

Citizens For Animal Rights



Article 51A of the Indian Constitution . . . " It shall be the duty of every citizen of India . . . to have compassion for all living creatures . . . "

December 10, 2022

Legal Notice without Prejudice (MOST URGENT)

To,

1. Smt Madhu Azad,
Mayor,
Gurugram
mayor@mcg.gov.in
2. Sh. Mukesh Kumar Ahuja
The Commissioner
Municipal Corporation of Gurugram (MCG)
ctmrg@gmail.com
cmc@mcg.gov.in
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Copy to :

1. Shri Manohar Lal Khattar
Hon'ble Chief Minister,
Government of Haryana
cmharyana@nic.in
2. Sh. Sanjeev Kaushal, IAS
Chief Secretary, Haryana
Government of Haryana
kaushalsanjeev@hry.nic.in

Subject: Representation on the issues of –

1. Indirect, unlawful, removal and Impounding of stray/ pet dogs by Municipal Corporation of Gurugram.

2. **Banning of certain breeds as pet dogs.**
3. **Threatening to “DESTROY” unclaimed pets, stray dogs.**
4. **All actions a clear Contempt of The Hon’ble Supreme Court of India, Criminal offences under Sections 359 to 374, Section 384, Section 503, Section 182 of Indian Penal Code, 1860, in addition to being subjugation of constitutional rights of under privileged “Legal Citizens”.**

Dear Sir/ Madam,

We are issuing this communication as Co-Petitioners in the matter of stray dogs in the Hon’ble Supreme Court of India, i.e. **SLP(C) 691/2009**, that is for final disposal. As co-petitioners we are a legal part of this case and it is our right and duty to inform the Hon’ble bench of any violations of orders of the court in the same regard by individuals, RWAs, Institutional bodies, Committees, Government departments, Corporations, or even State government senior offices. We keep track of such offences and offenders, and from time to time approach the hon’ble court to inform the bench of such incidences and seek legal action against such offenders.

This representation is on the issue of one of Gurugram Municipal Corporation’s latest project/ campaign against pet and stray dogs wherein the corporation is already **“Illegally Removing, Impounding and threatening to destroy pet as well as stray Dogs”**. We have received a few news reports wherein the same has been publicly declared thus creating havoc and panic amongst CITIZENS of Gurugram. Other reports and public statements have been directed at **“Banning and removal of certain pet dog breeds from homes of people”**. A few of such reports are –

1. <https://indianexpress.com/article/cities/delhi/gurgaon-civic-body-information-restricted-ferocious-foreign-dog-breeds-8314698/>
Gurgaon civic body seeks information on ‘restricted and ferocious foreign dog breeds’
 2. <https://indianexpress.com/article/cities/delhi/gurgaon-pet-dogs-civic-body-8315977/>
Gurgaon civic body takes away 4 unregistered dogs, leaves many wondering: ‘Will my pet be next?’
 3. <https://timesofindia.indiatimes.com/city/gurgaon/unclaimed-dogs-liable-to-be-destroyed-municipal-corporation-of-gurugram/articleshow/96070672.cms>
Unclaimed dogs 'liable to be destroyed': Municipal Corporation of Gurugram
 4. <https://www.hindustantimes.com/cities/gurugram-news/mcg-to-discuss-forum-order-with-state-before-amending-pet-laws-101668623282947.html>
MCG to discuss forum order with state before amending pet laws
- It is clear from these news reports that Gurugram Corporation under your leadership is indicating **creation of dog pounds to house confiscated dogs and/or for destruction.**
 - It is also clear from news statements that you and corporation are unaware that apart from individual citizens, no NGO/ AWO/Corporation/ Body is allowed to permanently house dogs in large numbers in shelters/ Pounds/ Facilities/ Hostels.

- Nor does anyone have any **“Discretionary powers to Confiscate and Destroy Legal & protected citizens/ family members of India”**, even if the legal registration of that family member is not complete. **Courts have ruled pets as part of family** and are equally protected as children/ Legal citizens. By threatening to confiscate/ ban them from homes is **a criminal act** under various sections of the IPC apart from being contempt of many court orders. It is like confiscating children of people for not getting birth certificates made in time.
- There have also been news reports circulating that the Gurugram Corporation has **“BANNED”** certain breeds of pedigree dogs and threaten to impound them and **“DESTROY”** the unclaimed dogs.
- So, your office is clearly unaware that all State Municipal Acts concerning Dogs are under stay since 2009, by the hon’ble Supreme Court, that includes revising **PET POLICIES** regarding dogs/ pets and forming projects other than ABC Rules 2001.
- So, till the **SLP 691/ 2009** is finally disposed-off by the hon’ble Supreme Court of India the **state can’t amend the Stray and Pet Dog Policy** vis-à-vis dogs.
- Your public statement has **directly instigated the citizens of Gurugram into believing that the city streets can be gotten rid of Street Dogs & that certain dog breeds are dangerous, even when the hon’ble Supreme court has observed that there is nothing called a nuisance dog and only conditions make them aggressive.**
- Gurugram Corporation’s decision to ban certain pets has already led to **mass cruelty happening** wherein people are abandoning their pets in fear of your office.
- Your decision has **not only broken the code of the constitution but also openly disregarded directions of the hon’ble Supreme Court and the Laws/ Rules** related to the subject in more than one instances.
- As the Mayor of the city of Gurugram, your office should have **updated themselves** with the latest rulings of the hon’ble courts and what the laws clearly say.
- All the above would **not only increase CRIME AGAINST ANIMALS**, but would also **ENDANGER THE LIVES OF THOSE CARING FOR THEM/ PET PARENTS** and increase **Crime against such noble citizens who are doing the duty of the state.**
- Who would help the sentient beings and their good caregivers if the Mayor herself declares agenda against the protected stray dogs/ animals, pets and pledged to get rid of them from the streets and homes ?
- Are the animal care givers secondary citizens to the Mayor, who can be easily subjugated by subtle and politically correct statements aiming **indirectly at imprisoning their beloved animals for life?**
- **Pets are part of family as per courts and Gurugram Corporations declaration to get them thrown out of homes/ banning/ destroying them is a crime in the eyes of the courts.**

So, this correspondence is being issued to you as legal information that you will find relevant for present and future issues that relate to dogs. Firstly, please remember, harming animals/ birds, or treating them with cruelty, is a punishable offence, under the Constitution of India, the Indian Penal Code, the Prevention of Cruelty to Animals Act and the Environment Protection Act. **Also remember that instigating, provoking, planning DIRECT & INDIRECT actions against animals, as Gurugram Corporation has publicly declared, is considered the same as harming them under the eye of the law.**

Now in reference to your statements as mentioned above kindly note a summary of the laws in same regard –

The Law in this Regard

1. **The Supreme Court of India in October 2022** clarified to the High Courts and all concerned that **“REMOVING HEALTHY DOGS from their territories and housing them in shelters in the name of welfare or adoption or care giving is not permitted”** and only the ABC Rules 2001 has to be strictly followed in the regards.
2. **High Court of Delhi in 2011** passed an order asking the police to provide protection to dogs and dog feeders and has made it a punishable offence in case anyone restricts, prohibits or causes inconvenience to any person feeding an animal or bird or resorts to removal, **impounding**, dislocation or killing of the same. The DHC also directed all concerned to make sure Dog Feeding is done properly in local areas involving **ULBs** and RWAs to facilitate the same in Local Areas, leaving the dogs to range freely and without any harm or subjugation.
3. **The Supreme Court of India in May 2022** crushed a petition that demanded stopping of dog feeding in public areas. In **October and November 2022**, the same court again ruled in favor of feeding of dogs as a right of the animals just as that of humans to feed them. Anyone stopping an animal caregiver from feeding of animals amounts to contempt of apex court of India.
4. **The Supreme Court of India in 2009, 2015** gave a similar order against removal, impounding, culling or dislocation of a dog anywhere in India. The court also stayed all Municipal Acts in 2009.
5. **Nagpur Bench of the Mumbai High in October 2022** gave orders of release of dogs that were similarly caught by the corporation to house them in shelters.
6. In addition to these, another case, **Civil Appeal No. 5387 of 2014 & SLP 11686 of 2007, via the final judgment, has detailed out the five rights of animals that cannot be violated by any by-law, rule of the municipal or state acts.** That order also mentions how any byelaw of state acts/ laws/ orders/ notifications that violate any of these rights should be considered annulled and must not be allowed to cause subjugation of rights of animals and animal owners/lovers/caregivers.
 - CONSTITUTION thus already talks about 5 rights of animals -
 1. freedom from hunger, thirst and malnutrition;
 2. freedom from fear and distress;
 3. freedom from physical and thermal discomfort;
 4. freedom from pain, injury and disease; and
 5. freedom to express normal patterns of behaviour.
 - Other rights are also read out in detail like
 - Freedom
 - Compassion
 - Humanism
 - Right to life
 - Repugnancy in law favours LIFE

7. **The High Courts of Punjab & Haryana in 2019** have ruled that all animals domestic, urban and wild are “**Legal Persons**” and have legal rights, just as humans. It further declared citizens as the “guardians of [the] animal kingdom” with a duty to ensure their welfare and protection. Justice Rajiv Sharma, in his order, said, “**All the animals have honour and dignity**”.

By suggesting impounding or confiscation and destruction of pets/ stray dogs; by dislocating, relocating, killing, showing brutality, Banning Breeds as pets and stopping caregivers from caring for urban animals by persons or organizations clearly violates all the above 5 rights of the free ranging animals, who are Legal and Equal Citizens, and have a right to live an honorable and dignified life; MCG is violating many sections of the law and orders of hon’ble Courts.

In addition to these court orders the **Constitution doesn’t allow subjugation of rights of animals as you are suggesting –**

1. **Article 51-A(g)** states - " It shall be duty of every citizen of India to protect & improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures." So, anyone obstructing any citizen of India from tending to, helping, feeding, caring, protecting any animal and birds would be violating the fundamental rights of the person which is a punishable offence.
2. **Article 48-A** - "The State shall endeavor to protect & improve the environment and to safeguard the forests and wildlife of the country." This means that all government servants, officers of bureaucracy, legislator, and judiciary are bound by the law to protect the animals and their up keepers.
3. **Article 19** deals with the fundamental rights of the citizen. So "Right to Protect the Environment” comes within Article 19. **Article 25, 26, 27, 28** provides religious freedom to all citizens and preserves the principle of secularism in India. According to the constitution, all religions are equal before the State. Citizens are free to preach, practice and propagate any religion of their choice in their own way. Feeding animals like dogs, cows, cats, birds, etc. is a part of the same in many religions and anyone violating the same would be punishable under the law.
4. **Section 3 and 11 of the Prevention of Cruelty to Animals Act** makes all animal cruelty a criminal offence. Restricting movements, habitats and feeding grounds of animals and birds is equal to cruelty under the law. Fines and imprisonment are both provided for. The Indian Penal Code has similar provisions.
5. **The Animal Birth Control (Dog) Rules, 2001**, enacted under the Prevention of Cruelty to Animals Act, provide for sterilization and vaccination as a means of stabilizing/reducing stray dog populations and eliminating the risk of rabies; and prohibits relocation of stray dogs, i.e. throwing, or driving them out of one area, into another.
6. **Under Stray Dog Management Rules 2001**, it's illegal for an individual, RWA or estate management to remove or relocate dogs. The dogs have to be sterilized and vaccinated and returned to the same area. Vaccinated and sterilized dogs cannot be removed by the municipality too.
7. Under **Section 506 of the IPC**, it's a crime to threaten abuse or harass neighbors who feed animals and birds. **I.P.C. Section 428 and 429** provides severe punishment (up to 5 years

imprisonment) to people resorting to dislocation, abduction and acts of cruelty towards community animals, birds, or pets. **Delhi Police act 1968, sections 73 to 79, and 99** gives special powers to police to take action when an animal offence has been committed. The police can arrest any offender without a warrant.

8. A Detailed Order by **Special Commissioner of Police, Law & Order, Delhi dated 7 February 2014** giving directions to all Jt.CPs/ Ranges, All Heads of Distt. giving all responsibility of crime against animals and animal lovers to all SHO, ACP/ SDPO. He has asked all officers in charge to “properly mention in FIRs all sections of the relevant Acts”.

*Indian law system is based on **Arthashastra** from 400 B.C. & **Manusmriti** from 100 A.D. wherein the central philosophy was **TOLERANCE & PLURALISM**. Because India is diverse and without these there will be polarization and fanaticism and subjugation of right leading to total chaos and autocracy. This is the reason the constitution declares India to be a **Sovereign Socialist Secular Democratic Republic** assuring its citizens **JUSTICE, EQUALITY, and LIBERTY**. AND AS PER THE HON'BLE COURTS OF INDIA, INCLUDING THE APEX COURT, “**ANIMALS ARE EQUAL CITIZENS OF THIS NATION**”. Indian law system is thus a tiered system forbidding the lower hierarchies to overrule or override the higher orders, laws, directions or acts. So, what Supreme Court says is final. And Supreme Court's role is to uphold the Constitution. This, most confuse and which is why expect Supreme court to change the constitution and allow elimination of animal rights. And anyone leading to formation of unlawful programs is considered in contempt of the constitution and the hon'ble apex court.*

So, as the MAYOR of a renowned city your office is **expected to know, understand and abide by the constitution of India and reflect the same in their actions, instead of pleasing a section of society that demand and expect illegal, unlawful and criminal actions from their leaders**. Your current plan for urban animals and pets, **stands as a threat to the sovereignty of this nation, as it would lead to citizens following suit openly and without regards for law**. Any public statement by a public figure, such as yours, that violates the above laws would become the reason for **major community conflicts**. In addition to above you and your office bearers could directly be prosecuted under **Sections of IPC, not limited to Section 359 to 374, Section 384, Section 503, Section 182.**

Therefore, you are requested to immediately –

1. **WITHDRAW YOUR UNCONSTITUTIONAL PUBLIC STATEMENTS** made in contravention to Hon'ble Supreme Court of India in the matter of stray dogs/ pet dogs;
2. **RELEASE BACK THE CONFISCATED DOGS, and HOLD TO BAN** certain breeds of dogs, till the hon'ble Supreme Court decides on the constitutional conflict between central acts and state laws.
3. You should also direct your office to refrain from any such activity and statements in future.

Your office must also understand that the **extent of damages and consequences of ANIMAL RIGHTS do not limit to animals only**. Such actions fall under the **preview of the law that deals with criminal acts against human citizens** who care for animals as well.

A copy of this communication is being sent to the office of the Chief Minister and Chief Secretary of Haryana to scrutinize and take appropriate action, if they find suitable, and as directed to them by the hon'ble Supreme Court of India via order dated 18-11-2015 wherein the hon'ble bench had stated clearly –

“ Needless to emphasize, no innovative method or subterfuge should be adopted not to carry out the responsibility under the 1960 Act or the 2001 Rules. Any kind of laxity while carrying out statutory obligations, is not countenanced in law.

A copy of the order passed today be sent to the Chief Secretary of each of the States and the competent authority of Union Territories, so that they can follow the same in letter and spirit.”

In case the Gurugram Municipal Corporation does not mend ways, clarify and give a modified public statement, **clearly clarifying supreme court STAY ORDER regarding dogs, pets dogs**, to ease the arising alarming situation of conflict between citizens (dog haters and dog caregivers) and the impending threat to animals, then we would lodge a formal complaint with the hon'ble Apex court of India.

You are further informed that this notice is without prejudice to the rights and contentions of all the animal lovers/activists/ pet owners to take appropriate action against any persons violating the law of the land in the appropriate court/courts of law and they will personally be liable for cost and consequences there upon.

Sincerely,

For Citizens For Animal Rights (CFAR)

Rishi Dev

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