

ANIMAL WELFARE BOARD OF INDIA VS A. NAGARAJA & ORS 7 SCC 547 (2014)

Judges

1. JUSTICE MR. KM JOSEPH
2. JUSTICE MR. AJAY RASTOGI
3. JUSTICE MR. ANNIRUDHA BOSE
4. JUSTICE MR. HRISHIKESH ROY
5. JUSTICE MR. C.T. RAVIKUMAR

Facts of the case

A lawsuit known as *Union of India v. Jumbo Circus*¹ was filed in 1991. In this case, training and exhibition of bears, monkeys, tigers, panthers, and dogs was prohibited by the Environment Ministry. During this period, several adjustments were made. The Madras High Court prohibited the game of Jallikattu in 2006 after a child spectator was attacked by a bull there, raising national awareness of the issue. The Tamil Nadu Regulation of Jallikattu Act 2009 was quickly introduced in order to get around the prohibition. Citing a 2011 declaration from the Environment Ministry, the AWBI then petitioned the highest court to prohibit all violent sports involving animal cruelty on a nationwide basis. Following that, the Supreme Court declared in the *A. Nagaraja* case of 2014 that bull taming and bull racing, including those conducted in Andhra Pradesh, Punjab, and Maharashtra, were prohibited nationally due to Jallikattu's cruelty to bulls. But just before the state assembly elections in 2016, the Union Environment Ministry undid the order that the top court had decreed, reversing its 2011 notification. The AWBI and PETA filed a petition with the Supreme Court in February 2018 to have the 2017 rules that the Tamil Nadu government had approved declared invalid after the state government of Tamil Nadu modified the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act of 2017 and the Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules of 2017. On December 8, a five-judge Constitutional court postponed making a judgement in the matter, stating that “*Jallikattu cannot be classified as a blood sport because no weapons are used and the blood may just be an incidental thing.*”²

Issue

- i. Can it be said that the Tamil Nadu Legislature addressed the issues raised in the two judgements by passing the contested Tamil Nadu Amendment Act, or is it in direct conflict with the ruling in the *A Nagaraja* case and the review judgement issued on November 16, 2016 in the same case?
- ii. Does the Tamil Nadu Amendment Act safeguard the existence and well-being of the local bull breed?

¹ The Kerala High Court held in *Union of India v. Jumbo Circus*, O.P. No. 155 of 1999 & connected cases, that the government's ban on the use of animals in circuses was valid under the Prevention of Cruelty to Animals Act, 1960.

² <https://www.livelaw.in/top-stories/supreme-court-jallikattu-case-fundamental-rights-animals-229036>

³ PCA Act in India (1960) outlaws needless animal suffering, sets up Animal Welfare Board & defines duties of caretakers

- iii. Does the Tamil Nadu Amendment Act specifically mention or does it infringe against Entry 17, List III (Prevention of Cruelty to Animals in the Concurrent List) of the Seventh Schedule?

Law

- The PCA Act³, or the Prevention of Cruelty to Animals Act, 1960: It is illegal to subject animals to needless pain or suffering under this rule. The Supreme Court banned jallikattu in 2014 on the grounds that it violated the PCA Act.
- Article 25 of the Indian Constitution guarantees the freedom of religion and culture. The Jallikattu lawsuit's petitioners claim that the game's prohibition infringed their rights.
- Tamil Nadu's 2009 Regulation of the Jallikattu Act: In order to regulate Jallikattu activities, the Tamil Nadu government approved this Act. The PCA Act was challenged in court on the grounds that it was in violation of it. 2017 Amendment to the Tamil Nadu Prevention of Cruelty to Animals Act: *“The PCA Act was amended by this Act, which was passed by the Tamil Nadu government, to legalise Jallikattu. On the basis that it violated the Constitution, the Act was contested in court.”*³

Arguments

- The Indian Supreme Court heard a challenge to the constitutionality of the 2009 Tamil Nadu Regulation of Jallikattu Act and the 2017 Tamil Nadu Jallikattu Regulation Rules, brought up by the Animal Welfare Board of India (AWBI) and other animal rights organisations.
- The main arguments raised by the petitioners were that Jallikattu had violated the 1960 Prevention of Cruelty to Animals Act and other regulations relating to the welfare of animals. They said that the sport is an act of animal cruelty as it subjected the bulls to needless agony.

<http://www.sconline.com/DocumentLink/o580vkVY> - Article which talks explicitly about the laws which were used.

- On January 12, 2017, the Supreme Court reinstated its earlier ban on jallikattu after hearing arguments from both parties. The court decided that the activity violated the Prevention of Cruelty to Animals Act of 1960 and that any claims to historical significance or cultural norms should be subordinated to the welfare of animals. It is important to keep in mind that because the game of Jallikattu is deeply rooted in Tamil Nadu's cultural legacy, the verdict sparked large-scale demonstrations and rallies throughout the state. In an effort to overturn the ban, the Tamil Nadu government and a number of NGOs argued that jallikattu was an integral part of their culture and should be allowed with the right guidelines and safeguards.
- In response to the protests and public uproar, the Central Government stepped in, and in January 2017, an ordinance allowing the practising of Jallikattu in Tamil Nadu was released. The ordinance was eventually superseded by the Tamil Nadu Regulation of Jallikattu Act, 2017, which sought to regulate the sport with specific rules and regulations to safeguard animal welfare.
- On May 18, the Tamil Nadu, Maharashtra, and Karnataka legislatures amended The Prevention of Cruelty to Animals (PCA) Act, 1960 to allow bull-taming activities like Jallikattu, Kambala, and bullock-car races. The revisions were allowed by a five-judge bench of the Supreme Court.
- The 2014 ruling in *Welfare Board of India v. A. Nagaraja* (Special Leave Petition (Civil) No. 11686 of 2007) overturned the two-judge Bench's order to restrict various sports, including Jallikattu.
- The Bench, presided over by Justice K M Joseph, declared the 2017 modifications to be "valid legislations," but it also said that the Jallikattu issue was "debatable" and that the House of the People (Lok Sabha) will ultimately settle the dispute. A more comprehensive social and cultural analysis is necessary for this conclusion, which the Bench declared "cannot be undertaken by the judiciary."
- Everything the government does is perfect. It is a cattle sport, and you may play along as long as you follow the regulations. Act is unrelated to Article 48⁵ of the Constitution. Nonetheless, the court stated in its ruling that it is, in essence and substance, referable to Entry 17⁶, List III of the Seventh Schedule to the Indian Constitution. Certain bull kinds may suffer accidental effects that have a detrimental effect on agricultural

activities. When the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act was passed in 2017, it forced the states to follow the 2014 Supreme Court ruling in "Welfare Board of India v. A. Nagaraja," despite the initial petitions filed in the case "Animal Welfare Board of India v. Union of India" having asked for a directive to that effect.⁴

Analysis

Tamil Nadu custom of bull-taming, known as "Jallikattu," was mentioned in the well-known court case "Animal Welfare Board of India vs. A. Nataraja & Ors." The case raised challenging issues about animal welfare, cultural preservation, and the acceptability of local practises in light of broader moral and legal considerations.

The primary argument in the lawsuit resulted from a conflict between worries about animal abuse and the importance of Jallikattu in Indian culture. The Animal Welfare Board of India (AWBI) said that jallikattu was a violation of the Prevention of Cruelty to Animals Act and that it should be fully banned. They said that the exercise endangered participant safety and inflicted unnecessary pain on the bulls. Supporters of the custom, particularly the response headed by A. Nataraja, defended Jallikattu as an essential component of Tamil culture and heritage. They contended that the conduct had been carried out for centuries and had strong socio-religious undertones. They asserted that Jallikattu was essential to the maintenance of cultural identity and traditional practises. The case demonstrated the tension that arises between protecting cultural heritage and ensuring the welfare of animals. Larger debates on whether cultural practises can be exempt from moral and legal obligations due to their historical significance were triggered by this. In deciding the case, the court would have probably considered the need to balance these interests, maybe by creating guidelines that would lessen human and animal suffering while yet acknowledging the importance of Jallikattu to the community. In the end, the case highlighted the challenges of striking a balance between customs and contemporary ethical and legal standards, as well as the challenge of developing solutions that respect cultural heritage without compromising animal care.

5- Improve livestock, ban cow/calf slaughter, encourage scientific farming with compassion for animals.

6- This empowers both states and the central government to legislate against animal cruelty.

How is it different from *Damnatio ad Bestia*?

In Latin, the term "*Damnatio Ad Bestia*" implies "condemnation to beasts." This historical occurrence occurred during the Roman Empire. In ancient Rome, criminal punishment included the use of arenas where individuals, including Christians, would face wild beasts in a manner akin to execution or for the entertainment of the general public. The Romans applied this kind of punishment to a broad spectrum of individuals and groups that they deemed to be either state enemies or criminals. Victims might include POWs, slaves, and those accused of different misdeeds. Due to their religious practises and belief that they posed a threat to the prevailing society, the majority of victims were foreigners. The Jallikattu tradition, which is observed on the fourth day of Pongal, is completely distinct from this. While permission is included in certain cases, it is not present in *Damnatio Ad Bestia*, where the Romans used it as a means of both claiming supremacy over others and crucifying them.

Natural Law has been violated in the instance of *Damnatio Ad Bestia*⁵⁵; earlier violations of natural law included performing Jallikattu in contravention of the law, although such violations were later overturned. To tame a wild bull in Jallikattu is to grab its horns or hump and ride it through a mob of rivals. Showing courage and animal-taming skills is the major goal, not harming or killing the bull. Jallikattu holds great cultural, religious, and traditional significance in Tamil Nadu. Thanksgiving to our Nature includes Jallikattu. In addition, Article 25 of the Indian Constitution, which guarantees "FREEDOM OF CONSCIENCE AND FREE PROFESSION, PRACTISES, AND PROPAGATION OF RELIGION," has been violated in accordance with natural law. Moreover, the Indian Constitution's Article 26—"FREEDOM TO MANAGE RELIGIOUS AFFAIR"—states They are the fundamental rights that are being infringed upon.

Conclusion

Today's ruling by the court favoured the Tamil Nadu government, permitting the carrying on of bull-taming sports like Jallikattu and kambala as well as bullock-car racing. In conclusion, the debate over Jallikattu has a lot of opposing viewpoints. Maintaining and honouring cultural traditions is equally important as prioritising animal care and ethical treatment. In order to address Jallikattu and similar cultural practises in a sustainable and inclusive manner, a

⁵⁵ https://penelope.uchicago.edu/~grout/encyclopaedia_romana/gladiators/bestias.html - a clear explanation about *Damnatio Ad Bestia*.
Further reference from the bare act of Indian Constitution.

compromise that values both viewpoints needs to be struck. The court's decision to find in favour of the Tamil Nadu government was made easier by revisions to the regulations governing the conduct of Jallikattu. "Jallikattu cannot be characterised as a blood sport because no weapons are used and the blood may only be an incidental thing," the Supreme Court declared in its ruling.

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Regards,

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