and serious state of affair wherein the Gaushala or private agencies which are given the custody of cattle pending litigation are more concerned and selective in terms of resisting seizure so that in the case of accused convicted or pleads guilty the seized animals may be forfeited in favour of such Gaushala already having custody for proper adoption or disposition which is mandated by Section 8(1) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017.

27. It is hereby made clear that the intention of legislature in enacting such Rule is to ensure welfare of seized animals pending litigation and even after litigation is over and seized animal are forfeited in favour of any such Gaushala the same is forfeited for **proper adoption or other disposition** as enumerated in Section 8(1).

It does not confer any ownership right in favour of such Gaushala or Organization as such.

The legislature has clearly summed up in Section 9(8) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 that "**The person adopting the animal shall only be the**

lawful guardian of the animal and shall not have any rights bestowed generally to an owner of the animal, but shall have the duty to take all responsible measures to ensure the well being of such animal and to prevent infliction upon such animal of unnecessary pain or suffering.”

Therefore no any ownership right has been intended to conferred to any agency be it Gaushala, pinjrapole, SPCA etc. pending litigation and even the one who takes the cattle in adoption after conclusion of trial in case of conviction and it is the responsibility which has been cast by the legislature as is clearly reflected from bare perusal of Section 9(8).

28. The legislature has made arrangement right from health inspection and ear tagging of seized cattle provided in Section 3 to adoption and disposition of cattle provided in Section 9. The mandates therefore provided under any of the sections cannot be bypassed by going for a selective compliance of the provisions by any of the stakeholders.

The animal welfare centric approach of legislature is further reflected from Section 9(5) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 wherein it has been enumerated that

Section 9(5) The person adopting the animal shall-

- a. Not sell the animal;
- b. Not abandon the animal;

- c. Follow the State cattle protection and preservation law;
- d. Not sacrifice the animal for any religious purpose;
- e. Not sell the cattle to a person outside the State without permission as per the State cattle protection and preservation law.

29. It is pertinent to mention here that Section 9(6) mandates that where a cattle or a draught and pack animal has been adopted, before its removal from the premises of the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, **the proof of adoption shall be issued in five copies**, out of which first copy shall be handed over to person adopting the animal, second copy to infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, as the case may be, third copy to tehsil office of the residence of person adopting the animal, fourth copy to the Chief Veterinary Officer, Office of District of person adopting the animal and **last copy shall be sent to the court to be filed in the case file.**

30. Therefore the legislature has made full proof arrangement to ensure adoption and care of animal even after conclusion of trial and in event of seized animal given in adoption **the proof of such adoption carried out by such Gaushala** in whose favour seized animals are forfeited u/s 8(1) is supposed to be given to the trial Court which should be filed in the Case file of Trial Court.

31. The Learned Counsel for Foundation has been asked that whether the Foundation is having adequate infrastructure and whether cattle are being kept and cared and whether the adoption

or other disposition is carried out by it which is enumerated in Section 9 after litigation is over and seized animals are forfeited in favour of foundation by Court are put to adoption to which he has answered in affirmative and he has even agreed for an inquiry which may be done by the Court through Learned D.P.O while forming a committee.

32. Now therefore it remains to be seen that in how many cases the Foundation has carried out such exercise and followed the legislative mandate for which this Court will obviously pass a separate order for inquiry as agreed by the Foundation.

This is particularly required to be done as the legislature in Section 9(2) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 has mandated that where the animal has been forfeited to the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala after conviction, abandonment or voluntary relinquishment, as the case may be, the animal **shall be put up for adoption.**

So the expression “**shall**” used in Section 9(2) makes it mandatory for any agency in whose custody cattle are given pending trial and forfeited after trial in the event of conviction that they “**shall**” **put up the animal for adoption.**

**CLAIM OF FOUNDATION WITH RESPECT TO IT BEING
CHARITABLE AND DISCUSSION ABOUT ITS LOCUS
STANDI BEFORE JUDICIAL FORUMS**

33. The Learned Counsel for the Foundation **Sri. Shashank Dhar Shekhar** however in order to prove bonafide of his Foundation in this case has submitted very emphatically that his Foundation works purely for charitable purpose and he is not going to claim any amount so incurred in the process of maintenance and transportation of animals as provided under Section 5(2). It has been submitted that cattle were transported to Banka for proper upkeep and care and his organization is not going to claim any amount which is going to be incurred throughout the process of trial in this case and he has emphatically requested for incorporating his submission which he has been authorized to make on behalf of organization is therefore being recorded.

34. **Section 5 talks about Execution of bond and Section 5(2) reads as**

“The infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala having the custody of the animal **may draw** on from the bond on a fortnightly basis the actual reasonable cost incurred in caring for the animal from the date it received custody till the date of final disposal of the animal.”

35. Therefore as it is optional for the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala having the custody of the animal that they **may draw** actual reasonable cost incurred in caring for the animal from the date it received custody till the date of final disposal of the animal and as the Foundation in order to prove its bonafide is voluntarily relinquishing its claim of cost incurred in caring for animal till the date of final disposal of animals so as this course of action is permissible as per Section

5(2) therefore the Revisionist shall have not to pay any amount incurred in caring for the animal from the date of receipt of animal by Foundation till final disposal of the animal.

36. Though there have been latches on the part of Foundation in shifting of animal without permission and in a way adding to their sufferings and receiving animals without adequate infrastructure however this noble gesture of Foundation goes on to highlight its charitable orientation and therefore this Court while impressing upon Foundation not to do such act in future is closing this issue here.

37. During course of hearing the Learned Counsel for Revisionist **Md. Qaiser Sarfuddin** has vehemently disputed the Locus Standi of Foundation or any private intermediary who are given custody of seized cattle pending litigation. He has stated that he has impleaded the Foundation as Opposite Party No. 2 out of compulsion as to claim the custody of seized cattle which are lying with the Foundation. It has been submitted that the Courts give unnecessary indulgence to such Foundation or Gaushala and they are heard as necessary party before all forums despite having no Locus Standi.

38. This Court is though not disputing the Locus of Such agencies altogether and does not wish to adjudicate this issue when the Revisionist himself has impleaded Foundation as Opposite Party No. 2. However from perusal of impugned order it appears that Foundation has vehemently objected the release of cattle before Learned Magistrate but it did not assist Learned Magistrate in the process of ensuring compliance of provisions

contained in Section 3(a) & 3(b) i.e. ensuring health inspection of cattle and its ear tagging and ensuring custody of cattle to be handed over by the Learned Magistrate and it instead received cattle straight away from investigation officer in contravention of Section 3(b). If the purpose of such Gaushala and Foundation are truly charitable then it should be reflected in their submissions made before Court. Instead of resisting the release of cattle and confining their whole energy for said purpose such Foundations or Gaushala appearing before the Courts should be more focused on helping in the process of health inspection of cattle, ear tagging, proper care of cattle pending litigation and adoption of the cattle post litigation.

**CUSTODY OF ANIMAL PENDING LITIGATION WHY NOT
TO GOVERNMENT RUN GAUSHALA**

39. During course of hearing while such legal provisions were cited and discussed in the Court the Learned Counsel for the Revisionist has submitted that the Foundation is not taking custody of cattle in such cases for charitable purpose rather it has its own vested interest to take custody of cattle seized in such cases and the Foundation is more interested in resisting the release of cattle before each forums while citing THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 so that cattle may be ultimately forfeited in its favour as per Section 8(1).

40. The Learned Counsel has also submitted that the Foundation is **unjustly enriched** in this process and the

Investigating Officers in cases of such nature are straight away handing over the cattle seized in such cases to such Gaushala having no charitable purpose that too without obtaining the permission of the Court and without exploring the possibility of handing over cattle to Government Run Gaushala so that in the event of final disposal if accused is convicted the cattle can be forfeited in the favour of Government and the cattle may be given in adoption by the Government in fair and transparent manner which are not being done by the Gaushala. Such forfeiture in favour of private Gaushala is also causing loss to the Government.

41. The concern so expressed by Learned Counsel for the Revisionist is not completely out of place.

42. During course of hearing it has been asked by this Court from the Learned A.P.P as to what standards are adopted by the investigating agency in handing over the cattle to any Gaushala and why not possibility is explored at first instance to hand over seized cattle to any government organization, SCPA, or any Gaushala in control of Government as by virtue of Rule 8(1) in the event of conviction or pleading guilty the animals are forfeited in favour of Gaushala already having custody for proper adoption or other disposition.

43. Here it is relevant to discuss **Section 29(1) of The Prevention of Cruelty to Animal Act 1960** which talks about :-

29(1) Power of Court to deprive person convicted of ownership of animal- If the owner of any animal is found guilty of any offence under this Act, the Court, upon his conviction

thereof, may, if it thinks fit, in addition to any other punishment, make an order that the animal with respect to which the offence was committed **shall be forfeited to Government** and may, further, make such order as to the disposal of the animal as it thinks fit under the circumstances.

44. Therefore the legislature has intended in the parent Act i.e., **The Prevention of Cruelty to Animal Act 1960** that pursuant to conviction the forfeiture of animal has to be made in favour of Government.

However Rule 8 of **THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017** does not make such arrangement and it does not give primacy to Government as such however it has still given option for housing of animal pending litigation in Section 3(b) to an infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala during the pendency of the litigation and therefore SPCA which stands for society for Prevention of Cruelty to Animal is to greater extent controlled by Government should be given primacy for giving custody of animal pending litigation by Court as per the intent of legislature as expressed in Section 29(1) of the parent Act i.e, The Prevention of Cruelty to Animal Act, 1960 as discussed above.

45. Here it is relevant to be discussed that **THE PREVENTION OF CRUELTY TO ANIMALS (ESTABLISHMENT AND REGULATION OF SOCIETIES FOR PREVENTION OF CRUELTY TO ANIMALS) RULES 2001** mandates in Section 3(1) that every State Government shall establish a society for

every district in the State to be SPCA in that District and Section 3(2) mandates that the managing committee of the society shall be appointed by the State Government or the Local Authority of the District primarily.

Therefore SPCA having Government control over it should be preferred in such cases.

46. Cattle if forfeited in favour of Government or such SPCA as per Section 8(1) pursuant to conviction will be more appropriate agency not only for care and maintenance of cattle pending litigation but it will be also more reliable for ensuring proper and fair process of adoption and other disposition envisaged in Rule 9(2) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 which reads **where the animal has been forfeited to the infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala after conviction, abandonment or voluntary relinquishment, as the case may be, the animal shall be put up for adoption.**

INFRASTRUCTURAL CONSTRAINTS ARE BIGGEST STUMBLING BLOCK IN PROPER IMPLEMENTATION OF ACT

47. It has been though submitted by Learned A.P.P that perhaps such SPCA are not constituted.

48. The Learned P.P. apprised that there is dearth of Government Gaushala and Gaushala having control of Government and therefore the Private Charitable Trusts are given

custody of cattle in such cases and he further expresses concern that in the event of forfeiture post conviction it is obviously causing loss to Government and it has the effect of unjust enrichment for private Gaushala if they do not follow the process of adoption or disposition provided in Section 9 as there is no any follow up exercise which is being taken up by the convicting Courts in such cases.

49. Infrastructural constraints are obviously an area of concern but if such legislation has been enacted with the noble idea to protect the cattle then implementation part has to be strengthened.

50. This Court does not wish to make any comment about the infrastructural constraints leading to suffering of animals which are intended to be protected by the Acts and Rules discussed above which are kind of animal welfare legislation.

51. This Court here would discuss the **Section 3(2) of The Bihar Goshala Regulations 1954** which are made in wake of **Bihar Goshala Act, 1950** and said Section says that The **Sub-divisional Officer** within the local limitation of whose jurisdiction a Goshala is situated shall be the Ex-officio president of Goshala. Therefore there are means of control which are provided through legislations which can be invoked for proper implementation of the Act by the State.

52. The Court can not choose to remain as mute spectator particularly when the matter relates with proper implementation of Act which pertains to animals which are voiceless. Somebody

has to voice their concerns and take measures to alleviate their sufferings that too when agencies entrusted with their protection are failing in their duty.

**TIME FRAME FOR INVESTIGATION AND TRIAL OF
SUCH CASES**

53. Now the Question arises as to how long an investigation or trial can be allowed to be carried out in the case of such nature which envisages **fine only as punishment in first offence** and the investigating officer has declared the cattle having been validly purchased in this case by Revisionist and cattle being not stolen property so obviously Section 317(5) of B.N.S. can not be invoked in this case as per the report of investigating agency.

54. In the instant case in which apart from Section 317(5) of B.N.S. which is not applicable as per report of investigating officer, the case is registered under section 11(1) (a), 11(1) (d), 11(1) (e), and 11(1) (f), of Prevention of Cruelty to Animal Act, 1960 for which the punishment is prescribed Under Section 11 in case of first offence with fine which shall not be less than Ten Rupees but which may extend to Fifty Rupees and in the case of a second or subsequent offence committed within three years of previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

So the legislature has kept the quantum of punishment to be very less and therefore it assumes significance as to how long an

investigation or trial can be allowed to be carried out in the case of such nature.

55. This question assumes more significance when final decision with respect to custody of cattle seized can be done by Learned Trial Court only after conclusion of trial because-

As per Rule 8(1):- If the accused is convicted, or pleads guilty, the magistrate shall deprive him of the ownership of animal and forfeit the seized animal to the infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala already having custody for proper adoption or other disposition.

Whereas as per Rule 8(2):- If the accused is found not guilty of all charges the seized animal shall be returned to the accused or owner of the animal and the unused portion of any bond amount executed shall be returned to the person who executed the bond.

56. There seems to be though a legislative gap with respect to fixing a time frame for investigation and trial of such cases which are obviously supposed to be done expeditiously particularly keeping in view the concern of seized cattle which cannot be released pending trial and the **recurring cost which is incurred by owner/accused** in caring and transporting the cattle during trial.

57. Moreover the fate of cattle in terms of its ownership or custody hang in balance till conclusion of trial and in this period they are completely owner-less. They are dependent for their upkeep on accused who may execute a bond under rule 4 and 5 of **THE PREVENTION OF CRUELTY TO ANIMALS (CARE**

AND MAINTENANCE OF CASE PROPERTY ANIMALS)

RULES, 2017 and who may possibly flee away after one point of time from fear of depositing recurring cost in care and keeping of animal pending litigation if the litigation stretches for too long.

58. In this case itself which case was lodged on 14-08-2025 and the investigating officer who is present in the Court submits that the matter is still being investigated and the charge sheet has not been submitted as he has not got the required permission from the supervising authority as of now.

59. The Foundation has to also claimed to have spent more than 10 lakhs in care and keeping of seized cattle though it has voluntarily relinquished to claim such amount. So if the litigation would further stretch for considerable period of time in that event the worst sufferer would obviously be seized animals.

60. Though legislature has not come up with exact time frame for disposal of such cases prescribing fine of small amount but it can be inferred from **processes involved in care and keeping of animal pending litigation, recurrent cost in keeping cattle pending litigation, decision with respect to their ownership or custody only can be done by the Trial Court after conclusion of trial and the right of accused to be presumed to be innocent unless proved guilty and his right to have fair and speedy trial in such case wherein he is under continued obligation for making payment for keeping and maintaining cattle throughout the pendency of the litigation and his right to get back seized cattle in the event of he being found not guilty**, therefore a small time

frame is not only desirable for conclusion of investigation and trial in cases of such nature but that is necessary as well keeping in view the concern and welfare of cattle seized in such cases at centrestage.

61. Moreover as per Section 5(4) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 the vehicle involved in offence is also to be held as security so this also occasions for speedy disposal of such cases for preventing loss incurred by holding of such vehicle as surety.

62. The Legislature has though prohibited the release of cattle during pendency of litigation but it has not intended the cattle to be kept with either of the agency for perpetuity.

If the animal seized in such cases can be released or put to adoption only after conclusion of trial and if the trial is not ensured in short and swift time frame then the possibility of seized cattle dying in large number can not be ruled out. And in this way the very object of legislation would stand frustrated as the all legislation dealt above aims at protecting the animal and such legislation are enacted for welfare of animal.

63. Such situation would directly frustrate the very object of THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960 which **intends to prevent the infliction of unnecessary pain or suffering on animals.**

Such stretched investigation for about four months like that in this case and prolonged trial if carried out would have rather

the effect of **infliction of unnecessary pain or suffering on animals** and it would frustrate the object of legislation.

64. Accused who is a human being for whom speedy trial and investigation are warranted in such cases may voice his concerns either himself or through his Learned Counsel. He may choose to face trial or abandon seized cattle, he may choose to flee or he may choose to fight but what about voiceless cattle whose fate hang in balance till the final adjudication of case ?

In the whole scheme of things it is the concern of these voiceless for which a small time frame is required to be fixed for investigation and trial of such cases and ensuring the same at the shortest possible time interval.

63. The Legislature might not have come up with a time frame for the disposal of cases of such nature, but it is logical to comprehend that in such cases which involves breach of Section 11 of Animal Cruelty Act which provides for maximum punishment of Rupees 50, the trial, or for that matter investigation, cannot be allowed to be done in perpetuity or for longer period of time.

64. Therefore, this Court does not see any reason as to why not a time frame should be fixed in such cases for the purpose of conclusion of trial, so that cattle obviously may not be kept in perpetuity with some intermediary, and also that the right of accused to get speedy trial and fair trial in such matters may not be denied and in the case of conviction cattle are put to adoption expeditiously and in case of acquittal it may be restored to its owner.

64. Under the given circumstances this Court obviously cannot order for release of cattle in favour of Revisionist is hereby dismissing this Revision application obviously with observation made in this order with a direction to the Learned Court below to conclude the whole process of trial within a period of **ONE MONTH** from the date of receipt of this order.

65. The Learned A.P.P is expected to apprise this fact to investigating agency who have not yet completed the investigation despite after about four months of the institution of this case that too when animal seized have not found to be stolen property and Section 317(5) is obviously not applicable in this case.

**MEASURES TO BE TAKEN FOR ENSURING EFFECTIVE
IMPLEMENTATION OF THE ACT BY THE
STAKEHOLDERS**

66. This Court here would like to **sum up the points and measures** it has dealt in this order for the stakeholders:-

a. The health of animal seized are to be inspected by Veterinary Officer and marking of animal by ear tagging or by chipping should be ensured in every case of such nature by the investigating officer/police/seizing authority. (Section 3(a))

b. The seizing authority should refrain from giving the animal to any agency for housing and it is the Magistrate who may direct the animal to be housed. (Section 3(b))

c. Execution of bond provided in Section 5 must be followed.

d. The investigation and trial in such cases must be done as

expeditiously as possible keeping in view concern of seized cattle at centrestage and recurring cost involved in keeping the cattle pending litigation.

e. The cattle seized if forfeited in favour of Gaushala, pinjrapole, SCPA, etc. the cattle shall be put to adoption and a copy of proof of adoption must be sent to Convicting Court to be filed in case file. (Section 9(6))

f. The possibility should be explored to give the custody of cattle pending litigation to Government Agency and Government Run Agency at first instance as intended by Parent Act i.e. The Prevention of Cruelty of Animal Act.

**INQUIRY TO BE CONDUCTED WHICH HAS ALSO BEEN
VOLUNTEERED BY THE FOUNDATION**

67. This Court **while wrapping up this order is not wrapping up this matter** for the purpose of ascertaining these facts to ascertain that whether the welfare of seized animal are being protected and the object of the THE PREVENTION OF CRUELTY TO ANIMAL ACT, 1960 is furthered or not and the voice of voiceless in that process is heeded or not. This Court has come across serious lapses on the part of stakeholders which are detrimental to the welfare of seized cattle which legislature seeks to protect.

68. Moreover, in the light of submissions of the Learned Counsel for Opposite Party No. 2 wherein he has consented for the same and this Court in para 31 & 32 of this order has mentioned the same which is reproduced below:-

“31. The Learned Counsel for Foundation has been asked that whether the Foundation is having adequate infrastructure and whether cattle are being kept and cared and whether the adoption or other disposition is carried out by it which is enumerated in Section 9 after litigation is over and seized animals are forfeited in favour of foundation by Court are put to adoption to which he has answered in affirmative and he has even agreed for an inquiry which may be done by the Court through Learned D.P.O while forming a committee.

32. Now therefore it remains to be seen that in how many cases the Foundation has carried out such exercise and followed the legislative mandate for which this Court will obviously pass a separate order for inquiry as agreed by the Foundation.”

69. It is therefore Learned D.P.O Kumar Vishwaranjan is directed to submit report on following points :-

1. That whether Agency or Gaushala etc. in such cases are being given the custody of cattle pending litigation by police or seizing agency, are having proper infrastructure to keep and receive seized cattle or not ?
2. Whether the cattle seized are being properly kept and cared by such agency or Gaushala or not ?
3. The measures, standards and criteria being followed by seizing authority or police agency before handing over seized cattle to such Agency or Gaushala pending

litigation.

4. The status of cattle seized in cases of such nature of district Gaya and the status of investigation and trial of such cases.
5. The status of cattle seized in such cases and they being alive or dead ?
6. In the event of death of cattle pending trial the postmortem having been conducted by Agency or Gaushala or not ?
7. In the event of trial not yet concluded how many such cattle are still lying in the custody of such Agency or Gaushala and how many cattle have died in all pending cases ?
8. Whether information with respect to such status is furnished to investigating agency or Court by the managing committee of such Agency or Gaushala or not ? Who is or are running or managing such agency or Gaushala ?
9. List of cases in which forfeiture of seized cattle are made in favour of Gaushala or Agency after trial in event of conviction and whether forfeited cattle have been put to adoption by such Agency or Gaushala or not ?
10. The proof of such adoption and one copy of such adoption is being sent to the Court and being filed in case file as per section 9(6) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017 or not ?
11. Whether such copy of adoption are received in case files by Courts or not ?
12. The list of Government Run and managed Gaushala having

control of Government which are situated in Gaya District.

70. The Learned D.P.O. is supposed to submit inquiry report with respect to this case and in all other pending cases of such nature lodged in Gaya District in which cattle have been seized by seizing agency and handed over to such agency/agencies or Gaushala/Gaushalas pending litigation.

71. The Learned D.P.O is free to take assistance from any agency in the said process and in order to facilitate him in the said process a copy of this order is directed to be sent to District Magistrate, Gaya and Senior Superintendent of Police for extending desired help to Learned D.P.O.

The copy of this order is also sent to **the District Magistrate, Gaya** who is head of prosecuting agency and **the Senior Superintendent of Police, Gaya** to ensure the compliance of provisions of the Act, Rules and concerns as discussed in the order and summed up which are supposed to be observed by the investigating agency as highlighted in this order for ensuring the health inspection of seized animals and marking of seized animals by ear tagging or chipping and housing the seized animals in such cases with prior permission of the Court as provided in **Section 3(a) and Section 3(b) of THE PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES, 2017.**

The creation of State owned or controlled infrastructure for

housing the seized animals is also expected to be ensured or explored.

This Court finds it appropriate to share its concern as discussed in this order with the most important stakeholders of the Act, and copy of this order is therefore also directed to be transmitted to :-

- 1. The Chairman, Animal Welfare Board of India.**
- 2. The Chief Secretary, Government of Bihar.**
- 3. The Director General of Police, Bihar.**
- 4. The Secretary of Animal & Fisheries Resources Department, Government of Bihar.**

It is earnestly hoped and confidently expected that the aforementioned authorities, in discharge of their constitutional and statutory obligations, shall take due cognizance of the issues highlighted herein and undertake all necessary, timely, and effective measures.

Such action would ensure the protection, welfare, and dignity of animals, safeguard them from the vulnerabilities and hardships discussed above, and reinforce the rule of law, compassion, and humane approach and humane governance in the State as far as seized cattle are concerned.

VOICING FOR VOICELESS

72. This Court would have though concluded this Revision after giving its finding about the impugned order particularly appreciating its limited role in its Revisional Jurisdiction but as this Court has come across serious latches and miscarriage of

justice in terms of protection of the seized cattle which the animal welfare legislation seeks to protect, to which this Revision pertains and this Court has pointed out fault in the implementation of the Act by the stakeholders and since this matter pertains to concern and welfare of voiceless animal, which are ignored in whole process, as discussed in detail in this order, this Court would have failed in its duty, if it would have not passed the detailed order while touching upon all relevant and interrelated issues, and it would have not sought the aforesaid report to see the whereabouts of seized cattle and to ascertain **whether they are even surviving or not and they are put to adoption or not ?**

The concern of voiceless has been the guiding factor for this Court for passing of this detailed order and sending its copy to concerned stakeholders.

If there is abuse of authority at any level then it is required to be checked for the purpose of which judicial system is existing at every level.

73. Therefore instead of finally concluding or wrapping up this matter, a Miscellaneous case is therefore directed to be opened for submission of desired report by the Learned D.P.O. **Sri. Kumar Vishwaranjan.**

74. This order be forthwith communicated to Learned Court below.

(Dictated & Corrected by me)

Sd/-
(Ajit Kumar Singh)
District & Addl. Sessions Judge – IX, Gaya