

## THE ANIMAL WELFARE BOARD OF INDIA & ORS VS. UNION OF INDIA

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### INTRODUCTION

The greatness of a nation and its moral progress can be judged by the way its animals are treated” by Mahatma Gandhi

What’s the first thing that comes to mind when you think about India? For me, the first words that come to mind are diversity and its rich culture. India’s diversity is such that we can find much more in common between the USA and the UK than between Jammu and Kashmir and Kerala. This diversity encompasses a myriad of ancient religions and practices practiced across the country. One of these controversial cultural practices is Jallikattu, a bull-taming sport also known as Eru Taluvutal and Manju-virattu, primarily practiced in Southern and Western Tamil Nadu as part of Pongal celebrations on Mattu Pongal day. The term “Jallikattu” has its origin in “Callikattu”, where ‘Calli’ refers to coins and ‘Kattu’ signifies a bundle. In ancient times, silver or gold coins were affixed to bull’s horns, and those who managed to retrieve the money were eligible to marry the owner's daughter. Over time, it metamorphosed into a sport of entertainment.

Journal of Legal Research and Juridical Sciences

The Animal Welfare Board of India & Ors vs. Union of India or Jallikattu II case is a legal battle that revolves around the conflict between cultural rights and animal rights. Jallikattu has historically resulted in injuries and fatalities to both bulls and humans, and it’s uncertain whether this trend will change in the future. However, this cultural event holds deep sentimental value for the people who have celebrated it since childhood. Cultural practices are considered correct by those whose personal values align with the values that support these practices, while they are viewed as incorrect by those with different personal values.<sup>1</sup>

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<sup>1</sup> Fernando Lanzer, 'Why are all cultural practices always correct?'(Quora,2021)

<[https://www.quora.com/Why-are-all-cultural-practices-always-correct/answer/Fernando-Lanzer?ch=15&oid=241636043&share=9d7052af&srid=3sRMu9&target\\_type=answer](https://www.quora.com/Why-are-all-cultural-practices-always-correct/answer/Fernando-Lanzer?ch=15&oid=241636043&share=9d7052af&srid=3sRMu9&target_type=answer)> accessed 15 August 2024

## CASE LAW DESCRIPTION

### Bench

K.M. Joseph, Hrishikesh Roy, Aniruddha Bose, C.T. Ravikumar, Ajay Rastogi<sup>2</sup>

The Apex court on May 18<sup>th</sup>, 2023, upheld the constitutional validity of the State amendments made to the PCA Act, 1960 by Karnataka, Maharashtra, and Tamil Nadu in 2017. These amendments permitted the practice of the Kambala, Bull Cart race, and Jallikattu in their respective states.

## FACTS OF THE CASE

### Background

Jallikattu, a bull-taming cultural ritual, has roots tracing back to the Tamil classical period and has now evolved into a form of entertainment. Additionally, evidence of the practice of Erutaluvutal from 2600-1900 BCE has been found in a seal from the Indus Valley Civilization period. Over the years, the ban on Jallikattu has been intermittent due to the violence and risks associated with the sport. Initially, the Madras High Court banned the practice in the year 2006 following the death of a young spectator. However, the ban was lifted in 2009 by the Tamil Nadu Government with the introduction of The Tamil Nadu Regulation of Jallikattu Act, 2009. In 2011, the Ministry of Environment, Forests, and Climate Change issued a notification prohibiting the exhibition and training of bulls. This notification by the center was overlooked, and the practice continued to be conducted under the Tamil Nadu Regulation Act No. 27 of 2009. Upon discovering the lack of compliance with the regulations and bulls were still being subjected to cruelty according to the PCA Act, 1960, the Animal Welfare Board of India and People for the Ethical Treatment of Animals (PETA) filed a petition.<sup>3</sup> The Supreme Court banned Jallikattu and struck down the Tamil Nadu Regulation of Jallikattu Act, 2009 in 2014. In January 2016, the Ministry of Environment made a politically motivated decision to revoke the ban through a notification issued just months before the Tamil Nadu elections.<sup>4</sup> However, the Supreme Court upheld

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<sup>2</sup> Animal Welfare Board of India & Ors v Union of India & ANR., (2023) INSC 548

<sup>3</sup> ClearIAS, 'Jallikattu:History,Court Rulings, and Controversy'(ClearIAS,14 September 2023) <https://www.clearias.com/jallikattu/#:~:text=In%202006%2C%20the%20Madras%20High,notification%20especially%20mentioning%20%27bulls%27> accessed 15 August 2024

<sup>4</sup> *Ibid*

this decision of the Centre Government following a challenge by the Animal Welfare Board of India (AWBI) and PETA. Subsequently, on January 21, 2017, the Governor of Tamil Nadu issued a new ordinance that allowed the continuation of Jallikattu events. The ordinance represents a state amendment to the central PCA Act, 1960, falling under Entry 17 in the Concurrent List of the Constitution, resulting in certain provisions being unique to Tamil Nadu compared to the rest of the country.<sup>5</sup>

The Writs Petitions were brought by the AWBI and Anjali Sharma before the constitutional bench. During the hearing, the AWBI changed its stance and began to support the stand of the State and Union of India, pointing to the 1960 Act and State Amendments enacted by Tamil Nadu, Maharashtra, and Karnataka in 2017 were not repugnant.<sup>6</sup> The Board has also introduced regulations to prevent the suffering of bulls during the event. The second writ petitioner, Anjali Sharma, a member of the board and a practicing lawyer, pursued the writ petition forward as a single writ petitioner.

### LEGAL ISSUES RAISED

1. Whether the Tamil Nadu Amendment Act opposes Entry 17 of the Concurrent List in the Constitution of India by perpetuating cruelty to animals.
2. Whether the sport of Jallikattu is protected under Article 29 of the constitution of India as a cultural right.
3. Whether Jallikattu is essential to ensure the well-being and survival of native bulls of Tamil Nadu.
4. Whether the amendment violates the rights to equality and life of animals.
5. Whether or not the Tamil Nadu Amendment Act is violative of Articles 51A(g)<sup>7</sup> and 51A(h)<sup>8</sup> of the constitution of India, which place the duty of protecting the environment and developing a 'scientific temper' upon all citizens as it promotes a bull taming sport.
6. Whether the Tamil Nadu Amendment Act directly opposes the Supreme Court's ban

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<sup>5</sup> *Ibid*

<sup>6</sup> Animal Welfare Board of India & Ors v Union of India & ANR., (2023) INSC 548

<sup>7</sup> Constitution of India, art 51A(g)

<sup>8</sup> Constitution of India, art 51A(h)

on Jallikattu in *Animal Welfare Board of India v A. Nagaraja*, 2014.

## **ARGUMENTS**

### **Petitioners**

The Petitioners argue that the State Amendments which were enacted in the year 2017 to reintroduce the Jallikattu, Bullock Cart Race, and Kambala are illegal due to their continued infliction of pain and injury on the participating bulls in these sports. They are also in control of the PCA, the 1960 Act, and A. Nagaraja's judgment. They argue that the State Amendments fail to provide any corrective measures for these legal deficiencies. According to the petitioners, these State Amendments Act only seek to introduce these sports as permissible activities under the PCA, 1960 Act. Additionally, they maintain that the subject of Jallikattu does not fall within the ambit of Entry 17 of List III of the seventh schedule of the Constitution of India, and thus the State Assemblies did not have the authority to enact the State Amendment Acts. They further contended that even the Presidential assent would not cure this incompetency. They also argue that the sports legitimized by the State Amendment remain violative to the provisions of Sections 3, 11(1)(a) and (m) of the PCA, 1960 Act. According to them, the expression "person" as used in Article 21 of the Constitution of India also includes animals and their rights would be curtailed due to the legitimizing of these sports. The petitioners seek to interweave Articles 14, 21, 48, 51-A (h) and (g) to set up a rights regime for the animals claiming that it is our fundamental duty to have compassion for living creatures and to develop humanism towards animals who we need to protect from distress and pain inflicting activities only having entertainment values for human beings.

### **Respondents**

The respondent argued for the continuation of sports against the arguments the of petitioners'. According the to state, these sports have historic value and they are part of the state's culture and religion. They also argue that the practice can be regulated and reformed according to the society's needs. They believe that banning Jallikattu would be seen as an attack on the culture of the community.

## JUDGEMENT

### Reasoning

The Court has examined the arguments and has found that the Jallikattu, Kambala, and Bull Cart Race have undergone substantial changes in their practice and performance, and the judgment and conditions of the A. Nagaraja case cannot be equated with the present scenario. The court also rejected the petitioner's argument that the State Amendment Acts were merely a piece of colorable legislation to override judicial judgment.

- Tamil Nadu legislature recognizes it as a cultural practice which was beyond judicial scrutiny
- The State Amendments Acts seek to reduce the pain and suffering of animals. It creates a distinct scenario from the A. Nagaraja case.
- The Tamil Nadu Amendment Act does not ensure the survival of the native breed of bulls. It is not responsive to Article 48 of the Constitution of India.
- The Tamil Nadu Amendment Act does not violate Articles 14 and 21 and does also not go against Article 51-A (g) and (h) of the Constitution of India.
- The Tamil Nadu Amendment Act does not go against the judgment of A. Nagaraja case as the defects pointed out in the said judgment has been overcome by the Amendment Act.
- The Constitution does not grant any fundamental rights to animals. It comes under the ambit of the legislature to grant rights to animals.
- The procedure of getting the Presidential approval was validated.
- The court found all three Amendment Acts to be valid and its decision on the Tamil Nadu Amendment Act would also lead the way for Karnataka and Maharashtra Amendment Acts.
- The court also directed the law given in the Act to be strictly enforced by the authorities.

## ANALYSIS

Animal Welfare Board of India vs. Union of India is a legal battle between animal rights and cultural rights. In 2011, the Central government issued a notification which included bulls in the list of animals whose training and exhibition were prohibited. In 2014, the Supreme Court banned the use of bulls in Jallikattu and other sports across India as they violated the PCA Act, of 1960 and these sports caused pain and suffering to the bulls for the entertainment of human beings. The Supreme Court said bulls are not designed to be performing animals but they are forced to perform which inflict unnecessary pain on them. They have been recognized as Draught and Pack animals in the Prevention of Cruelty to Draught and Pack Animals Rules, 1965.<sup>9</sup> Bull's instincts are being exploited by making them train for Jallikattu. They are observed to carry out a "flight response", running away from bull tamers and crowds as they are in fear and distress.<sup>10</sup> But now both the Centre and Judiciary are in favor of allowing the bull-taming sport, Jallikattu. What has changed? Are bulls now a performing animal? Is there less threat to human's and bull's life now? Have they lost their right to live with dignity and honor under Article 21?<sup>11</sup> According to the Supreme Court, State Amendment Acts have the reduced pain and suffering of animals, not finished. Why do they have to suffer even a little unnecessary pain for cultural practice? Detailed documentation done by the Elsa Foundation has confirmed that 102 people and 20 bulls have died from Jallikattu since 2017.<sup>12</sup> Cultural practices should change for the betterment of society. Tamil tradition and culture is to worship the bull as it helps them in agriculture purposes. They respected bulls as it is the vehicle of Lord Shiva. But now people inflict pain on them in the name of culture by beating, kicking, and rubbing chili powder in their eyes which is unacceptable. At a time when countries around the world are advancing on animal rights, the reversal of the 2014 Jallikattu ban by the Supreme Court is a significant setback for India regarding animal rights.

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<sup>9</sup> Animal Welfare Board of India & Ors v A. Nagaraja & Ors..., (2014) 7 SCC 547

<sup>10</sup> *Ibid*

<sup>11</sup> Constitution of India, art 21

<sup>12</sup> '102 humans, 20 bulls killed in Jallikattu events since 2017' *The Times of India*(Nagpur,10 February,2023) < [\[www.jlrjs.com\]\(http://www.jlrjs.com\)](https://timesofindia.indiatimes.com/city/nagpur/102-humans-20-bulls-killed-in-jallikattu-events-since-2017/articleshow/97789485.cms#:~:text=NAGPUR%3A%20Jallikattu%20events%20killed%20102,sport%27s%20opponents%2C%20reports%20Manka%20Behl.> accessed 19 August 2024</a></p></div><div data-bbox=)

## CONCLUSION

Jallikattu is a cruel animal sport that serves no meaningful human purpose.<sup>13</sup> It is written in our ancient book Isha-Upanishads – “The universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above nature. Don’t let any species encroach over the rights and privileges of other species”<sup>14</sup> In a culture that respects and worships cows and many other animals, why do we tolerate such injustice towards bulls? Animals are legally recognized as ‘property’ that can be possessed by people.<sup>15</sup> The property right is no longer a Fundamental Right in India which gives Parliament more freedom to pass laws protecting the rights of animals.<sup>16</sup> We must acknowledge that animals have the same right as humans to live a life of dignity, free from unnecessary pain and suffering. The greatness of India and its moral progress will be judged by how we treat our animals, and we must ensure that the judgment is a positive one.

“To my mind, the life of a lamb is no less precious than that of a human being. I should be unwilling to take the life of a lamb for the sake of the human body. I hold that the more helpless a creature, the more entitled it is to the protection by man from the cruelty of man.”- Mahatma Gandhi

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<sup>13</sup> Gauri Kashyap, 'Interview :Mr.Alok Hisarwala Gupta on Jallikattu and Animal Rights'(SCO, 23 May,2023) < <https://www.scobserver.in/journal/interview-mr-alok-hisarwala-gupta-on-jallikattu-and-animal-rights/#:~:text=I%20would%20argue%20that%20the,created%20the%20possibility%20of%20protecting> > accessed 19 August,2014

<sup>14</sup> Animal Welfare Board of India & Ors v A. Nagaraja & Ors., (2014) 7 SCC 547

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid*