



2026:AHC:98503

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 28877 of 2025

Chandrabhan Kumar

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)

: Hira Lal

Counsel for Respondent(s)

: G.A.

AFR

Court No. - 53

HON'BLE SANDEEP JAIN, J.

1. The instant writ petition has been instituted under Article 226 of the Constitution of India assailing the impugned order dated 27.11.2025 passed by the Commissioner, Varanasi Division, Varanasi in Case No.3546 of 2025, Computerized Case No.C202514000003546 (*Chandrabhan Kumar vs. State of U.P.*), under Section 5-A(8) of the U.P. Prevention of Cow Slaughter Act, 1955, whereby the order dated 22.03.2025 passed by the District Magistrate, Chandauli in Case No.1253 of 2024, Computerized Case No.D202414180001253 (*State vs. Moti Patel and others*), under Section 5-A of the Act, 1955, was affirmed. By the said order, vehicle no. UP65-JT-0125 belonging to the petitioner was confiscated on the allegation that it was carrying ten bovine animals for slaughter to the State of Bihar without a permit, which was mandatory under the Act of 1955.

2. The factual matrix, as emerging from the record, is that on 08.09.2024 at about 14:00 hours, the police personnel of Police Station Saiyadraja, District Chandauli, acting upon information supplied by an informer, that certain vehicles were transporting cows and their progeny for slaughter to the State of Bihar, intercepted vehicle no. UP65-JT-0125 belonging to the petitioner. Upon search, ten bovine animals, namely six heifers, two cows, one bull and one bullock, were allegedly recovered therefrom. Consequently, the vehicle was seized and FIR being Case Crime No.162 of 2024, under Sections 3/5-A/8 and 5 of the U.P. Prevention of Cow Slaughter Act, 1955, as well as Section 11 of the Prevention of Cruelty to Animals Act, 1960, was registered at Police Station Saiyadraja, District

Chandauli against Moti Patel, Anup, Chandrabhan Kumar (owner of the vehicle), and one unknown person.

3. Since, according to the prosecution, the aforesaid bovine animals were being transported in contravention of the provisions of the Act of 1955, proceedings for confiscation of the vehicle were initiated by issuance of notice under Section 5-A(7) of the Act, 1955 by the District Magistrate, Chandauli. The petitioner submitted his reply asserting that the vehicle had been forcibly seized and that no animals were being transported therein.

4. The District Magistrate, however, was not satisfied with the explanation furnished by the petitioner and recorded a finding that under the provisions of the Act and the Rules framed thereunder, a permit was required for transporting the animals to the State of Bihar and further, the animals were being transported for slaughter. Since the vehicle had been intercepted near the Bihar border, a presumption was drawn that the vehicle was proceeding towards Bihar and the animals were intended for slaughter. Consequently, in exercise of powers under Section 5-A(7) of the Act, 1955, the vehicle of the petitioner was confiscated.

5. The petitioner preferred an appeal/revision before the Commissioner, Varanasi Division, Varanasi under Section 5-A(8) of the Act, 1955, which too came to be dismissed by the impugned order dated 27.11.2025. The Commissioner concurred with the view that a permit was necessary for transportation of the aforesaid animals.

6. It is pertinent to note that the order dated 22.03.2025 passed by the District Magistrate was initially challenged by the petitioner by means of Criminal Revision No.49 of 2025 (*Chandrabhan Kumar vs. State of U.P. and another*), which was dismissed by the District Judge, Chandauli vide order dated 16.06.2025 on the ground of lack of jurisdiction, holding that the competent authority under Section 5-A of the Act, 1955 was the Commissioner.

7. Thereafter, the petitioner approached this Court by filing Petition under Article 227 No.6375 of 2025 (*Chandrabhan Kumar vs. State of U.P. and 3 others*), which was disposed of by a Coordinate Bench vide order dated

04.08.2025 granting liberty to the petitioner to file Criminal Revision before the Divisional Commissioner within four weeks. Pursuant thereto, the petitioner filed Criminal Revision under Section 5-A(8) of the Act, 1955, which was dismissed by the impugned order dated 27.11.2025.

8. Learned counsel for the petitioner submits that the action of the State in confiscating the petitioner's vehicle is wholly arbitrary, illegal and unsustainable in law. It is contended that the vehicle was apprehended within the State of Uttar Pradesh and no beef or slaughtered animal remains were recovered therefrom. It is further submitted that there was no material whatsoever to infer that the bovine animals were being transported to Bihar for slaughter and the confiscation order is founded merely upon conjectures and presumptions.

9. It is next submitted that the proceedings before the Commissioner were instituted on 29.08.2025 and an application for interim protection against operation of the order dated 22.03.2025 was also moved, yet no order was passed thereon. During pendency of the said proceedings, the State authorities proceeded to auction the vehicle for a paltry sum of Rs.85,000/-, despite the market value of the vehicle being more than Rs.7 lakhs. It is argued that the State acted in undue haste and in gross disregard of fairness, as it ought to have awaited the final outcome of the proceedings pending before the Commissioner.

10. It is further submitted that the petitioner has suffered grave economic loss, inasmuch as the vehicle constituted his sole source of livelihood and sustenance. Accordingly, it is prayed that the impugned orders be quashed and suitable compensation be awarded.

11. Per contra, Sri Sanjeev Singh, learned Additional Advocate General, assisted by Sri Pankaj Saxena and Ms. Seema Shukla, learned A.G.A., has sought to support the impugned orders contending that the petitioner failed to establish that the animals were not being transported to Bihar for slaughter. It is submitted that the surrounding circumstances gave rise to a strong presumption against the petitioner and that the confiscation and auction of the vehicle were in accordance with law. It is thus urged that no interference is warranted in exercise of jurisdiction under Article 226 of the Constitution of India.

12. I have heard learned counsel for the parties and perused the impugned order and the documents submitted with the petition.

13. Section 5-A and 5-B of the Act, 1955, which are relevant, reads as under:-

“5-A. Regulation on transport of cow, etc.(1) No person shall transport or offer for transport or cause to be transported any cow, or bull or bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act, from any place within the State to any place outside the State, except under a permit issued by an officer authorised by the State Government in this behalf by notified order and except in accordance with the terms and conditions of such permit.

(2) Such officer shall issue the permit on payment of such fee not exceeding five hundred rupees for every cow, bull or bullock as may be prescribed:

Provided that no fee shall be chargeable where the permit is for transport of the cow, bull or bullock for a limited period not exceeding six months as may be specified in the permit.

(3) Where the person transporting a cow, bull or bullock on a permit for a limited period does not bring back such cow, bull or bullock into the State within the period specified in the permit, he shall be deemed to have contravened the provision of sub-section (1).

(4) The form of permit, the form of application therefore and the procedure for disposal of such application shall be such as may be prescribed.

(5) The State Government or any officer authorised by it in this behalf by general or special notified order, may, at any time, for the purpose of satisfying itself, or himself, as to the legality or propriety of the action taken under this section, called for and examine the record of any case and pass such orders thereon as it or he may deem fit.

(6) Where the said conveyance has been confirmed to be related to beef by the competent authority or authorized laboratory under this Act, the driver, operator and owner related to transport, shall be charged with the offence under this Act, unless it is not proved that the transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.

(7) *The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do all proceedings of confiscation and release, as the case may be.*

(8) *The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner will do all proceedings of the confiscation and release, as the case may be.*

(9) *The expenditure on the maintenance of the seized cows and its progeny shall be recovered from the accused for a period of one year or till the release of the cow and its progeny in favour of the owner thereof whichever is earlier.*

(10) *Where a person is prosecuted for committing, abetting, or attempting to an offence under Sections 3, 5 and 8 of this Act and the beef or cow-remains in the possession of accused has been proved by the prosecution and transported things are confirmed to be beef by the competent authority or authorized laboratory, then the court shall presume that such person has committed such offence or attempt or abetment of such offence, as the case may be, unless the contrary is proved.*

(11) *Where the provisions of this Act or the related rules in context of search, acquisition, disposal and seizure are silent, the relevant provisions of the Code of Criminal Procedure, 1973 shall be effective thereto.*

5-B. *Whoever causes any physical injury to any cow or its progeny so as to endanger the life thereof such as to mutilate its body or to transport it in any situation whereby endangering the life thereof or with the intention of endangering the life thereof does not provide with food or water shall be punished with imprisonment for a term which shall not be less than one year and which may extend to seven years and with fine which shall not be less than one Lakh rupees and which may extend to three Lakh rupees.”*

14. This Court in the case of ***Kaliya vs. State of UP And Others 2023 SCC OnLine All 1974***, held as under:-

"10. Having heard learned counsel for the petitioner, learned A.G.A. and going through the record as well as provisions of the Act, I find that the moot question involved in this case is whether the present petitioner has violated any provision of

law in transportation of cows and its progeny by the aforesaid vehicle and whether the impugned orders have been passed confiscating the said vehicle in accordance with law.

11. ***

12. A perusal of section 5-A(1) of the Act shows that the said provision shall come into place when the cow or its progeny is transported from within the State of U.P. to any other place outside the State and in that case, permit issued by the authorised officer of the State government shall be required.

13. There is nothing on record to show that the alleged recovered animals, i.e. the cows were being transported from within the State of U.P. to any other State. Therefore, from the plain reading of section 5-A of the Act, the permit is not required in the peculiar facts of this case.

14. The question involved in the case in hand has also come up for consideration before this court in *Kailash Yadav v. State of U.P.* 2008 (10) ADJ 623 wherein it has been held that no permit is required for transportation of cow or its progeny within the State of U.P. Section 5-A(6 to 8) provides for confiscation and release of vehicle by which beef or cow and its progeny is transported in violation of the provisions of the Act and relevant rules.

15. From perusal of sub sections (1 to 5) of section 5-A of the Act and the law laid down by this court in *Kailash Yadav's case (supra)*, it is evident that there is no need of permit to transport cow(s) and its progeny within the State of U.P. Hence, such transportation of cow and its progeny cannot be said to be in violation of the Act. Consequently, it can also not be said that the seized vehicle has been used in violation of Section 5-A or any other provision of the Act. Therefore, the police has no power or jurisdiction to seize or confiscate the vehicle in question and the District Magistrate also could not have issued notice under section 5-A of the Act when there is nothing to substantiate that the animals were being transported from within the State to some other State. In other words, in case the animals were being transported within the State of U.P., no show cause notice under section 5-A of the Act could have been given.

16. A coordinate Bench of this Court vide judgment and order dated 25.8.2022 passed in *Mohd. Shakib v. State of U.P.* Application under section 482 CrPC No. 23143 of

2021 has held that no permit is required to transport cow and its progeny within the State of U.P. and therefore, it cannot be said that the seized vehicle in question was used in violation of section 5A(1) to (11) or any provisions of the Cow Slaughter Act. Relevant paras 12 and 13 of the judgment in Mohd. Shakib's case (supra) is reproduced as below:

"12. Now, it is to be considered whether permit is required for transportation of the cow or its progeny within the State of Uttar Pradesh. This question came up for consideration before this Court in Criminal Revision No. 131 of 2005 (Kailash Yadav v. State of U.P., 2008 (10) ADJ 623), wherein it is held that no permit is required for transportation of cow or its progeny within the State of Uttar Pradesh. Sub-section 5A (6 to 8) provides for confiscation and release of vehicle by which beef or cow and its progeny is transported in violation of the provision of this Act and the relevant rules. Sub-section 5A (6 to 8) reads as follows:—

(6) Where the said conveyance has been confirmed to be related to beef by the competent authority or authorised laboratory under this Act, the driver, operator and owner related to transport, shall be charged with the offence under this Act, unless it is not proved that the transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.

(7) The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do all proceedings of confiscation and release, as the case may be.

(8) The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner will do all proceedings of the confiscation and release, as the case may be.

13. From the perusal of sub-section (1 to 5) of Section 5A of this Act and the law laid down by this Court in Kailash Yadav v. State of U.P. (supra), it is abundantly clear that there is no need of permit to transport cow and its progeny within the state of Uttar Pradesh. Therefore, transportation of a cow and its progeny within the state of Uttar Pradesh is not a violation of any of the provisions of the Cow Slaughter Act. Therefore, it cannot be said that the seized vehicle in question was used in violation of Section 5A (1) to (11) or any provisions of the Cow Slaughter Act, and

therefore, police has no power or jurisdiction to seize or confiscate the vehicle in question. The District Magistrate, Varanasi has passed the impugned confiscation order dated 18.08.2021 in contravention of the law, as no permit is required to transport cow and its progeny within the state of Uttar Pradesh. In above circumstances, the impugned order dated 18.08.2021 passed by District Magistrate, Varanasi is without jurisdiction and the same is liable to be set-aside. Likewise, the revisional court has not considered the relevant provisions of Section 5A of Cow Slaughter Act while dismissing the criminal revision of the applicant, therefore, the impugned order dated 13.10.2021 passed by Special Judge (SC/ST Act), Chandauli is also against the provisions of law and is liable to be set-aside."

(emphasis supplied)

15. This Court again in the case of *Munib vs. State of UP and 2 others 2024 SCC OnLine All 9631* held as under:-

"12. Thus transportation of cow etc. is regulated by Section 5A and Section 5A(7) confers power upon the District Magistrate/Commissioner of Police to confiscate the vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant Rules. A perusal of the F.I.R. indicates that none of the cow were maimed nor physically injured. Further, the allegation that they were being transported to West Bengal from Prayagraj for slaughtering requires no consideration **as the condition precedent for the application of the section is that the cattle described in the Act should have been transported from any place in the State of U.P. to any place outside the State. Even if the story of seizure of cattle is believed then also 06 cattle are said to have been seized within the jurisdiction of Police Station Lalganj District Mirzapur namely within the State of Uttar Pradesh and admittedly, the border is far away. The fact remains that cattle were apprehended from within the State of U.P. and, therefore, it cannot be said that they were transported to a place outside the State of U.P.**

13. ..Commission of offence is one of the requisite ingredients for passing an order of confiscation and an order of confiscation should not be passed automatically. Thus, there is no material, as exist on record, to justify the exercise of powers under Sub Section 7 of Section 5A. The same is clearly contrary to the mandates and powers conferred upon the District Magistrate.

14. *The confiscation by its very connotation implies depriving a person of his property to which he is entitled to retain. Article 300A of the Constitution of India provides that no person shall be deprived of his property save by authority of law. Arbitrary confiscation of the property which he might be using for his trade, profession or occupation is a serious encroachment on the fundamental right of a citizen under Article 19(1)(g) of the Constitution of India to carry on his trade, occupation or business. The procedure prescribed by law for confiscating the property as contained in Section 5A(7) of the Cow Slaughter Act, empowers the District Magistrate/Commissioner of Police to confiscate/seize the vehicle only if the conditions so prescribed under Sub Section 7 of Section 5A are fulfilled."*

(emphasis supplied)

16. The Apex Court in the case of ***Nilabati Behera (Smt.) Alias Lalita Behera(Through The Supreme Court Legal Aid Committee) vs. State of Orissa and Others (1993) 2 SCC 746***, held as under:-

*"34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. **Therefore, when the court moulds the relief by granting "compensation" in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty** and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of*

competent jurisdiction or/and prosecute the offender under the penal law.

35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law — through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible...."

(emphasis supplied)

17. Similarly, the Apex Court again in the case of ***Indibly Creative Private Ltd. And Others vs. Government of West Bengal And Others (2020) 12 SCC 436***, has granted compensation for consequential financial losses caused by State authorities. In this case the petitioner suffered violation of fundamental rights under Articles 19(1)(a) & (g), 14 and 21. The respondent State authorities were directed to pay compensation of Rs 20 lakhs, which was a huge amount. The relevant para is extracted hereinbelow:-

"52. As a consequence of the pulling off of the film from the theatres where it was screened on 16-2-2019, the petitioners have suffered a violation of their fundamental right to free speech and expression and of their right to pursue a lawful business. This has been occasioned by the acts of commission and, in any event, of omission on the part of the State in failing to affirm, fulfil and respect the fundamental freedoms of the petitioners. We are clearly of the view that a remedy in public law for the grant of remedial compensation is required in the present case. We order and direct the respondents to pay to the petitioners compensation which we quantify at Rs 20 lakhs within a period of one month from the date of the present judgment."

18. It is undisputed that ten bovine animals, namely six heifers, two cows, one bull and one bullock, were allegedly recovered from the petitioner's

vehicle. Admittedly, no beef or slaughtered animal flesh was recovered from the vehicle. The sole basis of confiscation appears to be that the animals were allegedly being transported without permit. However, there is no cogent material on record to establish that the animals were in fact being transported to the State of Bihar for slaughter. Mere interception of the vehicle near the Bihar border cannot ipso facto justify such presumption. Suspicion, however strong, cannot substitute legal proof.

19. Further, it is apparent that cruelty to animals under Section 5-B of the Act, 1955 may attract separate proceedings, but the authorities below have not recorded any categorical finding that the vehicle was liable to confiscation on account of cruelty inflicted upon the animals. Even otherwise, for invoking such provisions, there must be evidence of such physical injury or conditions of transport as would endanger the life of the animals. There must be such injury on the body of the animals which either endangers their life or mutilates their body. It is apparent that a simple injury which neither endangers their life nor mutilates their body, is not sufficient to attract the provision of Section 5-B of the Act. Besides this, the prosecution is bound to prove such injuries in accordance with law. In the instant case, neither such evidence has been brought on record by the prosecution nor there is any discussion on this aspect by the authorities below.

20. The only ground assigned in the impugned orders is absence of permit. However, for transportation of cows or its progeny within the State of Uttar Pradesh, no permit is required. In absence of reliable evidence that the animals were being transported outside the State for slaughter, the very substratum of the confiscation proceedings collapses.

21. This Court is, therefore, constrained to hold that the entire action of the State in confiscating the petitioner's vehicle was arbitrary, illegal and unsupported by the statutory provisions of the Act of 1955.

22. It is equally disturbing that during pendency of proceedings before the Commissioner, the State proceeded to auction the vehicle without awaiting adjudication of the petitioner's challenge. Such arbitrary action has caused grave prejudice to the petitioner.

23. The petitioner has disclosed in the rejoinder affidavit that the vehicle had been purchased in May, 2023 for Rs.5,20,000/-. Yet, the same was auctioned on 14.09.2025 for only Rs.85,000/-. Even after accounting for depreciation @10% per annum, the vehicle was worth about Rs.4 lacs at the time of auction. The sale for such grossly inadequate consideration demonstrates manifest arbitrariness.

24. The material on record further indicates that the vehicle was a commercial transport vehicle and the principal source of livelihood of the petitioner. It also appears that the vehicle had been financed through Shriram Finance Ltd. and the petitioner was paying monthly loan instalments of Rs.9,843/- until August, 2024, but defaulted thereafter owing to seizure of the vehicle.

25. In the circumstances, this Court deems it just and proper to award compensation to the petitioner. Accordingly, the State is directed to pay compensation @ Rs.15,000/- per month for a period of about twelve months from 08.09.2024 to 14.09.2025, totalling Rs.1,80,000/-, together with an additional sum of Rs.20,000/- towards mental agony and harassment.

26. Learned A.A.G. submits that, in the alternative, the State is prepared to restore the vehicle to the petitioner. In the event the vehicle is restored, the petitioner shall nevertheless be entitled to compensation towards loss of earnings from September, 2024 till the date of actual restoration, calculated @ Rs.15,000/- per month. But if the vehicle is not restored to the petitioner, then the petitioner is entitled to depreciated cost of the vehicle of Rs.4 lacs also, alongwith the above damages.

27. In view of the aforesaid discussion, the writ petition deserves to be allowed.

28. In view of the aforesaid analysis, the petitioner is entitled to the following reliefs from the State and its functionaries:-

- The petitioner be paid damages @Rs.15,000/- per month for the economic loss from 08.09.2024 till the restoration of vehicle.

- The petitioner be also paid damages of Rs.20,000/- for the mental agony and harassment.
- If the State fails to restore the vehicle to the petitioner, then, the petitioner is also entitled to depreciated cost of vehicle of Rs.4 lacs, but in this case, the petitioner will be entitled to damages @ Rs.15,000/- per month for only 12 months.
- The above amounts be paid to the petitioner within 15 days.

29. Accordingly, the writ petition is **allowed**. The impugned order dated 22.03.2025 passed by the District Magistrate, Chandauli and the order dated 27.11.2025 passed by the Commissioner, Varanasi Division, Varanasi are hereby quashed. The State is at liberty to realize the damages awarded to the petitioner from the concerned employees and officials.

April 30, 2026
Himanshu

(Sandeep Jain,J.)