CASE NO.:
Appeal (civil) 583 of 2002

PETITIONER:
Abdulsattar Yusufbhai Qureshi & Ors

RESPONDENT:
State of Gujarat

DATE OF JUDGMENT: 26/02/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
JUDGMENT
CIVIL APPEAL No. 593 OF 2002

Dr. ARIJIT PASAYAT, J

1. Challenge in this appeal is to the judgment of a Division Bench of the Gujarat High Court dismissing the writ petition filed by the appellants. Appellants are engaged in the business of slaughter and selling of meat of bulls, bullocks and other animals. In the writ petition, they challenged the validity of Notification dated 11.12.1989 published in Government Gazette dated 13.12.1989 by the State of Gujarat. The Notification was purported to have been issued in exercise of its powers conferred under clause (b) of sub section (1) and clause (g) of sub-section (2) of Section 4 and clause (a) of sub section (1) of Section 5 of the Gujarat Essential Commodities and Cattle (Control) Act, 1958 (in short the 'Act of 1958') as applicable to the State of Gujarat.

2. The High Court dismissed the writ petition on the ground that reasonable restriction was imposed for drastically reducing the trade of slaughter of bulls and bullocks.

3. Learned counsel for the appellants submitted that the Notification was beyond the powers of the State government and affected the fundamental rights of the appellants of carrying on their business of slaughter and selling of meat of bulls and bullocks and other animals and also affected their right to life.

4. Learned counsel for the respondent on the other hand submitted that the matter has been conclusively decided by several judgments of this Court.

5. In State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors. (2005 (8) SCC 534), it was inter-alia observed as follows:
"10. This was followed by the impugned legislation, the Bombay Animal Preservation (Gujarat Amendment) Act, 1994. The Bombay Act of 1954 referred to as "the principal Act"

was further amended by Section 2 of the amending Act which reads as under:
"2. In the Bombay Animal Preservation Act, 1954 (hereinafter referred to as 'the principal Act'), in Section 5,\027
(1) in sub-section (1-A), for clauses (c) and (d), the following clauses shall be substituted, namely\027
'(c) a bull;
(d) a bullock.'
(2) in sub-section (3)\027
(i) in clause (a), sub-clauses (ii) and (iii) shall be deleted;
(ii) in clause (b), after the words 'calf of a cow', the words 'bull or bullock' shall be inserted."

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142. For the foregoing reasons, we cannot accept the view taken by the High Court. All the appeals are allowed. The impugned judgment of the High Court is set aside. The Bombay Animal Preservation (Gujarat Amendment) Act, 1994 (Gujarat Act 4 of 1994) is held to be intra vires the Constitution. All the writ petitions filed in the High Court are directed to be dismissed."

6. Similarly in Akhil Bharat Goseva Sangh v. State of A.P. & Ors. (2006(4) SCC 162) it was observed as follows:

"64. Before concluding this issue, let us deal with Submission (h) made by Akhil Bharat Goseva Sangh in CA No. 3968 of 1994. On behalf of Akhil Bharat Goseva Sangh in Submission (h) it was urged that the decision in Mohd. Hanif Quareshi v. State of Bihar (AIR 1958 SC 731)would not help Al Kabeer in any way as the position at present is completely different. In that decision, total ban on slaughter of old cattle was struck down on the ground that there was scarcity of fodder resources, which however, according to Akhil Bharat Goseva Sangh, does not exist any longer. In State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat (2005(8) SCC 534) it has also been held that in view of the position that exists now i.e. adequate availability of cattle feed resources, the question of striking down total ban on slaughter of old cattle for scarcity of fodder resources would not arise at all. In our view, this position cannot be disputed. However, in the present case, we are concerned with the A.P. Act, 1977 which does not impose a total ban on slaughter of a particular type of bovine animal, whereas in Mirzapur case (supra) this Court dealt with the provisions of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994 which imposes a total ban on slaughter of cow and its progeny. So far as the A.P. Act, 1977 is concerned, there is no total ban on slaughter of buffaloes. Therefore, in our view, this submission of the Akhil Bharat Goseva Sangh

cannot at all be accepted, as we are not concerned with the case of striking down a particular provision which imposes an absolute prohibition of slaughter of particular types of bovine animals. In Mirzapur case (supra), it was, however, not held that permitting slaughter of bovine cattle by itself is unconstitutional. This being the position, we are not in agreement with the learned counsel for the appellant that Submission (h) can come to their assistance for the purpose of banning of slaughter of buffaloes by Al Kabeer."

7. Above being the position, this appeal is without merit, deserves dismissal which we direct.