



2026:AHC:58737

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 10088 of 2026

Ram Pratap Paswan

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Bholeswar, Jainendra Kumar Rai
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant and Sri Ravindra Kumar Singh, learned A.G.A. for the State.

2. The present Application U/S 528 of Bhartiya Nagarik Suraksha Sanhita (hereinafter referred to as "B.N.S.S.") has been filed to quash the impugned order dated 16.12.2025 passed by District Magistrate, Kushinagar, in Criminal Case No. 2429 of 2025 (State vs. Ram Pratap) (Computerized Case No. D202505440002429), arising out of Case Crime No. 499 of 2025, under Section 3/5A/8 of the U.P. Prevention of Cow Slaughter Act, 1955, and Section 11 of Prevention of Cruelty to Animals Act, 1960, P.S. Kasya, District Kushinagar.

3. Brief facts of the case are that on the basis of an information, Vehicle Tata Pickup bearing Registration No. U.P. 60 CT 3416 of the applicant, was seized by the police personnel on 28.07.2025 and they found that it was carrying certain bovines. It is also suspected that the said vehicle was used in the illegal transportation of bovines. Thereafter an F.I.R. bearing Case Crime No. 499 of 2025, under Sections 3/5A/8 of the U.P. Prevention of Cow Slaughter Act, 1955, (hereinafter referred to as the 'Act, 1955') and Section 11 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the 'Act, 1960'), was registered at P.S. Kasya, District Kushinagar, on 28.07.2025. The applicant was the owner of the aforesaid vehicle. Thereafter an application was moved by the Investigating Officer on 07.08.2025 before the District Magistrate, District Kushinagar, with a prayer to confiscate the aforesaid vehicle. The proceedings under Section 5-A(7) under the Act, 1955, was initiated by the District Magistrate, Kushinagar. The notice was also issued to the applicant who did not appear before the District Magistrate, Kushinagar, and objection was filed by him, thereafter, the District Magistrate, Kushinagar, proceeded further and confiscated the aforesaid Tata Pickup Vehicle No. UP 60 CT 3416 vide order dated 16.12.2025.

4. Being aggrieved with the order dated 16.12.2025 passed by the District Magistrate, Kushinagar, the present application under Section 528 B.N.S.S. has been moved by the applicant with a prayer to set-aside the aforesaid order dated 16.12.2025.

5. Learned counsel for the applicant has submitted that the applicant had purchased the aforesaid vehicle for his livelihood and driver was taking the animals to fete. The applicant has nothing to do with the alleged offence. The police has illegally made driver of the applicant one of the accused in the F.I.R. and no one has claimed ownership of the vehicle and the applicant only is the registered owner of the vehicle and the said confiscated vehicle be released in his favour.

6. Learned A.G.A. has submitted that present Application U/S 528 B.N.S.S. is not maintainable. The applicant has wrongly and illegally challenged the order of District Magistrate, Kushinagar, before this Court. The remedy lies before the Divisional Commissioner against the confiscation order passed by the District Magistrate, Kushinagar, in view of Government Notification dated 15.10.2024.

7. The learned A.G.A. has further submitted that the U.P. Prevention of Cow Slaughter Act, 1955, does not mention any remedy against confiscation order passed in the Act. Earlier a co-ordinate Bench of this Court in **Crl. Misc. Writ Petition No. 9028 of 2021 (Mustakeem Begum vs. State of U.P. and Three Others)**, held that the Act does not provide any forum of appeal or revision against the order of confiscation regarding seized vehicle passed by the District Magistrate. Thereafter, it was held in the aforesaid case vide order dated 26.04.2024, that in such circumstances, provisions of criminal revision under Section 397 of Cr.P.C., shall be applicable and a criminal revision in the Court of Sessions Judge against such order would lie. Later on a Notification was issued by the Government of U.P. on 15.10.2024. It was laid down in the Government Notification dated 15.10.2024 that if the legality or the propriety of the action taken under Section 5-A of the Act, 1955, is to be challenged, the same could be challenged before the Divisional Commissioner. Since the proper remedy is to file revision before the Divisional Commissioner but the same has not been filed by the applicant, the present application under Section 528 B.N.S.S. is not maintainable.

8. The Division Bench of this Court while deciding the case of **Mustakeem Begum (supra)**, has made following observations in paragraph nos. 18, 19 and 20 of the writ petition.

"18. Section 5-A of PCSA defines the provisions under the Act and provides procedures for seizure and confiscation of the vehicle and animals beef or cow progeny, seized under the Act. It does not provide any forum of appeal or revision against the order of confiscation

regarding the seized vehicle passed by the District Magistrate. Therefore, the provisions of criminal revision u/s 397 Cr.P.C. shall be applicable. Section 397 Cr.P.C. provides for institution of criminal revision in the court of Sessions against the order passed by the District Magistrate and other Executive Magistrate supporting to the District magistrate. Thus, the petitioner has been provided suitable and appropriate forum u/s 397 Cr.P.C. to seek remedy against the impugned order passed by the District Magistrate. The provisions of this writ petition filed under Article 226 of the Constitution of India is an extraordinary jurisdiction which can be exercised when the petitioner cannot obtain suitable relief from any other forum. There is no extraordinary circumstance shown by the petitioner which may entitle him to obtain relief from this writ court.

19. There is no merit in this writ petition and the same is liable to be dismissed.

20. Accordingly, the writ petition is dismissed."

9. Confronted with the above Notification dated 15.10.2024, learned counsel for the applicant prayed that the applicant may be permitted to file a revision against the impugned order dated 16.12.2025 and it was also prayed that delay occurred in the above circumstances be also condoned.

10. The Act, 1955, is an Act to prevent the slaughter of cow and its progeny in the State of Uttar Pradesh. Section 5-A of the Act, 1955, is reproduced as hereunder :

"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 therefor 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, call 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 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.

(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 authorised 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."

11. Section 5-A of the Act, 1955, authorizes the law enforcement officers to seize any vehicle by which the beef or cow and its progeny is transported in violation of the provisions of the Act and the rules made thereunder. The District Magistrate/Commissioner of Police is authorised to do all proceedings of confiscation and release, as the case maybe.

12. After hearing the counsel for the parties, it becomes apparent that U.P. Prevention of Cow Slaughter Act, 1955 does not provide any forum of appeal or revision against the order of confiscation regarding the seized vehicle passed by the District Magistrate. It is trite law that if any judicial or quasi judicial order is passed against a party, then he must have a forum to vindicate his grievances. A party cannot be left in lurch in case any such order is passed against him. From the perusal of the order passed in Criminal

Misc. Writ Petition No. 9028 of 2021, it is evident that the said order was passed on 26.4.2024 when no such forum was available for a party to challenge the confiscation order passed by the District Magistrate in U.P. Prevention of Cow Slaughter Act, 1955. It appears that the said lacuna which occurred due to oversight of the legislature was rectified later on by issuing a notification dated 15.10.2024.

13. I have also perused the above notification which is reproduced herein below:-

"UTTAR PRADESH SHASAN

Grih (Police) Anubhag-9

In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification no. U.O./77/VI-P-9-2024 dated 15 October, 2024.

NOTIFICATION

No. U.O./77 U.O.-VI-P-9-2024

Lucknow: Dated 15 October, 2024

In exercise of the powers under sub-section (5) of section 5-A of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (U.P. Act no. 1 of 1956) read with section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act no. 1 of 1904), the Governor is pleased to authorise the Divisional Commissioner to satisfy himself at any time as to the legality or propriety of the action taken under the section 5-A of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (U.P. Act no. 1 of 1956), call for and examine the record of any case and pass such order thereon as he may deem fit.

The aforesaid power shall be exercised within the limit of the respective districts of the Divisional Commissioners.

It is further Clarified that aforesaid authority Conferred to Division Commissioner may be know as Revisional Jurisdiction.

**By Order,
(Rajesh kumar)**

Secretary.

Signed by

Rajesh Kumar

Date: 15-10-2024 14:44:39"

14. In light of the aforesaid notification, it is very much clear that lacuna regarding forum which occurred due to oversight of Legislature was rectified and revision before Divisional Commissioner alone will lie against the confiscation order passed by the District Magistrate in U.P. Prevention of Cow Slaughter Act, 1955. Hence, the applicant has efficacious remedy to ventilate his grievances before Divisional Commissioner concerned.

15. Therefore I find it appropriate to dispose of this application with a liberty to the applicant to approach the proper forum by filing a revision before Divisional Commissioner concerned within a month from the date of order of this Court and if applicant approaches the proper forum as directed by this Court, the concerned Divisional Commissioner will entertain his revision without going into the question of limitation.

16. If the revision is filed by the applicant before the Divisional Commissioner concerned challenging the order dated 16.12.2025 passed by District Magistrate, Kushinagar, within a period prescribed here, the execution of order dated 16.12.2025 passed by the District Magistrate, Kushinagar, shall not be given effect to, till final judgment of Revisional Court.

17. With the aforesaid observations, the present application is **disposed of**.

(Vivek Kumar Singh,J.)

March 20, 2026

A.P. Pandey