



ANIMAL WELFARE BOARD OF INDIA

Ministry of Fisheries, Animal Husbandry and Dairying, Govt. of
India

NIAW Campus, 42 Mile Stone, Delhi-Agra Highway
NH-2, Ballabhgarh, Haryana-121004

Email: animalwelfareboard@gmail.com : Website: www.awbi.in

F.No. 3-6/2021-22/PCA

Date: 22.07.2021

To

1. The Chief Secretary of all States/UTs.
2. Principal Chief Conservator of Forests of all States/UTs.
3. The Director General of Police of all States/UTs

**Subject: Request to ensure ban on keeping the aerial birds in caged -
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. In this regard it is submitted that the Hon'ble High Court of Gujarat vide its judgement dated 12 May 2011 in the matter of *Abdulkadar Mohamad Azam Sheikh vs State of Gujarat & 2 Ors*, , observed that birds have a fundamental right to live free in the open sky and maintained that they should not be caged. The ruling of Gujarat High Court was made in response to several criminal cases filed and the operative part of the judgement states:

" This Court is conscious of the fact that this court is dealing with the interim custody of the muddamal birds/animals but in the peculiar facts and circumstances of the case and the manner in which the birds/animals are kept in the cages and looking to the pain suffered to the birds/animals, this court is of the opinion that the only order which can be passed in the interest of justice would be to enlarge the birds/animals free in the open sky/air. As such the learned Additional Chief Judicial Magistrate had rightly passed an order direction to enlarge the birds free in the open sky, however, the revisional court without assigning any reasons, has set aside such directions even otherwise, Section 451 of the Code of Criminal Procedure confers powers upon the Court for custody and disposal of the

property pending trial and the Court may made such order as it think fit for proper custody of such properly pending conclusion of the inquiry or trial and if such property is subject to speedy and natural decay or if it otherwise expedient to do so . Court may after recording such evidence as it thinks necessary order it to be sold or otherwise dispose of considering the aforesaid provision and considering the facts that if birds in question are not ordered to be disposed of by way of enlarging them free in the air/sky in that case looking to the hot weather, there are all chances that the birds may die. Under the circumstance also, it will be expedient and in their interest to enlarge the birds free. Under the Circumstances the order passed by the revisional court to that extent deserves to be quashed and set aside and the order passed by the learned Additional Chief Judicial Magistrate directing to enlarge the birds/animals in the open sky deserve to be restored.


3. It is submitted that the Hon'ble High Court of Delhi, in its order dated 15.05.2015 (copy enclosed) acknowledged the fundamental right of birds to fly and ruled that the caging of birds for the purpose of business or otherwise should not be permitted.

4. Further, it is submitted that the Hon'ble Supreme Court vide its order dated on 07.05.2014 in the matter A. Nagaraja & Ors. v. Animal Welfare Board of India has also recognised the five fundamental rights of the animals including the right to live with dignity and announced twelve stringent measures/directives for the Govt. and other implementing authorities to stop cruelty on animals.

5. The AWBI has also issued an advisory dated 28.10.2011 and 06.05.2013 with request to send this to every senior forest official and Chief Wildlife Warden and ask them to wrap up the illegal bird market that are taking place in every city. A copy of the letter dated 28.10.2011 and 06.05.2013 is enclosed herewith for your ready reference.

6. Therefore, it is requested to kindly issue necessary direction to the concerned officials to properly implement the aforesaid direction as well as the provision of the Prevention of Cruelty to Animals Act, 1960 and rules made there.

Yours sincerely,


(Dr. S. K. Dutta)
Secretary

Copy for necessary action and information: