



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.488/2026

PETITIONER: Shri Siddeshwar Shivmandir Trust,
Sarul Bagwadi, Through its Secretary,
Shri Ashokrao Shankarrao Patekar
R/o Sarul, Tq. Babhulgaon, Dist. Yavatmal.

...VERSUS...

RESPONDENTS : 1. The State of Maharashtra,
Through its Police Station Officer,
Police Station, Babhulgaon,
Tq. Babhulgaon, Dist. Yavatmal.

2. Shaikh Chhotu Shaikh Khairati
Aged about 73 years,
Occu : Agriculturist, R/o Sawar,
Tq. Babhulgaon, Dist. Yavatmal.

WITH

CRIMINAL WRIT PETITION NO.487/2026

PETITIONER: Shri Siddeshwar Shivmandir Trust,
Sarul Bagwadi, Through its Secretary,
Shri Ashokrao Shankarrao Patekar
R/o Sarul, Tq. Babhulgaon, Dist. Yavatmal.

...VERSUS...

RESPONDENTS : 1. The State of Maharashtra,
Through its Police Station Officer,
Police Station, Babhulgaon,
Tq. Babhulgaon, Distt. Yavatmal.

2. Dilip S/o Pralhadrao Chavhan,
Aged about 39 years, Occu :
Agriculturist, R/o Mangul, Tq.
Ner, Distt. Yavatmal.

WITH**CRIMINAL WRIT PETITION NO.489/2026**

PETITIONER: Shri Siddeshwar Shivmandir Trust,
Sarul Bagwadi, Through its Secretary,
Shri Ashok Shankarrao Patekar
R/o Sarul, Tq. Babhulgaon, Dist. Yavatmal.

...VERSUS...

RESPONDENTS : 1. The State of Maharashtra,
Through its Police Station Officer,
Police Station, Babhulgaon,
Tq. Babhulgaon, Distt. Yavatmal.

2. Pramod @ Pramodsing Trambaksing
Yewtikar, Aged About 39 years,
Occu : Agriculturist, R/o Yewati,
Tq. Nandgaon (Kh), Distt. Amravati.

Mrs. Kirti Deshpande, Advocate for petitioner
Mrs. S.V. Kolhe, APP for respondent No.1
Mr. M.N. Ali, Advocate for respondent No.2

CORAM : MEHROZ K. PATHAN, J.

Date of reserving the judgment : 23/09/2026
Date of pronouncing the judgment : 13/10/2026

J U D G M E N T :

1. Heard. Rule. Rule made returnable forthwith. Heard finally
with the consent of the learned Counsel for the rival parties.

2. The aforesaid petitions are filed by the petitioner-Trust herein challenging the judgments and orders dated 09/06/2026 by which the learned Additional Sessions Judge, Yavatmal has directed temporary custody of the bullocks to be handed over to the respondents-owners of the cattle, on a condition of execution of an indemnity bond of Rs.1,20,000/- and the further direction that the respondents-owners shall pay Rs.100/- per day per animal to the petitioner-Trust towards maintenance of the animals from the date of handing over of the animals.

3. Mrs. Deshpande, learned Counsel for the petitioner-Trust submits that the learned Trial Court has rightly rejected the application filed by the respondents-owners for release of the cattle, however, the revisions filed by the respondents-owners were allowed and the Revisional Court has imposed condition of Rs.100/- per day per animal towards maintenance of animals in violation of guidelines describing the amount for maintenance of cattle by the Maharashtra Animal Welfare Board in exercise of power under Rule 4 of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 (for short hereinafter referred to as "Rules of 2017"). The learned Counsel for the petitioner-Trust submits that the amount prescribed for maintenance of the cattle is Rs.200/- per day for the cattle belonging to cow and its progeny. However, the learned Revisional

Court without taking into consideration the Circular dated 02/07/2019, has arbitrarily imposed the amount to Rs.100/- to be paid towards the maintenance of the cattle, which were handed over to the petitioner-Trust by the Police Authorities. Mrs. Deshpande, learned Counsel for the petitioner-Trust further submits that the notification dated 02/07/2019 is issued by the Maharashtra Animal Welfare Board in exercise of powers under Rule 4 of the Rules of 2017. The learned Counsel further submits that the bullocks are in the custody of the petitioner-Trust from 22/01/2026 and the claim made by the petitioner-Trust is only till the passing of the order of the Revisional Court dated 09/06/2026. The petitioner-Trust is not claiming for the maintenance amount of the period beyond 09/06/2026. She further submits that even though the prayer is made in the petition to grant Rs.300/- per day per cattle, the amount of Rs.200/- per day per cattle may be directed to be paid by modifying the condition, imposed upon by the learned Additional Sessions Judge, Yavatmal in its judgment and order dated 09/06/2026.

4. As against this, Mr Ali, the learned Counsel appearing on behalf of the respondents-owners submits that the maintenance of seized animal is governed by the statutory Scheme under the Rules of 2017 and the determination of maintenance is required to be done based upon the reasonable cost of transportation, maintenance and treatment of the animal and not upon the unsubstantiated and

unilateral claim made by the Shelter or Gaushala. The notification issued by the Maharashtra Animal Welfare Board dated 02/07/2019 prescribes the rates for maintenance of animals. He further submits that as per the notification, the amount of maintenance required is Rs.200/- per day per animal for the animals falling under the category of the cow and its progeny, whereas Rs.300/- per animal per day is provided for the category of large animals falling in the equine category. The prayer made by the petitioner-Trust for grant of Rs.300/- per day per animal is, therefore, misconceived and liable to be rejected. The interim order imposing a condition of Rs.100/- per day per animal is passed taking into consideration the cost required for transportation and maintenance of cattle, which are deliberately held by the Gau-seva Trust. The respondents-owners of the cattle have not handed over the said cattle to the Trust for taking care and maintenance. The police had directed the custody of the cattle to the petitioner-Trust. The respondents-owners had immediately filed applications for handing over the custody of the cattle, however, the petitioner Gau-seva Trust had filed an intervention application, opposing the applications for handing over the custody to the respondents-owners. The petitioner-Trust, who is claiming the custody of the cattle, shall therefore bear all the necessary expenses for transportation, maintenance and good health of the cattle. The amount claimed by the Gau-seva Trust, the petitioner herein is, therefore,

exorbitant, which is not even as per the notification. The Writ Petitions are devoid of substance and merit and are thus liable to be dismissed.

5. I have gone through the judgments and orders dated 09/06/2026 passed by the Revisional Court. I have also gone through the First Information Report dated 23/01/2026 being FIR No.28/2026. I have also seen the applications filed by the respondents-owners for release of the cattle which are at Exh.1 and the order dated 16/02/2026, passed by the learned Judicial Magistrate First Class, Babhulgaon, rejecting the applications filed by the respondents-owners for the custody of the cattle.

6. Perusal of the record shows that the respondents-owners have produced the purchase receipts to show that they have purchased the animals. The investigation papers also did not show that the seller did not sell the animals to the respondents-owners, for which receipts were produced. The possession of the cattle with the respondents-owners before conducting raid and seizure of the animals, is admitted. The only allegation in the FIR is that the respondents-owners were committing cruelty upon the animals by tying them with a short rope and it is likely that the same were being taken for slaughter. It is pertinent to note that the animals were taken on foot and not in any vehicle and with a view to prevent their movement on road, ropes were tied to the cattle with an intention to restrict their free movement on

the road. The learned Revisional Court has found that the same *prima facie* does not amount to cruelty and as such directed release of the cattle in favour of the respondents-owners. The learned Revisional Court has imposed a condition of Rs.100/- per day per animal towards maintenance of the animals from the date of custody of the animals to be handed over to the respondents-owners. The prayer is restricted to modify the maintenance order from Rs.100/- to Rs.300/- per day per animal. There are no grounds raised in the petition that how the amount is calculated to Rs.300/-. Though the learned Counsel during the course of arguments relied upon the Notification dated 02/07/2019 issued by the Maharashtra Animal Welfare Board, however, there are no pleadings to that effect in the petition. On perusal of the grounds in the petition would show that not a single ground is raised in the petition for grant of maintenance at rate of Rs.200/- per day per animal as per the Circular dated 02/07/2019, issued by the Maharashtra Animal Welfare Board. The petitioner has prayed for Rs.300/- per day per animal without stating any reasons for arriving at such quantum.

7. Section 35 Clause 4 of the Prevention of Cruelty to Animals Act, 1960 reads as under :-

“Clause-4. The cost of transporting the animal to an infirmary or pinjrapole, and of its maintenance and treatment in an infirmary, shall be payable by the owner of the animal in accordance with a scale of rates to be prescribed by the District

Magistrate, or, in presidency-towns, by the Commissioner of Police.

Provided that when the Magistrate so orders on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.”

The perusal of Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as “PCA Act”) would show that Section 35, sub-Section 4 imposes liability for the payment of the cost of transporting the animal to an infirmary or Pinjrapole, as well as its maintenance and treatment, in an infirmary, shall be payable by the owner of the animal in accordance with prescribed rates which however can be dispensed with if the magistrate is satisfied that due to poverty of owner, he is unable to bear the same.

8. The proviso of Clause (4) of Section 35 of the PCA Act gives discretion to be exercised by the learned Magistrate while dealing with prayer for grant of maintenance and treatment in an infirmary to be paid by the owner of the animal in accordance with the scale of rates to be prescribed by the authorities. In the present case, Rules of 2017 and the Circular issued by the Maharashtra Animal Welfare Board shows that a straight-jacket formula of Rs.200/- per cattle is to be imposed by the Magistrate while releasing the animal in favour of the owner of the

cattle leaving no discretion to the Magistrate to dispense with the maintenance charges. The Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 are formulated in exercise of powers under Section 38 of the Prevention of Cruelty to Animals Act, 1960. Notification dated 02/07/2019 is purportedly issued in exercise of powers under Rule 4 of the Rules of 2017.

9. It is almost a settled law that rules framed under the Act cannot be contrary to the provisions of the Act. The Act provides for the leeway and discretion to be exercised by the Magistrate, taking into consideration the account of poverty of the owner of the animal and no charge shall be payable for the treatment of the animal. Whereas the Rules of 2017, does not provide for any such discretion to the Magistrate for considering an appropriate case, for exempting the payment of exorbitant charge, if any, as per the prescribed rates by the competent authority. The powers given to Magistrate to exempt a person from paying charge, necessarily includes reducing the charges in an appropriate case, where a case is made out for the same. This is based on the principle that the greater power includes the lesser power. Since a total exemption constitutes the maximum relief that can be granted, the power to grant such maximum relief necessarily includes the power to grant partial relief, provided sufficient cause is made out.

Thus, the Revisional Court was well within its right in awarding lesser amount of maintenance of Rs.100/- per day per animal.

10. The petitioner-Trust has placed reliance on various judgments of this Court upholding the imposition of Rs.200/- per day per animal maintenance charges. However, the said judgments do not consider the Division Bench judgment of the Bombay High Court in the case of *Roshan Omkar Tarare Vs. State Maharashtra through Police Station Officer, Sakoli, District Bhandara and Another (Criminal Writ Petition No.02/2022, decided on 10/02/2023*, in which, this Court was pleased to observe as under :-

“19. Now coming to the next aspect regarding the cost ascertained by the Judicial Magistrate First Class at the rate of Rs.200/- per day per cattle is concerned appears to be exorbitant one. The Magistrate has not assigned the reason on what basis he had ascertained the said cost. As far as the health and maintenance of the cattle is concerned it appears to be illogical. The amount towards the transportation is also exorbitant one. The learned Magistrate has prepared the chart and ascertained the amount at the rate of Rs. 200/- per cattle.”

11. The Division Bench of the Bombay High Court in the case of *Roshan Omkar Tarare (cited supra)* had reduced the amount of maintenance from Rs.200/- to Rs.125/- per cattle per day in terms of Rule 5, Sub-Rule 1 of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017. The Division

Bench had specifically observed that the Trial Court i.e. the Magistrate has not assigned any reason as to on what basis he had ascertained the said cost. The petitioner-Trust had also failed to give the details of the expenditure incurred for maintaining one animal. The petitioner-Trust has opposed the applications for grant of custody to the owner before the Magistrate. The petitioner-Trust has also failed to comply with the judgment of the Revisional Court, directing to hand over the cattle to the respondents-owners. The respondents-owners though had attended the petitioner-Trust for release of the cattle upon payment of Rs.100/- per day per animal, however, the petitioner-Trust has failed to hand over the custody of the cattle by accepting the maintenance amount, as directed by the Revisional Court. Accordingly, the respondents-owners have filed a police complaint and registered their grievance for not handing over the cattle to the respondents-owners. Mrs. Deshpande, the learned Counsel for the petitioner, therefore, restricted the claim of maintenance only till the date of order of Revisional Court. Hence, I see no error committed by the learned Revisional Court in granting the custody of the animals to the petitioner-Trust on payment of Rs.100/- per day per cattle towards the maintenance of the cattle.

12. Thus, in the light of the provisions of the Prevention of Cruelty to Animals Act, 1960, itself, it appears that a reasonable amount of Rs.100/- per animal as the charges towards maintenance of the cattle

was imposed by the learned Revisional Court. Therefore, the Revisional Court has not committed any error in directing the release of the cattle upon the owner making a payment of Rs.100/- per day per animal to the owner. The impugned judgment is therefore just and proper and does not call for any interference by this Court.

13. The Criminal Writ Petitions are, therefore, devoid of substance and merit. No case is made out for interference of this Court under its extraordinary jurisdiction for setting aside the judgments and orders of the Revisional Court. Thus, I am inclined to pass the following order :-

ORDER

- (i) The Criminal Writ Petitions are dismissed.
- (ii) The petitioner-Trust is directed to hand over the custody of the cattle to the respondents-owners within a period of 15 days upon their depositing Rs.100/- per day per animal from the date of custody of the animals i.e 22/01/2026 till the date of the judgment and order passed by the Revisional Court i.e. 09/06/2026.
- (iii) The Police Station Authorities are directed to prepare a panchanama of the animals while granting custody of the same to the respondents-owners. The respondents-owners shall maintain the animals in good health and shall take proper care of the released animals.

(iv) With the aforesaid directions, the Criminal Writ Petitions are dismissed and disposed off accordingly.

(v) Rule stands discharged.

(vi) Put up for compliance on 27/10/2026.

(MEHROZ K. PATHAN, J.)

Wadkar/C.L. Dhakate