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**BALANCING TRADITION AND ANIMAL WELFARE: A
CRITICAL ANIMAL WELFARE BOARD OF INDIA V.
NAGARAJA & ORS (2014) 7 SCC 547**

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INTRODUCTION

India is a country of diversified cultural and traditional persons, with a periodically diversified history. One of which is a practiced sport that dates to the Indus valley civilization, around 2500 years ago. 'Jallikattu' is defined under the ambit as a practiced sport mainly to bring in the harvest festival of Pongal in the state of Tamil Nadu¹. the following judgement as stated by the Supreme Court, majorly holds a distinction between traditional and cultural practices and law that governs the practices. Various states of India, Karnataka and Maharashtra through its conventional celebrations partake in such festivities in taming the bull by managing to hold the horns or humps and managing control over it. The sport is celebrated in a customary manner to adjudicate the care prescribed to the bull in flaunting of personal strengths, care and love to their bulls. Since, the bulls are members of the family. The Supreme court, in its judgement stated that such practices that cause grievous hurt to such animals should be banned, upon which there were various upholding to the judgement in such states, protests and agriculturalist towards concerning factors on bulls used in agricultural practices in obtaining yield products. Upon which there were state Amendments to the Act of 1960, to tackle the opposition that was held against the ban on Jallikattu. Various organisations that stand for Animal Rights, stand against such state activities

¹Challenge to the Practice of Jallikattu, Supreme Court Observer, <https://www.scobserver.in/cases/challenge-to-the-practice-of-jallikattu/> (visited May 1, 2024).

upon which the Prevention of Cruelty to Animals² in order of preventing the infliction of unnecessary pain or suffering on animals and prevent cruelty to animals. Majorly shedding light on interpreting constitutional provisions of Article 14 and Article 21. In the following case of A. Nagaraja stated that bulls are sentient animals and the sports that they were involved in is clearly unnecessary and not needed for human survival.

JUDGEMENT

The pronounced judgement by a Two Judge Bench of the Supreme Court, dating to the year 2014 in the case of Animal Welfare Board of India V. Nagaraja³ terming that there should be an immediate action towards the common sports practices in the states of Tamil Nadu, Karnataka and Maharashtra.

The infringement and measures against the violation of the Prevention of Cruelty to Animals Act, 1960⁴, Training and Exhibition of animals is termed to being cruelty against such animals, which also includes bulls used for bullock cart races and events of exhibition. Stating that the following practices are overlapping the Fundamental Rights of the Constitution of India⁵

In the year, 2017 there were major changes that were brought about on by the state legislatures of the concerned states. Amending the Prevention of Cruelty to Animals Act, in the state of Maharashtra, the conduct of bullock cart race was in order of promoting tradition and culture and ensuring and preserving the native breeds of bulls.

Observing through, section 11 and section 22 of the 1960, Act stated that dealt with treating animals with cruelty and the circumstances upon which were not to be exempted under these practices. Section 22, stating that in order of neglecting and denying such animals from food, shelter and by keeping them chained and confined for hours will be punished for a period of 3 months and will be fined.

The practice of jallikattu was exempted from the ambit of the 1960 Act, stating that these practices are traditional in nature and are in no manner causing grievous hurt or is not against the principles of harm and torture of animals.

²Prevention of Cruelty to Animals Act, No. 59 of 1960, India Code (1960)

³Animal Welfare Board of India v. Nagaraja, (2014) 7 SCC 547 (India).

⁴Prevention of Cruelty to Animals Act, No. 59 of 1960, § 11(m)

⁵India Constitution, Article 21, 51A(g).

In February 2018 a bench comprising of justice Dipak Misra and R.F. Nariman referred the case to a 5 judge Constitution bench to decide if jallikattu and other bull taming sports are constitutionally protected under Article 29 as cultural practices.

In May 2023 the Supreme Court upheld the following judgement on the practices of jallikattu, kambaala and Bullock cart racing, stating that the jurisdiction doesn't extend to giving absolute protection to animals but ensuring that there are necessary steps considered in protecting them against unnecessary sufferings, upon which the State amendments law fulfil the established statement.

ISSUES

1. Whether the sport of Jallikattu is a sport protected under Article 29 as a cultural right of the Constitution?
2. Whether the Tamil Nadu amendment Act violates Article 51A(g) and 51A(h) of the Constitution of India?
3. Does the Tamil Nadu legislature have the power to amend the prevention of Cruelty to Animals Act, 1960?
4. Whether the act is unreasonable and violative of Article 14 and Article 21 of the Constitution of India?

ANALYSIS

The intricates of the following judgement brings forth various implications of amendments, upon the following traditional practice of Jallikattu⁶

The intricates of the following case brings forth various implications upon which such fundamental Rights of the people are guaranteed on such practices that persist towards the preserving of a cultural festivity, that under Article 29 (1) of the Constitution giving importance to preserving the rich cultural and linguistic diversity of India by considering the Rights of the minority communities.

The case persisted towards turning into a nationwide debate that consisted of persons that were traditionally inclined people that have been persistently following an age-old tradition towards

⁶Jallikattu, Traditional Practice in Tamil Nadu, India

celebrating such festivities. And on the contrary, there were persons that raised various doubts, filed writ petitions in the court of law in order of which consisted of the Animal Welfare board, stating that Jallikattu is intrinsically cruelty against bulls. The act such as physical restraint, applying chilli powder and twisting the tail were reported as breaches of the Prevention of Cruelty to Animals Act, 1960. Accordingly, there were our statistical reports that condemn and state towards the injuries and fatalities to spectators.

A case that was recorded by the Madras High Court, during the event of the activity of Jallikattu, a spectator was killed. The emphasis, given by the Stated legislated amendments consist of the centuries old tradition being highlighted as a manner in cultural and traditional partake⁷.

The AWBI notified the Ministry of Environment and Forests of the Supreme Court's unequivocal ruling that such events constitute cruelty, as well as its directives supporting the PCA Act's prohibition on performing bulls. (AWBI) said unequivocally that Jallikattu, bull races, bull fights, Kambaala, and other comparable events are prohibited and unconstitutional since they promote animal cruelty. In supersession of the 2011 Notification, the Ministry of Environment, Forests, and Climate Change issued another notification 14 (the 2016 Notification") permitting bulls to be used as performance animals for events like proms, despite the Supreme Court's and the AWBI's directives to the Central Government not to take a stand in opposition to its own Notification order GSR 528 (E) dated 11.07.2011 without consulting the AWB Mainly under Article 254(2) of the Constitution, in cases where in the president assent in order of amending acts accordingly to the prescribed circumstances of the state. Directive Principles of State Policy (DPSP) - Article 48A states that the State shall endeavour to protect, improve the environment and surroundings and to safeguard the forests and wildlife of the country.

The year 2014, where in the practice of Jallikattu was being termed of violation of Article 14, equality before law, Article 21 stating that every living being has a right to life under the ambit of the country's jurisdiction The following practice was observed and keenly regulated under the Jallikattu Act, 2009

Maharashtra, that it could hamper the daily lives of such persons associated with the Bullock cart race, Amendment act of Maharashtra in the entry 15 of list II of the Seventh schedule of the

⁷Jallikattu" Movement and Cultural Identity: The Mobilising Structure of Media Paradigm and its Dimensions, 25 Int'l J. Commun. 123 (2023).

Constitution of India sating preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice. Prevention of cruelty to animals (Tamil Nādu Amendment) Act, 2017 the Maharashtra amendment and Karnataka amendment enacted by the state legislatures on receiving the assent from the president. Bulls should not be used in such sports, as they don't hold a natural inclination towards running as compared to a horse. Section 22 restriction on exhibition and training of performing animals.

Mainly the amendments to the aforesaid acts, have taken into observation and amended the 2017 Acts, that in order of participating in the race, the specifications for length of the track, rest period and isolation of the track from public.

The Tamil Nadu Rules specifically provides for examination of bulls, with specifications for the arena, bull collection yard as also setting up of spectator's gallery. These instrument in substance prohibit causing any physical disturbance to the bulls like beating and poking them with sharp objects, sticks, pouring chilli powder in their eyes, twisting their tails amongst other such pain inflicting acts.

TMA v. State of Karnataka⁸ court held that there is a need of court to establish provisions related to minority groups.

Ajay Marathe V. The State of Maharashtra & Ors⁹. Mainly challenging the certain proposed rules brought by the State of Maharashtra under the ambit of Maharashtra Prevention of Cruelty to animals

People for the Ethical Treatment of Animals¹⁰ against the judgement pronounced in the following case, argued against the cruelty to animals and should be banned. PETA's eyewitnesses investigated jallikattu events that took place in Avaniapuram, Palamedu, Alanganallur, Thirunallur, and Maravapatti between 5 and 12 February 2017 and documented profuse cruelty to animals and flagrant disregard for the public's safety and the law.

⁸T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481 (India)

⁹Ajay Marathe v. The State of Maharashtra & Ors., 2022 SCC Online Bom 1234 (India).

¹⁰ People for Ethical Treatment of Animals, People for the Ethical Treatment of Animals (PETA), <https://www.peta.org> (visited May 6th, 2024).

CONCLUSION

The following case, where in the debate upon animal cruelty and a century custom, there holds a strong stance over various laws, The judgement in Animal Welfare Board v. Union of India (2023) marked a significant shift in the legal landscape surrounding Jallikattu. By upholding the constitutional validity of state amendments regulating the practice, the court acknowledged the cultural importance of Jallikattu while prioritizing animal welfare. However, the judgement doesn't signal a complete victory for either side.

The onus now falls on the implementing authorities to ensure strict adherence to the regulations. Effective enforcement will be critical in minimizing animal suffering during Jallikattu. Additionally, ongoing dialogue between animal rights activists, cultural proponents, and scientific experts can pave the way for further refinements in regulations.

Ultimately, the Jallikattu case serves as a springboard for a more balanced approach to cultural practices involving animals. Striking a sustainable equilibrium between tradition and ethics requires ongoing efforts from all stakeholders.

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