

CASE ANALYSIS: ANIMAL WELFARE BOARD OF INDIA VS A NAGARAJA & ORS.

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INTRODUCTION

Globally, wildlife contends for survival daily. They are being tortured to work hard even in harsh weather conditions. They suffer a lot of physical pain which eventually leads to death. Often, a tame animal is treated very poorly to keep them in a proper discipline which is against the principle of ethics. The selfish and greedy people used these voiceless animals for their monetary benefits. A world that is meant to take care of every creature is now exploited by some covetous people. Related to the same issue there is a popular case known as Animal Welfare Board of India vs. A Nagaraja & Ors. This case deals with the use of bulls and other animals for the pecuniary benefit. This also shows how humans can be so cruel that they torture animals not only mentally but also physically for entertainment purposes.

FACTS

There were two sets of cases at one part of the division bench of Madras High Court that challenged the validity of the Tamil Nadu registration of the Jallikattu Act and there were a few writ petitions that challenged the validity of the Ministry of Environment and Forests dated 11.07.2011. The other part challenged the division bench judgment by the Bombay High Court that was upholding the Ministry of Environment and Forests Notification. The Hon'ble Supreme Court of India banned centuries-old traditions of 'Jallikattu bullfights' in Tamil Nadu and its neighboring states. This decision aimed to address concerns about animal rights and highlight the perceived cruelty towards bovines.

The fire to prohibit Jallikattu ignited in 2006 with a plea presented to the Hon'ble High Court of Madras. Due to the concerns about cruelty that led to the initial ban by a single bench, a subsequent appeal to a Division Bench led to a reversal of the earlier decision allowing Jallikattu with specific conditions.

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Despite the ongoing practice of Jallikattu without consideration for the specified conditions, the Animal Welfare Board, recognized as a statutory board established under Section 4 of the Prevention of Cruelty to Animals Act, issued a notification prohibiting bulls from being categorized as “performing animals”.

There were many instances that contested the Division Bench decision of the Bombay High Court from March 12, 2012, which affirmed the Ministry of Environment and Forests (MoEF) notification dated July 11, 2011, along with the corrigendum issued by the Government of Maharashtra, barring all activities related to Bullock-cart races, games, training, exhibitions, etc.

Now, to challenge the division Bench’s order to enforce notification the petitioners have taken their case to Hon’ble Supreme Court. In opposition to this, the respondent requested not to ban Jallikattu as their cultural and traditional rights are being harmed.

ISSUES

1. Whether specific sections of the Prevention of Cruelty to Animals Act along with the provisions of the constitution are being violated by the events or not.
2. Whether the Prevention of Cruelty to Animals Act contradicts the Tamil Nadu Regulation Of Jallikattu Act.

ARGUMENTS

CONTENTIONS FROM PETITIONER SIDE

They focused on the welfare of animals and argued for strengthening the rules and regulations that prevent cruelty to animals. Inhumane treatment towards bulls and other animals was requested to be banned. The legal arguments and the evidence were presented to ensure the well-being of the animals.

The Animal Welfare Board of India claimed that bulls engaged in activities like Jallikattu and Bullock-cart races don't qualify as "performing animals" under Sections 21 and 22 of the Prevention of Cruelty to Animals Act. They are officially recognized as Draught and Pack animals, serving purposes in agriculture and livestock, emphasizing their flight response during Jallikattu as indicative of fear and suffering.

Animal Welfare Board of India asserted that forcing bulls into races causes pain and suffering, breaching Section 3 and Sections 11(1)(a) & (m) of the Prevention of Cruelty to Animals Act, 1960 in conjunction with Article 51A(g) and Article 21 of the Indian Constitution.

Mainly, emphasis was placed on the phrase "or otherwise" in Section 11(1)(a), asserting that any action causing unnecessary pain or suffering to an animal is prohibited¹ unless specifically permitted by the Prevention of Cruelty to Animals Act or its rules.

It was argued that Article 21 of the Constitution talks about the "Right to life", safeguarding human rights but also offering an expanded definition of "life," encompassing all forms of life, including animals, essential for human existence. Animals have the right to live and their well-being should be ensured, as guaranteed by Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960 aligned with Article 51A(g) of the Constitution.

Animal Welfare Board of India endorsed the claims research and findings and put their hand forward in support of the welfare of animals. Bulls that were forced, taunted, tormented, mutilated, stabbed, beaten, and deprived of basic needs, violated Sections 11(1)(a) & (l) of the Prevention of Cruelty to Animals Act, 1960.

CONTENTIONS FROM THE RESPONDENT SIDE

The organizers of the event argued that these events coincide with the conclusion of the harvest season and occasionally during temple festivals. It was stated that these games were meant to be a part of the festival and cultural tradition, moreover, people also stated that these games were just for entertainment purposes.

The organizers particularly stated that the Bullock-cart races in Maharashtra claimed a tradition that was followed for 300 years, emphasizing their commitment to preventing harm to participating bullocks. They contend that these sports contribute to state revenue, advocating for regulation rather than outright prohibition.

Moreover, they asserted that no cruelty is inflicted on the bulls during races, pointing to the stringent measures in place, including the identification, training, and care of the bulls. The State of Tamil Nadu, citing the Prevention of Cruelty to Animals Act, argues that it doesn't outright ban all forms of pain on animals, interpreting Section 11(1)(a) accordingly. The legal counsel underscores that certain clauses, including (a), (g), (h), (j), (m), and (n), do not

¹ Gauri Maulekhi v. Union of India, Writ petition (PIL) No.77 of 2010

explicitly use the term "unnecessary pain or suffering,"² asserting that events like Jallikattu don't cause significant distress to the animals.

Additionally, they emphasize the historical and cultural significance of these events which were there over centuries.

JUDGEMENT

The court affirmed that the "Animal Welfare Board Of India" stance on Jallikattu, Bullock-cart Races, and similar events violating Sections 3, 11(1)(a), and 11(1)(m)(ii) of the Prevention of Cruelty to Animals Act is correct. It upheld the Central Government's 11.7.2011 notification, prohibiting the use of bulls in such events in Tamil Nadu, Maharashtra, and elsewhere.

The court declared that the rights of bulls under Sections 3 and 11 of the Prevention of Cruelty to Animals Act, along with Articles 51A(g) & (h), cannot be infringed, except under Sections 11(3) and 28 of the Prevention of Cruelty to Animals Act. It emphasized protecting the five freedoms by the Animal Welfare Board of India, Governments, MoEF, and Union Territories.

The Animal Welfare Board of India and Governments were instructed to ensure the well-being of animals and prevent unnecessary pain or suffering, adhering to Sections 3 and 11 of the Prevention of Cruelty to Animals Act. The Animal Welfare Board of India should ensure compliance with Section 11(1)(m)(ii), prohibiting the incitement of animals to fight.

Education on the humane treatment of animals under Section 9(k) and Articles 51A(g) & (h) was directed, with the Animal Welfare Board Of India and Governments taking the lead. Parliament was urged to amend the Prevention of Cruelty to Animals Act for effective deterrence and imposing penalties for Section 11 violations.

The court suggested elevating animal rights to constitutional rights, aligning with global practices. Governments were tasked with disciplining officials not complying with the Prevention of Cruelty to Animals Act, and Tamil Nadu Regulation of Jallikattu Act was deemed constitutionally void, conflicting with Article 254(1) of the Indian Constitution.

Animal Welfare Board of India was directed to swiftly implement the Prevention of Cruelty to Animals Act provisions, collaborating with the Society for the Prevention of Cruelty to Animals and reporting violations to the Governments for remedial action.

² Mustakeem v. State of U.P., 1999 (3) ACR 2668.

COMMENDATION OF THE JUDGEMENT

The court's decision is noteworthy as it effectively addresses the protection of animals and ensures the wellbeing of animals from intentional cruelty for entertainment and financial gain in the name of culture. Considering the potential harm to both spectators and bulls, the court rightly emphasized that acts during Jallikattu preparation violate the Prevention of Cruelty to Animals Act, 1960. The judgment appropriately rejects the notion of overlooking such actions under the guise of tradition. Ethical treatment of the animals was ensured and humane practices were promoted.

DISPARAGEMENT OF THE JUDGEMENT

The judgment was criticized because of the following reasons-

Criticism of the judgment in the case of Animal Welfare Board of India v. A. Nagaraja mainly stems from various perspectives, including cultural, economic, and regional considerations. Some common criticisms include:

1. **Cultural Importance:** It was argued by the respondent that the judgment harms the cultural aspects that are associated with events like Jallikattu. Moreover, these bans will lead to “cultural erosion”, these practices are the core practices that bind the people together. Therefore, these restrictions will affect the heritage of the country.
2. **Economic Impact:** Economics dimensions played an important role in the livelihood of the people. The economy will decline with the ban of such events, not only the organizers but also the spectators were affected by the judgment. This economic perspective questions the balance between animal welfare and the livelihoods of individuals connected to these practices. It was highlighted that due to this ban, the upcoming generation will not be able to witness their cultural heritage.
3. **Regulatory Framework:** People suggested that instead of banning the event the government should introduce more effective policies with respect to the safety and wellbeing of the animals. Many people argued that some guidelines should be introduced rather than banning the event. Therefore, they believed that if guidelines were made and if “Jallikattu” was not prohibited then their culture and tradition would not be harmed punishment should given.³

³ Shri Sachidanand Pandey & another v. the State of West Bengal & Ors (1987)

4. Public Sentiment: In many regions where such traditions are deeply rooted, there can be public outrage, people will not only protest but it will also lead to violence. As it was a judgment that was related to cultural heritage and a tradition that was followed for centuries.

Hence many opinions were passed by the people in order to criticize the judgements and to do the same cultural, economic and public sentiments were highlighted.

CONCLUSION

This case with a sensational judgment that recognized animals' rights as "Constitutional Rights." The fundamental duties were highlighted in reference to the Art. 51-A (g) and (h) and Art. 48 which are fundamental duties and Directive Principles of State Principle⁴ enshrined in the Indian Constitution. The states like Tamil Nadu and Maharashtra were affected by the judgment, which led to a negative impact on the economy which resulted in fewer spectators attending the annual Jallikattu event. The decision was firm: no individual has a right to harm other animals; every creature present on this earth holds a right to live its life with dignity and respect. You cannot harm an animal in the name of culture for your own monetary benefit; it is totally against ethics. Dangerous sports like Jallikattu and other sports that promote pain to other animals should not be promoted. The main issue that was highlighted was whether the law would prevail over the custom that was followed over centuries. Hence it was outlined that the law would prevail. After recognizing the harm done to the voiceless creatures, injuries, and loss of lives resulted in the ban on "Jallikattu and Bull Cart racing". Moreover, the Court mentioned protecting the dignity of the animals and as a result, it invalidated the TNRJ Act and all other sports that harm the dignity of the animals.

At last, animal welfare should be a collective responsibility and every individual should be a part of it. Every person should be responsible equally for animal protection and their welfare. None in this world should suffer unnecessarily exploited and should suffer pain for any reason. Therefore, we should promote a sustainable relationship among humans and animals.

⁴ State of Gujrat v. Mirzapur Moti Kureshi Kassab Jamat (2005)