



ANIMAL WELFARE BOARD OF INDIA

Department of Animal Husbandry and Dairying
Ministry of Fisheries, Animal Husbandry and Dairying, Govt. of India
NIAW Campus, 42 Mile Stone, Delhi-Agra Highway
NH-2, Ballabgarh, Haryana-121004
Email: animalwelfareboard@gmail.com : Website: www.awbi.in

F. No. 3-5/2021-22/PCA

Date: 20.01.2022

To

1. The Chief Secretary of all States/UTs
2. The Director General of Police of all States/UTs
3. The District Magistrate of All States/ UTs.
4. The Municipal Commissioner of all States/UTs

Subject: Standard operating procedure for proper implementation of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 - regarding.

Reference: Advisory of even no. dated 15.06.2021 and 27.12.2021 -regarding.

Sir/Madam,

With reference to the aforesaid subject, it is submitted that the ABWI vide its advisory dated 15.06.2021 has requested to kindly issue necessary direction to the erring officials to properly implement the provision of Prevention of Cruelty to Animals Act, 1960 and rules made there under. However, due to non-implementation of the provisions of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 a reminder letter dated 27.12.2021 was issued.

2. In this regard, it is stated that the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 framed under the Prevention of Cruelty to Animals Act, 1960. These Rules were framed to resolve the difficulty which was being faced in various pending litigation across the country in which the custody of the cattle's or animals during the pendency of the litigation were raising debate and confusion as there was no fixed position of the same in the law which leads to further conflict.

3. Accordingly, a standard operating procedure(SOP) has prepared by the AWBI, detailing the steps which must be followed while reporting, entering or search and seizure of any animals in case of violation of the PCA Act, 1960 and rules made there under.

4. Therefore, in view of the above, it is again requested to kindly issue necessary direction to the erring officials to strictly follows the SOP for proper implementation of the provision of Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and to maintain a full record of seized animals.

5 Your co-operation and co-ordination is highly solicited for the welfare of animals.

Yours sincerely,



(Dr. S. K. Dutta)
Secretary, AWBI

Copy to:

1. Director, Animal Husbandry of all States/ UTs

Protocol to be adopted for seizure and custody of animals vis-à-vis Prevention of Cruelty to Animals Act 1960

The following steps should be followed while reporting crime against animals (Complainant can be any individual/individuals or an SPCA or an Animal Welfare Organisation) :-

- a. Information in writing should be made to the nearest Police Station.
- b. Complainants may accompany Police Officers for search and seizure of the animals. Where search & seizure is undertaken by SPCA or any person authorised by the prescribed authority, the information shall promptly be provided to the jurisdictional Police Station for registration of NCR/FIR, as the case may be and for compliance of Case Property Animals Rules. Thereafter, the investigation must be initiated by the Jurisdictional Police in accordance with law.

Note: Search and Seizure undertaken by any unauthorised person is illegal and would attract legal consequences. Only Law Enforcement Agency, inspectors/officers or individuals duly authorised for this purpose are empowered under the PCA Act and Rules thereunder, to undertake search and seizure.

- c. Photos & videos should be taken by seizing authority to record the conditions of animals.

1- Power to Enter and Inspect -

- a. In accordance with Section 18 of the Prevention of Cruelty to Animals Act, 1960, the Committee for the Purpose of Control and Supervision of Experiments on Animals may authorise any of its officers or any other person in writing, to enter and inspect any institution where animals are being housed for any experiment/research/testing.
- b. In accordance with Section 25 of the Prevention of Cruelty to Animals, 1960, the AWBI may authorise any person to enter and inspect any premises where animals are being trained for performance or are being performed. Rule 14 of the Performing Animals (Registration) Rules, 2001, empowers AWBI or any other person authorised on its behalf to inspect the housing, transport and working conditions of animals at the time of training or exhibition of the performing animal.
- c. In accordance with Rule 9(1) of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, empower the AWBI or a State Animal Welfare Board or any person who is a qualified veterinarian authorised by it may inspect any slaughter house.
- d. Upon receipt of a complaint or for any other reason, under Rule 7(1) read with Rule 2(1)(i) of the Prevention of Cruelty to Animals (Dog Breeding & Marketing) Rules, 2017, the State Board may in writing authorise any person to enter and inspect a dog breeding establishment.
- e. In accordance with Rule 11 of the Prevention of Cruelty to Animals (Regulation of Livestock Market) Rules, 2017, the State Board, local authority, District Animal Market Monitoring Committee or the State Animal Husbandry Department may in writing authorise any of its officers to inspect any animal market and seize any animals if there is reason to believe that the animal(s) is being treated cruelly.



f. Upon receipt of a complaint or for any other reason, under Rule 10 read with Rule 2(1)(g) of the Prevention of Cruelty to Animals (Pet Shop) Rules, 2018, the State Board may in writing authorise any person to enter and inspect a pet shop establishment.

2- Power to Search and Seize Animals -

a. Section 32 and 34 of the Prevention of Cruelty to Animals Act, 1960 [hereinafter referred to as 'PCA Act'] empowers the Law Enforcement Agency (or any other person authorised by the State Government) to search and seize the animals upon whom unnecessary pain and suffering is being inflicted.

b. SPCAs notified under the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules 2001, have power under Rule 3(4) to authorise persons to conduct search of any premises/vehicle and seizure of animals if violation of the Act is suspected.

c. Vehicle(s) used in commission of an offence under the PCA Act are required to be seized by the police and produced before the Magistrate. The Magistrate shall be informed of the provision under Rule 5(4) of the Case Property Rules which states that the vehicle(s) shall be held as security until pendency of the case.

3- Procedure to be followed after seizure of animals –

- a. Upon seizure of animals, a copy of seizure memo shall be given to accused from whom the animal(s) are seized. [Sections 100- 103, CrPC]
- b. Pursuant to seizure, an entry shall be made in the General Dairy or Daily Dairy or Station Dairy of the jurisdictional police station in accordance with the provisions of the State Police Act or under Police Manual of the respective state, as the case may be.
- c. In case the seizure has been made by any SPCA, the animals must be produced before the concerned Police Station immediately after seizure for the compliance of the veterolegal protocol, registration of case and production of animals before the Jurisdictional Magistrate.
- d. The Police Station shall issue a request for the medical examination/post-mortem of the animal to be conducted by the Jurisdictional Veterinary Officer.
- e. Thereafter, in accordance with Rule 3(a) of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017, identification, tagging and medical examination/health check of the seized animal(s) shall be carried out by the Jurisdictional Veterinary Officer. It shall be the duty of the Jurisdictional Veterinary Officer to conduct a medical examination/post-mortem of the seized animals and tender a report to the police, as mandated under Section 34 of the Prevention of Cruelty to Animals Act, 1960, notwithstanding the registration of an FIR/NCR lodged by the police until such time.
- f. The Jurisdictional Veterinary Officers shall provide all veterinary assistance to any injured or diseased animals as required without delay.
- g. Panchnama shall be prepared while complying with (c) above, simultaneously. [Section 100(4) & (5), 102, 165, 166 of CrPC]
- h. Based on the facts of the case and the medical/health report of the seized animal(s), a First Information Report (FIR) or Non-Cognisable Report (NCR) shall be registered by the police.
- i. Pursuant to registration of FIR/NCR, the police shall produce the seized animal(s) before the jurisdictional judicial magistrate and obtain an order regarding housing/

(Signature)

hospitalisation of seized animals pending litigation. At this stage, any Animal Welfare Organisation, SPCA or Gaushala may make an application before the magistrate seeking interim custody of the seized animals in accordance with Rule 3(b) of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017.

4- Upkeep and Maintenance of Seized Animals -

- a. Section 35 of the PCA Act R/w the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 [hereafter referred to as 'Case property Animals Rules 2017'] provides for upkeep and maintenance of animals seized under the Provisions of the PCA Act & Rules made thereunder.
- b. The seized animals are the property of the court and the custodian of the seized animals is a mere guardian of the court's property. The seized animal(s) whose interim/temporary custody has been given to any person or organisation shall ensure that they are looked after properly, maintain a record of their treatment, vaccination, deworming, post mortem report (if any) and bills/account of expenses incurred in the upkeep of such seized animal(s) and submit the same to the court from time to time.
- c. In a case where the animals have been forfeited to an Animal Welfare Organisation, such organisation shall have liberty to give the said animals up for adoption in accordance with Rule 9 of the Case Property Animals Rules 2019. Also, in case where the accused relinquishes ownership of his animals to an Animal Welfare Organisation in presence of the Magistrate, the Animal Welfare Organisation may put those animals up for adoption in accordance with Rule 9 of the Case Property Animals Rules.
- d. If any case property animal is incurably ill or mortally wounded, the custodian of such animal shall request the jurisdictional police to subject such animal to examination by the jurisdictional veterinary officer, who if certifies that the animal is mortally injured or so severely injured or in such a physical condition that it would be cruel to keep it alive, seek permission of a magistrate to euthanize such animal, thereby ensuring that the animal is not made to endure unnecessary pain or suffering, as provided under Section 13(3) of the PCA Act, 1960.
- e. If there is lack of clarity on any matter regarding case property animals, not specifically addressed in the PCA Act or Rules made thereunder, the Magistrate should be approached for the same. No decision should be taken by the custodian of the animals as they are merely guardians of the court's property.
- f. Vehicle(s) used in commission of an offence under the PCA Act are required to be seized by the police and produced before the Magistrate. The Magistrate shall be informed of the provision under Rule 5(4) of the Case Property Rules which states that the vehicle(s) shall be held as security until pendency of the case.

For transport and upkeep of the animals and any incidental expenses, rates shall be fixed by the District Magistrate [Section 35(4) of PCA] or State Animal Welfare Board [Rule 4 of the Case Property Animals Rules 2017], in accordance with which the Magistrate can issue relevant orders.





Reminder-1

ANIMAL WELFARE BOARD OF INDIA

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NIAW Campus, 42 Mile Stone, Delhi-Agra Highway
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Email: animalwelfareboard@gmail.com : Website: www.awbi.in

F. No. 3-5/2021-22/PCA

Date: 27.12.2021

To

1. The Chief Secretary of all States/UTs
2. The Director General of Police of all States/UTs

Subject: Request to ensure proper implementation of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 - regarding.

Reference: Our advisory of even no. dated 15.06.2021 - regarding.

Sir/Madam,

With reference to the aforesaid subject, it is submitted that the ABWI vide its advisory dated. 15.06.2021 has requested you to kindly issue necessary direction to the erring official's officials to properly implement the provision of Prevention of Cruelty to Animals Act, 1960 and rules made there under. However, it is observed that most of the cases related to cruelty to animals are not registered by the local police stations and in most of the cruelty cases police official are still facing issues in implementing the provisions of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017.

2. In this regard, it is submitted that the Hon'ble Supreme Court of India in its order dated 07.05.2014, in para 77 has directed all the States/UTs to take proactive steps to take action against the offenders inflicting cruelty to animals and to prevent unnecessary pain or suffering to animals.

3. It has come to the knowledge of the ABWI that some of the animal welfare organisation/ activist are misleading the local administration as well as police officers insisting that the temporary custody of the animal(s) may be given to non-governmental organisation who is willing to look after/take custody of the animals during pendency of the litigation. It is state that custody of a case property animals should only be done as per the section 34 of the PCA, Act 1960 Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and various exhaustive direction of the Apex court should be followed in letter and sprite.

4. It is pertinent to mention that as per the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and Section 35 of the Act, for Treatment and Care of rescued animals, if the Magistrate thinks it fits in his wisdom, the animals cannot be released to the offender during the pendency of litigation, the vehicle and animals may be seized and handed over the animals to some local Pinjarapoles or Gaushala or Animal Shelter Houses. Also, the expenditure incurred by

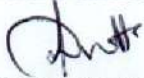
such shelter house in Caring and Maintaining the rescued animals during the pendency of the litigation has to be borne by the Accused Owner and the Transporter. The Animals cannot be temporary or otherwise given to anyone without the proper direction of the Magistrate.

5. Further, it is stated that the Delhi Society of prevention of Cruelty to Animals has issued a circular to all the Police Stations to proactively register the FIR/complaint so as to prevent unnecessary pain or suffering to animals. A copy of the same is enclosed for ready reference.

6. Therefore, in view of the above, it is again requested to kindly issue necessary direction to the erring officials to properly implement the provision of Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and to maintain a full record of seized animals. Also, no unnecessary seizure on frivolous complaint may be made from the houses/residences of the citizens unless concerned police official thinks that an offense under PCA Act, 1960 has been committed and upon such seizure, the provisions of the PCA Act, 1960 and Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 may be followed diligently. A copy of the direction may also be forwarded to the AWBI for information and record.

7. Your co-operation and co-ordination is highly solicited for the welfare of animals.

Yours sincerely,


(Dr. S. K. Dutta)
Secretary

Copy for necessary action and information:

1. The District Magistrate of All States/ UTs.
2. The Municipal Commissioner of all States/UTs
3. Chairman, AWBI



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F. No. 3-5/2021-2022/PCA

Date: 15.06.2021

To

1. The Chief Secretary of all States/UTs
2. The Director General of Police of all States/UTs

Subject : Request to ensure proper implementation of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017- regarding.

Sir/Madam,

The Animal Welfare Board of India is a statutory body established under Section 4 of the PCA Act 1960. The function of the Board includes the promotion of animal welfare generally for the purpose of prevention of cruelty and to advise Government or local bodies on any matter connected with animal welfare or the prevention of unnecessary pain or suffering.

2. It is stated that the Hon'ble Supreme Court in the matter of **GauriMaulekhi Vs. Union of India &Ors., WP 881 of 2014 and Akhil Bharat KrishiGoseva Sang Vs. Union of India &Ors., WP 210 of 2015** formed a committee which was consist of all the concerned states and the representatives of the petitioners. Based on the suggestion/ recommendation of the committee and with the guidance as well as the direction of the Apex Court, the Government of India has notified the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 in exercise of the power conferred under Section 38A of the Prevention of Cruelty to Animals Act, 1960.

3. Further, it is stated that Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 were formulated to resolve the difficulties which were being faced in various litigation pending across the country, in which the custody of the animals during the pendency of the litigation were raising doubt and confusion.

4. As per the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and Section 35 of the Act, for Treatment and Care of rescued animals, if the Magistrate thinks it fits in his wisdom, the animals cannot be released to the offender during the pendency of litigation, the vehicle and animals may be seized and handed over the animals to some local Pinjarapoles or Gauthala or Animal Shelter Houses. Also, the expenditure incurred by such shelter

house in Caring and Maintaining the rescued animals during the pendency of the litigation has to be borne by the Accused Owner and the Transporter.

5. It is also pertinent to mention that the Hon'ble Supreme Court of India has given exhaustive direction in various cases in regard to the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 which are as under:-

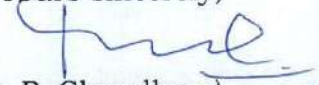
- I. In the case of **State of UP v Mustakeem (Criminal Appeal No. 283-287/2002); Pinjrapole Deudar v. ChakramMoraji Nat (1998) 6 SCC 520; M.P. v. Islam (2007) 15 SCC 588** mandates to the Ld. Trial Courts, how the interim custody application of the accused owner should be decided in case of allegations are of committing cruelty to the Animal. It provides that the condition in which the animal was found at the time of inspection and seizure; and the possibility of the animal being again subjected to cruelty; is relevant factor while deciding the interim custody Application of the accused owner. It is in those cases where interim custody cannot be given to the accused, Ld. Magistrate gives interim custody of the Animals to the Shelter House during the pendency of litigation and cost of which must be bear by the accused owners and transporter as per Section 35 of the Act.
- II. In the case of **State of UP v Mustakeem (Criminal Appeal No. 283-287/2002)** on 22.02.2002, the Hon'ble Supreme Court had expressed the view in the matter that in a case of cruelty against animals, when there is apprehension of slaughter, the case property animals must not be given into custody of the accused during pendency of the trial.
- III. In the case of **Bharat Amratlal Kothari v. DosukhanSamadkhan Sindhi** reported in **(2010) 1 SCC 234** the Supreme Court held that when animals are filled in trucks in a cruel manner and being transported, seized by police on complainant's report and sent to pinjrapole. The owner of animals claiming custody of animals in such circumstances, normally cost of maintenance and treatment of animals under Section 35(4) would be payable by the persons claiming custody and not by the complainant.
- IV. In the case of **Pinjrapole Deudar v. ChakramMoraji Nat** reported in **(1998) 6 SCC 520** the Supreme Court held that in deciding whether the interim custody of the animal be given to the owner who is facing prosecution, or to the pinjrapole, the following factors will be relevant:
 - a. the nature and gravity of offence alleged against the owner;
 - b. whether it is the first offence alleged or he has been found guilty of offences under the Act earlier;
 - c. if the owner is facing the first prosecution under the Act, the animal is not liable to be seized, so the owner will have a better claim for the custody of the animal during the prosecution;
 - d. the condition in which the animal was found at the time of inspection and seizure;
 - e. the possibility of the animal being again subjected to cruelty;
 - f. whether the pinjrapole is functioning as an independent organization or under the scheme of the Board and is answerable to the Board; and
 - g. whether the pinjrapole has a good record of taking care of the animals given under its custody.

6. In addition to the above, the AWBI has recently through various incidents has found out that these rules are not properly implemented and the concerned official fails to make basic caution during the seizure as well as handling of the case property animals, sometimes they even fail to maintain proper records of the seized animals. Also, when the police make a seizure under section 34 of the PCA Act, 1960 based on the NCR or complaint from any person regarding animal cruelty, the seized animals are mostly handed over to the complainant viz. NGO or animal activists or person directly, without following proper procedure, proper record and veterinary examination which is in direct violation of Section 34 of PCA Act, 1960 and in various cases it has been found that these animals are either sold off and found dead or missing.

7. The AWBI has also issued an advisory dated 13.03.2020 stating that the Board has not authorized any person or organization to carry out the inspection to investigate the cruelty-related matters and if any animal cruelty is happening, the same may be brought to the notice of the Board. However, the same is being done by various personnel or AWO and it is advised to the concerned official to not partake in such unlawful inspection of premises, residences, institute etc. unless it is as per the provision of the PCA Act, 1960 or for any other law for the time being in force.

8. Therefore, in view of the above, it is requested to kindly issue necessary direction to the erring officials to properly implement the provision of Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and to maintain a full record of seized animals. Also, no unnecessary seizure on frivolous complaint may be made from the houses/residences of the citizens unless concerned police official thinks that an offense under PCA Act, 1960 has been committed and upon such seizure, the provisions of the PCA Act, 1960 and Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 may be followed diligently.

Yours sincerely,


(Dr. O. P. Chaudhary) 16.6.21
Chairman

Copy for necessary action and information:

1. The District Magistrate of All States/ UTs.
2. The Municipal Commissioner of all States/UTs
3. Chairman, AWBI