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MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD & ORS.

v.

JAN MOHAMMED USMANBHAI & ANR.

APRIL 17, 1986

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[O. CHINNAPPA REDDY, E.S. VENKATARAMIAH, V. BALAKRISHNA ERADI, R.B. MISRA AND V. KHALID, JJ.]

Bombay Provincial Municipal Corporation Act, 1949 - S. 466(1)(D)(b) - Standing Orders issued directing closure of C slaughter house on seven specified days in a year - Whether violates fundamental right to carry on trade.

Section 466 (1)(D)(b) of the Bombay Provincial Municipal Corporation Act, 1949 confers on the Municipal Commissioner power to make standing orders, rules and bye-laws. One of such D powers extends to fixation of days and hours during which any market, slaughter house or stock-yard may be kept open for use. The appellant-Corporation framed such bye-laws on 18th July 1957 and the same had been sanctioned by the Government. A standing order was made by the Municipal Commissioner in the year 1956 fixing four days as holidays in a year on which the E municipal slaughter house shall remain closed. By an amendment to the said standing order effected on 17th September, 1965 three more holidays were added.

The respondent, a beef dealer, filed a writ petition challenging the validity of the said two standing orders F directing the closure of slaughter houses on seven days as being violative of Arts. 14 and 19(1)(g) of the Constitution alleging that the closure of the slaughter house adversely effected his trade; that the power to keep the municipal slaughter house closed on any particular day in an area is vested in the Municipal Commissioner and such a power could G only be exercised by a standing order properly issued and promulgated by him; that under the earlier standing order of 1956 slaughter houses could be kept open for use on all days except on the four days viz. Janmashtami, Jain Samvatsari, 2nd Oct. (Mahatama Gandhi's Birthday) and 12th February (Sharddha day of Mahatama Gandhi); that the resolution passed by the

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Corporation on 18th January, 1965, adding three more days as the closure days of the slaughter houses viz. 30th January (Mahatama Gandhi's Nirwan Day), Mahabir Jayanti and Ram Navami, was therefore, null and void; that the said standing orders put an unreasonable restriction on the petitioner's right to carry on his trade or business as a beef dealer and that restriction was not in the interest of the general public but was based on extraneous considerations; that the standing orders single out the petitioner and other butchers like him, who slaughter only cattle and not sheep or goat, for hostile discrimination inasmuch as the standing orders effect only the butchers who slaughter cattle and not those who deal in meat of goat and sheep.

Allowing the petition, the High Court held that the impugned standing orders were ultra vires being violative of Art. 19(1)(g) of the Constitution.

The appellant-Corporation appealed to this Court, contending that the restriction imposed by the two standing orders was a reasonable one and in the interests of the general public.

Allowing the appeal,

HELD : 1. The closure of slaughter house on seven days specified in the two standing orders did not in any way put an unreasonable restriction on the fundamental right guaranteed to the respondent under Art. 19(1)(g) of the Constitution. [717 C]

Hanif Quareshi & Ors. v. State of Bihar & Ors., [1959] S.C.R. 629, **Minerva Mills Ltd. & Ors. v. Union of India & Ors.**, [1981] 1 S.C.R. 206, 257, **Abdul Hakim Quraishi & Ors. v. State of Bihar & Ors.**, [1961] 2 S.C.R. 610 and **Mohd. Faruk v. State of Madhya Pradesh & Ors.**, [1970] 1 S.C.R. 156, referred to.

2. The Court must in considering the validity of the impugned law imposing prohibition on the carrying on a business or a profession attempt an evaluation of its direct and immediate impact upon the fundamental rights of the citizens affected thereby and the larger public interest sought to be ensured in the light of the object sought to be

A achieved, the necessity to restrict the citizens' freedom, the inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public, the possibility of achieving the object by imposing a less drastic restraints, and in the absence of exceptional situations such as the prevalence of a State of emergency, national or local B or the necessity to maintain necessary supplies or the necessities to stop activities, inherently dangerous, the existence of a machinery to satisfy the administrative authority that a case for imposing restriction is made out or a less drastic restriction may ensure the object intended to be achieved. [713 G-H; 714 A-C]

C 3. Clause (6) of Art. 19 protects a law which imposes in the interest of general public, reasonable restrictions on the exercise of the right conferred by sub-cl.(g) of cl.(1) of Art. 19. It is left to the Court in case of a dispute to determine the reasonableness of the restriction imposed by the D law. But the Court cannot proceed on a general notion of what is reasonable in the abstract or even on a consideration of what is reasonable from the point of view of the person or persons on whom the restrictions are imposed. The right conferred by sub-cl.(g) is expressed in general language and if there had been no qualifying provision like cl.(6) the E right so conferred would have been an absolute one. What the Court has to do is to consider whether the restrictions imposed are reasonable in the interest of general public. [714 G-H; 715 A-B]

State of Madras v. V.G. Row, [1952] S.C.R. 597, relied F upon.

4. The expression "in the interest of general public" is of wide import comprehending public order, public health, public security, morals, economic welfare of the community and the objects mentioned in Part IV of the Constitution. No body G can dispute a law providing for basic amenities; for the dignity of human labour as a social welfare measure in the interest of general public. [716 B-C]

5.1 The tests of reasonableness have to be viewed in the context of the issues which faced the legislature. In the H construction of such laws and in judging their validity, Courts must approach the problem from the point of view of

furthering the social interest which it is the purpose of the legislation to promote. They are not in these matters functioning in vacuo but as part of society which is trying, by the enacted law to solve its problem and furthering the moral and material progress of the community as a whole. [716 G-H; 717 A]

Joti Prasad v. Union Territory of Delhi, [1961] S.C.R. 1601, relied upon.

5.2 Normally, the legislature is the best judge of what is good for the community by whose sufferage it comes into existence. This should be the proper approach of the Court. But the ultimate responsibility for determining the validity of the law must rest with the Court and the Court must not shirk that solemn duty cast upon it by the Constitution. [717 E-F]

5.3 In the instant case, it was, therefore, open to the Municipal Commissioner to fix days and hours at and during which any slaughter house should be kept open for use. If the Municipal Commissioner declares certain days as holidays for the slaughter house in order to give facilities to the municipal staff working in the municipal slaughter house, no body could have any objection to such a standing order. The grievance of the respondent is that the Municipal Commissioner by standing orders had declared days concerning Mahatma Gandhi, Lord Mahavir, Sri Ram and Lord Krishna as holidays. Mahatama Gandhi and Lord Mahavir were apostles of non-violence who lived and died for that cause. Mahatama Gandhi was venerated by the people of India as the Father of the Nation. Lord Mahabir preached and practised Ahimsa. Rama is considered by the people to be the embodiment of all virtues. Krishna is known to be the expounder of the philosophy of the Geeta. Their birthdays are generally observed by the people not merely as days of festivity but also as days of abstinence from meat. One cannot, therefore, complain that these days are ill chosen as holidays. [715 E-H; 716 A-B]

6. When the validity of a law placing restriction on the exercise of a fundamental right in Art. 19(1)(g) is challenged, the onus of proving to the satisfaction of the Court that the restriction is reasonable lies upon the State. If the law requires that an act which is inherently dangerous, noxious or injurious to the public interest, health or safety

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or is likely to prove a nuisance to the community shall be done under a permit or a licence of an executive authority, it is not per se unreasonable and no person may claim a licence or a permit to do that act as of right. Where the law providing for grant of a licence or permit confers a discretion upon an administrative authority regulated by rules B or principles, express or implied, and exerciseable in consonance with the rules of natural justice, it will be presumed to impose a reasonable restriction. Where, however, power is entrusted to an administrative agency to grant or withhold a permit or licence in its uncontrolled discretion the law ex facie infringes the fundamental right under Art. C 19(1)(g). Imposition of restriction on the exercise of a fundamental right may be in the form of control or prohibition. But when the exercise of a fundamental right is prohibited, the burden of proving that a total ban on the exercise of the right alone may ensure the maintenance of the interest of general public lies heavily upon the State. D [713 C-G]

7. While Art. 14 forbids class legislation it does not forbid reasonable classification for the purposes of legislation. There is always a presumption in favour of constitutionality of an enactment and the burden is upon him, E who attacks it, to show that there has been a clear violation of the constitutional principles. The Courts must presume that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed against problems made manifest by experience and that its discriminations are based on adequate grounds. The legislature F is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest, and finally, that in order to sustain the presumption of constitutionality the Court may take into consideration matters of common knowledge, matters of common rapport, the history of the times and may assume every state G of facts which can be conceived to be existing at the time of legislation. [717 D-H; 718 A-B]

8. The butchers who slaughter cattle formed the well defined class based on their occupation. That classification is based on intelligible differentia and distinguishes them H from those who kill goats and sheep and this differentiation has close connection with the object sought to be achieved by

the impugned Act, namely the preservation, protection and the improvement of livestock. The attainment of these objectives may well necessitate that the slaughterers of cattle should be dealt with differently than the slaughterers of goats and sheep. The standing orders, therefore, adopt a classification based on sound and intelligible basis and can quite clearly stand the test. [718 E-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1685 of 1970.

From the Judgment and Order dated 3rd March, 1970 of the Gujarat High Court in S.C.A. No. 102 of 1965.

S.T. Desai, T.U. Mehta, H.S. Parihar, Mrs. A.K. Verma, Joel Peres, D.N. Mishra and Vipin Chandra for the Appellants.

G.A. Shah, Girish Chandra, C.V. Subba Rao and R.N. Poddar for the Respondents.

T.U. Mehta and H.J. Zaveri for the Interveners.

The Judgment of the Court was delivered by

R.B. MISRA, J. Slaughter of cows and calves has been a sensitive issue and it has generated violent sentimental differences time and again between different sections of the people of this country. Part IV of the Constitution of India enshrines what are called the Directive Principles of State Policy. These Directive Principles are not enforceable in a court of law but are nevertheless fundamental in the governance of the country and are to be applied by States in making laws. Article 48 contained in Part IV provides :

> "48. The State shall endeavour to organise agriculture and animal husbandry in modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."

It appears that pursuant to Article 48 of the Constitution several States enacted laws for the preservation

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and prohibition of the slaughter of cows and calves and other milch and draught cattle. The State of Bihar enacted the 'Bihar Preservation and Improvement of Animals Act, 1955' the U.P. State enacted the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 and Madhya Pradesh enacted the C.P. and Berar Animal Preservation Act, 1949, hereinafter referred to as the Bihar, U.P. and C.P. & Berar Acts respectively, for short. These Acts put a total ban on the slaughter of all categories of animals or species of bovine cattle. The constitutional validity of these Acts was challenged in **Mohd. Hanif Quareshi & Ors. v. State of Bihar & Ors.**, [1959] S.C.R. 629, by those whose trade or business was affected, as being violative of Arts. 14, 19(1)(g) and 25 of the Constitution. This Court held :

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> "The result is that we uphold and declare that the Bihar Act in so far as it prohibits the slaughter of cows of all ages and calves of cows and calves of buffaloes, male and female, is constitutionally valid and we hold that, in so far as it totally prohibits the slaughter of she-buffaloes, breeding bulls and working bullocks (cattle and buffalo), without prescribing any test or requirement as to their age or usefulness, it infringes the rights of the petitioners under Art. 19(1)(g) and is to that extent void.
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> As regards the U.P. Act we uphold and declare, for reasons already stated, that it is constitutionally valid in so far as it prohibits the slaughter of cows of all ages and calves of cows, male and female, but we hold that in so far as it purports to totally prohibit the slaughter of breeding bulls and working bullocks without prescribing any test or requirement as to their age or usefulness, it offends against Art. 19(1)(g) and is to that extent void.
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> As regards the Madhya Pradesh Act we likewise declare that it is constitutionally valid in so far as it prohibits the slaughter of cows of all ages and calves of cows, male and female, but that it is void in so far as it totally prohibits the

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slaughter of breeding bulls and working bullocks without prescribing any test or requirement as to their age of usefulness.

We also hold that the Act is valid in so far as it regulates the slaughter of other animals under B certificates granted by the authorities mentioned therein."

The Court observed that these Acts were made by the States in discharge of the obligation laid on them by Art. 48 of the Constitution.

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Article 19(1)(g) confers a fundamental right upon a citizen to practise any profession, or to carry on any occupation, trade or business. Article 14 enjoins that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 13(2) provides that the State shall not make D any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Dealing with Fundamental Rights as given in Part III and the Directive Principles as detailed in Part IV of the E Constitution, the Constitution Bench in **Minerva Mills Ltd. & Ors. v. Union of India & Ors.**, [1981] 1 S.C.R. 206, 257, observed as follows :

"The significance of the perception that Parts III and IV together constitute the core of commitment F to social revolution and they, together, are the conscience of the Constitution is to be traced to a deep understanding of the scheme of the Indian Constitution. Granville Austin's observation brings out the true position that Parts III and IV are like two wheels of a chariot, one no less important G than the other. You snap one and the other will lose its efficacy. They are like a twin formula for achieving the social revolution, which is the ideal which the visionary founders of the Constitution set before themselves. In other words, the Indian Constitution is founded on the bed-rock of the H

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balance between Parts III and IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.

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This is not mere semantics. The edifice of our Constitution is built upon the concepts crystallised in the Preamble. We resolved to constitute ourselves into a Socialist State which carried with it the obligation to secure to our C people justice-social, economic and political. We, therefore, put Part IV into our Constitution containing directive principles of State policy which specify the socialistic goal to be achieved. We promised to our people a democratic polity which carries with it the obligation of securing to the D people liberty of thought, expression, belief, faith and worship; equality of status and of opportunity and the assurance that the dignity of the individual will at all costs be preserved. We, therefore, put Part III in our Constitution conferring those rights on the people. Those rights E are not an end in themselves but are the means to an end. The end is specified in Part IV. Therefore, the rights conferred by Part III are subject to reasonable restrictions and the Constitution provides that enforcement of some of them may, in stated uncommon circumstances, be suspended. But F just as the rights conferred by Part III would be without a radar and a compass if they were not geared to an ideal, in the same manner the attainment of the ideals set out in Part IV would become a pretence for tyranny if the price to be paid for achieving that ideal is human freedoms. One of the G faiths of our founding fathers was the purity of means. Indeed, under our law, even a decoit who has committed a murder cannot be put to death in the exercise of right of self-defence after he has made good his escape. So great is the insistence of civilised laws on the purity of means. The goals H set out in Part IV have, therefore, to be achieved

without the abrogation of the means provided for by Part III. It is in this sense that Parts III and IV together constitute the core of our Constitution and combine to form its conscience. Anything that destroys the balance between the two parts will ipso facto destroy an essential element of the basic structure of our Constitution."

Attempts were, however, made from time to time to circumvent the judgment of this Court in **Mohd. Hanif Quareshi's** case (supra). After the judgment in that case the legislatures of the State of Bihar and U.P. passed Amendment Acts prescribing minimum age of animals to be slaughtered. The Bihar Act prohibited slaughter of a bull, bullock or she-buffalo unless the animal was of 25 years of age and was useless. Under the U.P. Act slaughter of a bull or buffalo was permitted only if it was over 20 years of age and was permanently unfit. The Madhya Pradesh Legislature passed a new Act, the M.P. Agricultural Cattle Preservation Act, 1959 under which slaughter of a bull, bullock or buffalo except on a certificate issued by the competent authority was prohibited. A certificate could not be issued unless the animal was of over 20 years' age and was unfit for work or breeding. These Acts were again challenged in **Abdul Hakim Quraeshi & Ors. v. State of Bihar & Ors.**, [1961] 2 S.C.R. 610. This Court took the view that the ban on the slaughter of bulls, bullocks and she-buffaloes below the age of 20 or 25 years was not a reasonable restriction in the interests of the general public and was void. It was on the basis that a bull, bullock or buffalo did not remain useful after 15 years and whatever little use it may have then was greatly offset by the economic disadvantages of feeding and maintaining unserviceable cattle. This Court further held that the additional condition that the animal must, apart from being above 20 or 25 years of age, also be unfit was a further unreasonable restriction. Accordingly the relevant provisions in the Bihar, U.P. and Madhya Pradesh Acts were declared invalid.

The present case is apparently another attempt, though on a slightly different ground, to circumvent the judgment of this Court in **Mohd. Hanif Quareshi's** case (supra). The writ giving rise to the present appeal sought to challenge two Standing Orders made by the Municipal Commissioner of the

Municipal Corporation of the City of Ahmedabad in exercise of his powers under s. 466(1)(D)(b) of the Bombay Provincial Municipal Corporation Act 1949 directing that the Municipal ?laughter houses should be kept open for use on all days except on seven days mentioned in the two standing orders.

Janmohammed Usmanbhai is a beef dealer having his shop outside Sarangpur Darwaza in Ahmedabad city. His case is that he gets his animals slaughtered at the slaughter house owned by the Municipal Corporation. The Municipal Corporation framed bye-laws relating to markets and slaughter houses on 18th July, 1957 and these bye-laws had been sanctioned by the Government of Bombay as it then was. Section 466(1)(D)(b) of the Act confers on the Municipal Commissioner power to make standing orders consistent with the provisions of the Act and the rules and bye-laws. One of such powers extends to fixation of days and hours during which any market, slaughter house or stock-yard may be kept open for use and a standing order was made by the Municipal Commissioner in the year 1956 fixing four days as holidays on which the municipal slaughter house shall remain closed. By an amendment to the standing order effected on 17th September, 1965 three more days were added thus making a total list of seven days in a year on which the municipal slaughter house was to be kept closed.

Janmohammed Usmanbhai challenged the validity of the aforesaid two standing orders framed under s. 466(1)(D)(b) of the Bombay Provincial Municipal Corporation Act, 1949 directing the closure of slaughter houses on seven days named in the standing orders being violative of Arts. 14 and 19(1)(g) of the Constitution inasmuch as the closure of the slaughter house adversely effected his trade as animals could not be admitted in the slaughter house on those seven days specified in the standing orders and therefore he could not get the meat of those animals for his beef shop.

It appears that at the time of the presentation of the writ petition the amended standing order adding three more days to the list of holidays in the slaughter house had not seen the light of the day. The Municipal Corporation of Ahmedabad had, however, passed a resolution on 18th January, 1965 whereby three more days were added to the list of holidays for the slaughter house. The petitioner took up a

plea that the power to keep the municipal slaughter house closed on any particular day in an area vested in the Municipal Commissioner and such a power could only be exercised by a standing order properly issued and promulgated by the Municipal Commissioner. Under the earlier standing order on 1956 made by the Municipal Commissioner municipal slaughter houses could be kept open for use on all days except on the following four days viz. Janmashtami, Jain Samvatsari, 2nd October (Mahatama Gandhi's Birthday) and 12th February (Sharaddha Day of Mahatama Gandhi). The resolution passed by the Corporation on 18th January, 1965 declaring three additional holidays for the slaughter houses, therefore, was null and void. During the pendency of the writ petition, however, a new standing order was made by the Municipal Commissioner on 17th September, 1965 in exercise of his powers under s. 466(1)(D)(b) of the Bombay Provincial Municipal Corporation Act adding three more days as the closure days of the slaughter houses : 30th January (Mahatama Gandhi's Nirwan Day), Mahavir Jayanti and Ram Navmi to the previous list. Consequently respondent No. 1, the petitioner in the writ petition, applied for the amendment of the writ petition, which was allowed by the Court on 12th August, 1969. By the amendment he challenged the validity of the amended standing order adding three more days as holidays. The result was that the respondent No. 1 challenged the constitutional validity of all the seven days declared as holidays in the slaughter houses.

The main ground of challenge was that the impugned standing orders put an unreasonable restriction on the petitioner's right to carry on his trade or business as a beef dealer and that restriction was not in the interests of the general public but was based on other extraneous considerations. The other ground of attack was that the standing orders single out the petitioner and other butchers like him who slaughter only cattle and not sheep or goat, for hostile discrimination inasmuch as the standing orders effect only the butchers who slaughter cattle and not those who deal in meat of goat and sheep.

The High Court relying on **Mohd. Faruk v. State of Madhya Pradesh & Ors.**, [1970] 1 S.C.R. 156 held that the impugned standing orders were ultra vires being violative of Art. 19(1)(g) of the Constitution. In that case the bye-laws of the

Jabalpur Municipality permitted the slaughter of various animals including bulls and bullocks. A licence had to be obtained for that purpose. The slaughter of animals in places outside the premises fixed by the municipality was prohibited by s. 257(3) of the Act and the sale of meat, within the area of the Municipality, of the animals so slaughtered in the premises not fixed by the municipality was also prohibited. Under the notification by which the bye-laws were issued in 1948 bulls and bullocks could be slaughtered in the premises fixed for the purpose but by the notification dated 12th January, 1967 the confirmation of bye-laws in so far as they related to bulls and bullocks was cancelled. The effect of that notification was to prohibit the slaughter of bulls and bullocks within the Municipality of Jabalpur. This cancellation of the confirmation of bye-laws, it was urged, imposed a direct restriction upon the fundamental right of the petitioner under Art. 19(1)(g) of the Constitution. This Court laid down :

> "The impugned notification, though technically within the competence of the State Government, directly infringes the fundamental right of the petitioner guaranteed by Art. 19(1)(g), and may be upheld only if it be established that it seeks to impose reasonable restrictions in the interests of the general public and a less drastic restrictions will not ensure the interest of the general public."

This Court further observed :

> "The sentiments of a section of the people may be hurt by permitting slaughter of bulls and bullocks in premises maintained by a local authority. But a prohibition imposed on the exercise of a fundamental right to carry on an occupation, trade or business will not be regarded as reasonable, if it is imposed not in the interest of the general public, but merely to respect the susceptibilities and sentiments of a section of the people whose way of life, belief or thought is not the same as that of the claimant."

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The High Court, however, overruled the objection based on Art. 14 of the Constitution.

The appellants have now come to challenge the judgment and order of the High Court by certificate, and they contend that the restriction imposed by the two standing orders was a B reasonable one and in the interests of the general public.

Before proceeding to deal with the points urged on behalf of the appellants it will be appropriate to refer to the well-established principles in the construction of the constitutional provisions. When the validity of a law placing restriction on the exercise of a fundamental right in Art. C (19)(1)(g) is challenged, the onus of proving to the satisfaction of the Court that the restriction is reasonable lies upon the State. If the law requires that an act which is inherently dangerous, noxious or injurious to the public interest, health or safety or is likely to prove a nuisance to the community shall be done under a permit or a licence of an D executive authority, it is not per se unreasonable and no person may claim a licence or a permit to do that act as of right. Where the law providing for grant of a licence or permit confers a discretion upon an administrative authority regulated by rules or principles, express or implied, and exerciseable in consonance with the rules of natural justice, E it will be presumed to impose a reasonable restriction. Where, however, power is entrusted to an administrative agency to grant or withhold a permit or licence in its uncontrolled discretion the law ex facie infringes the fundamental right under Art. 19(1)(g). Imposition of restriction on the exercise of a fundamental right may be in the form of control or F prohibition. But when the exercise of a fundamental right is prohibited, the burden of proving that a total ban on the exercise of the right alone may ensure the maintenance of the interest of general public lies heavily upon the State. In this background of legal position the appellants have to establish that the restriction put on the fundamental right of G the respondents to carry on their trade or business in beef was a reasonable one. The Court must in considering the validity of the impugned law imposing prohibition on the carrying on of a business or a profession attempt an evaluation of its direct and immediate impact upon the fundamental rights of the citizens affected thereby and the H

larger public interest sought to be ensured in the light of the object sought to be achieved, the necessity to restrict the citizen's freedom, the inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public, the possibility of achieving the object by imposing a less drastic restraint, and in the absence of exceptional situations such as the prevalence of a state of emergency, national or local, or the necessity to maintain necessary supplies or the necessity to stop activities inherently dangerous, the existence of a machinery to satisfy the administrative authority that a case for imposing restriction is made out or a less drastic restriction may ensure the object intended to be achieved.

In the light of the aforesaid principles the question for consideration is whether the closure of the slaughter house on seven days specified in the two standing orders puts a reasonable restriction on the fundamental right of the petitioner guaranteed under Art. 19(1)(g) of the Constitution. Out of the seven days declared as closed days for the slaughter house three of the days are connected with Mahatma Gandhi, that is, 2nd October being his birthday, 12th February being his Sharaddha Day and the 30th January as his Nirwan day, and out of the remaining four days, Janmashtami relates to the birth day of Lord Krishna, Ram Navami relates to the birth day of Sri Ram, Mahabir Jayanti and Jain Samvatsari relate to Lord Mahabir, the exponent of Jainism. Normally the legislature is the best judge of what is good for the community by whose suffrage it comes into existence. This should be the proper approach of the Court. But the ultimate responsibility for determining the validity of the law must rest with the court and the court must not shirk that solemn duty cast upon it by tne Constitution.

Clause (6) of Art. 19 protects a law which imposes in the interest of general public reasonable restrictions on the exercise of the right conferred by sub-clause (g) of clause (1) of Art. 19. Obviously it is left to the court in case of a dispute to determine the reasonableness of the restrictions imposed by the law. In determining that question the court cannot proceed on a general notion of what is reasonable in the abstract or even on a consideration of what is reasonable from the point of view of the person or persons on whom the restrictions are imposed. The right conferred by sub-clause

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(g) is expressed in general language and if there had been no qualifying provision like clause (6) the right so conferred would have been an absolute one. To the persons who have this right any restriction will be irksome and may well be regarded by them as unreasonable. But the question cannot be decided on that basis. What the Court has to do is to consider whether B the restrictions imposed are reasonable in the interest of general public. In the **State of Madras v. V.G. Row,** [1952] S.C.R. 597 this Court laid down the test of reasonableness in the following terms :

> "It is important in this context to bear in mind that the test of reasonableness, whereever C prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and D urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict."

In the instant case it was open to the Municipal E Commissioner to fix days and hours at and during which any slaughter house should be kept open for use. If the Municipal Commissioner declares certain days as holidays for the slaughter house in order to give facilities to the municipal staff working in the municipal slaughter house, no body could have any objection to such a standing order. The grievance of F the petitioner-respondent in the instant case is on the ground that the Municipal Commissioner by standing orders had declared days concerning Mahatma Gandhi, Lord Mahavir, Sri Ram and Lord Krishna as holidays. Mahatma Gandhi and Lord Mahavir were apostles of non-violence who lived and died for that cause. Mahatma Gandhi, venerated by the People of India as the G Father of the Nation was an apostle of non-violence. Mahavir preached and practised Ahimsa and even today has a large following in the State of Gujarat. Rama and Krishna are the beloved of the Hindu Pantheon and are worshiped by large sections of the people. Rama is considered by them to be the embodiment of all virtues and of everything that is good in H

humanity. Krishna is known to be the expounder of the philosophy of the Geeta. Their birthdays are generally observed by the people not merely as days of festivity but also as days of abstinence from meat. One cannot, therefore, complain that these days are ill chosen as holidays.

The expression 'in the interest of general public' is of wide import comprehending public order, public health, public security, morals, economic welfare of the community and the objects mentioned in part IV of the Constitution. Nobody can dispute a law providing for basic amenities; for the dignity of human labour like provision for canteen, rest rooms, facilities for drinking water, latrines and urinals etc. as a social welfare measure in the interest of general public. Likewise in respect of legislations and notifications concerning the wages, working conditions or the other amenities for the working class, the courts have adopted a liberal attitude and the interest of the workers has been protected notwithstanding the hardship that might be caused to the employers. It was, therefore, open to the Legislature or the authority concerned, to ensure proper holidays for the Municipal staff working in the Municipal slaughter houses and provide certain closed days in the year. Even according to the observations of the High Court nobody could have any objection to the standing orders issued by the Municipal Commissioner under section 466(1)(d)(b) if Municipal slaughter houses were closed on certain days in order to ensure proper holidays for the municipal staff working in the Municipal slaughter houses. The only objection was that the standing orders direct closure of the slaughter houses on Janamashtami, Jain Samvatsari, 2nd October (Mahatama Gandhi's birthday), 12th February (Sharaddha day of Mahatama Gandhi), 30th January (Mahatma Gandhi's Nirvan day), Mahavir Jayanti and Ram Navami. These days were declared as holidays under the standing orders for the Municipal Corporation slaughter houses.

The tests of reasonableness have to be viewed in the context of the issues which faced the legislature. In the construction of such laws and in judging their validity, courts must approach the problem from the point of view of furthering the social interest which it is the purpose of the legislation to promote. They are not in these matters functioning in vacuo but as part of society which is trying,

by the enacted law, to solve its problems and furthering the moral and material progress of the community as a whole. (See **Joti Prasad v. Union Territory of Delhi,** [1961] S.C.R. 1601) If the expression 'in the interest of general public' is of wide import comprising public order, public security and public morals, it cannot be said that the standing orders closing the slaughter houses on seven days is not in the interest of general public.

In view of the aforesaid discussion we are not prepared to hold that the closure of slaughter house on seven days specified in the two standing orders in any way put an unreasonable restriction on the fundamental right guaranteed to the petitioner-respondent under Article 19(1)(g) of the Constitution.

This leads us to the second contention raised on behalf of the respondent, which is based on Art. 14 of the Constitution. The High Court had repelled this contention for a valid reason with which we fully agree.

It is now well-established that while Art. 14 forbids class legislation it does not forbid reasonable classification for the purposes of legislation and that in order to pass the test of permissible classification two conditions must be fulfilled, namely, (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) such differentia must have rational relation to the object sought to be achieved by the statute in question. The classification, may be founded on different basis, namely, geographical, or according to objects or occupations or the like and what is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. There is always a presumption in favour of constitutionality of an enactment and the burden is upon him, who attacks it, to show that there has been a clear violation of the constitutional principles. The courts must presume that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed against problems made manifest by experience and that its discriminations are based on adequate grounds. It must be borne in mind that the legislature is free to recognise

degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest, and finally that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common rapport, the history of the times and may assume every state of facts which can be conceived to be existing at the time of legislation.

The objects sought to be achieved by the impugned standing orders are the preservation, protection and improvement of live-stock. Cows, bulls, bullocks and calves of cows are no doubt the most important cattle for the agricultural economy of this country. Female buffaloes yield a large quantity of milk and are, therefore, well looked after and do not need as much protection as cows yielding a small quantity of milk require. As draught cattle male buffaloes are not half as useful as bullocks. Sheep and goat give very little milk compared to the cows and the female buffaloes, and have practically no utility as draught animals. These different categories of animals being susceptible of classification into separate groups on the basis of their usefulness to society, the butchers who kill each category of animals may also be placed in distinct classes according to the effect produced on society by the carrying on of their respective occupations. The butchers who slaughter cattle formed the well defined class based on their occupation. That classification is based on intelligible differentia and distinguishes them from those who kill goats and sheep and this differentiation has a close connection with the object sought to be achieved by the impugned Act, namely the preservation, protection and the improvement of our livestock. The attainment of these objectives may well necessitate that the slaughterers of cattle should be dealt with differently than the slaughterers of say, goats and sheep. The standing orders, therefore, in our view, adopt a classification based on sound and intelligible basis and can quite clearly stand the test laid down above.

For the foregoing discussion, the appeal must succeed. It is accordingly allowed. The judgment and order of the High Court dated 3rd March, 1970 are set aside and the writ petition filed by the respondents before the High Court stands dismissed with costs.

A.P.J. Appeal allowed.