



KAMARAJ IAS ACADEMY
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The SC ruling on jallikattu

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Why in News: A Constitution Bench of the Supreme Court recently upheld the amendments made by Tamil Nadu, Karnataka, and Maharashtra to the Prevention of Cruelty to Animals Act, 1960 [PCA Act] permitting the traditional bull-taming sports of Jallikattu and Kambala and other bullock-cart races. The five-judge Bench overruled the view taken by a two-judge Bench of the Court in its 2014 ruling in *Animal Welfare Board of India v. A. Nagaraja*, banning such sports— including Jallikattu.

Practice of Jallikattu

Jallikattu, also known as 'Eruthazhuvuthal', is a bull-taming sport traditionally played in Tamil Nadu. Jallikattu refers to silver or gold coins tied on bulls' horns.

In this, a bull is released into a field; whoever is able to take control of the bull by grabbing the large hump on its back wins the sport.

It is typically a part of celebrations in Tamil Nadu on Mattu Pongal day, the third day of the four-day Pongal festival.

Controversy surrounding the sport

The practice of jallikattu has long been contested, with animal rights groups expressing concern over cruelty to bulls

According to an investigation by People for the Ethical Treatment of Animals [PETA], between January and June 2017, 15 people and five bulls died and nearly 2,000 spectators were injured due to the sport.

The timeline of the legal battle

In 2007, a division bench of the Madras High Court stayed the order of a single judge banning the practice. This was then challenged before the Supreme Court, which stayed the High Court's decision but eventually lifted the ban in 2008, with a caveat that unnecessary pain must not be inflicted upon bulls.

Thereafter, the Tamil Nadu government enacted the Tamil Nadu Regulation of Jallikattu Act, 2009 [2009 Act] to regulate the sport. But PETA soon challenged this legislation before the Supreme Court.

In 2011, the Union Ministry of Environment, Forest and Climate Change [MoFCC] issued a notification under Section 22(ii) of the PCA Act, declaring bulls to be non-performing animals.

In 2014, the Supreme Court in *Animal Welfare Board of India v. A. Nagaraja* again banned the practice and held the 2009 Act to be violative of the PCA Act. The Animal Welfare Board of India, a statutory body under the Centre, argued that bull and bullock cart races conducted in Tamil Nadu and Maharashtra violate the provisions of the PCA Act. It also provided documentary evidence suggesting that the jallikattu animals were physically and mentally tortured.

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The Tamil Nadu government filed a review petition which was subsequently rejected. In 2016, the MoFCC modified its earlier 2011 notification and permitted bulls to be used as ‘performing animals’ for the purpose of jallikattu and other such races. This notification was challenged again before the Supreme Court by various animal rights groups for not complying with the ruling in A. Nagaraja. Accordingly, a stay was granted on the operation of the notification.

In the wake of widespread protests, the Tamil Nadu government enacted the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017 [2017 Act], which allowed jallikattu in the State under the PCA Act. It also notified the Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017.

Subsequently, a host of petitions were filed in the Supreme Court seeking a stay on the implementation of the 2017 Act as well as a direction to the States to comply with the 2014 ruling in A. Nagaraja.

Finally, a Supreme Court division bench of the then Chief Justice of India Dipak Misra and Justice Rohinton Fali Nariman in *The Animal Welfare Board of India & Ors versus UOI & Ors* (2018) referred the matter to a Constitution bench as they felt that it involved substantial questions relating to the interpretation of the Constitution

The issues in consideration before the Constitution Bench

The Supreme Court division bench framed five questions for adjudication before the Constitution Bench, including whether the 2017 Tamil Nadu State amendment can be protected under Article 29 of the Constitution— a fundamental right to protect the educational and cultural rights of citizens.

The questions of law to be considered by the Constitution Bench were:

1. Is the Tamil Nadu Amendment Act a colourable legislation that does not relate to any Entry in the State List or Entry 17 of the Concurrent List? Does it perpetuate cruelty to animals; and can it, therefore, be said to be a measure for prevention of cruelty to animals?
2. Can the Tamil Nadu Amendment Act be stated to be part of the cultural heritage of the people of Tamil Nadu so as to receive the protection of Article 29 of the Constitution?
3. Does the Tamil Nadu Amendment Act, ensure the survival and well-being of the native breed of bulls?
4. Is the Tamil Nadu Amendment Act contrary to Articles 51A(g) and 51A(h), and is it therefore, violative of Articles 14 and 21 of the Constitution?
5. Is the Tamil Nadu Amendment Act contrary to the judgment in A. Nagaraja, and the review judgment dated 16th November 2016, and whether the defects pointed out in the two judgments are overcome by enacting this Amendment Act?

Arguments of Tamilnadu

The Tamil Nadu government argued that jallikattu is a religious and cultural practice that is centuries old and that a ban on such a practice was “hostile to culture and against the sensitivities of the community”. It added that jallikattu is not solely for entertainment but is practiced to ensure that the indigenous breed survives.

It was contended that the amended laws changed the regime of how it is performed and that now sufficient regulations are in place. For instance, prior permission of the collector needs to be taken by the organisers following which a committee must be constituted to monitor the event. The participating bulls are also tested and performance-enhancing drugs are banned.

The government also said that animals do not have independent rights and that their rights exist due to restrictions put on human beings.

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On the other hand, the petitioners challenged all three State amendments on the ground of ‘colourable legislation’. They highlighted that while the objective of the parent legislation, that is, the PCA Act, was the prevention of cruelty, the amendments only perpetuate cruelty.

The petitioners further argued that the Constitution recognises the rights of animals in Articles 14 and 21. Referring to the law laid down in A. Nagaraja, they highlighted that the judgment evolved the ambit of animal rights to include dignity and that the protection guaranteed under Article 21 can be invoked against jallikattu.

Importantly, a violation of Article 21 was also pointed out with respect to the death and injuries suffered by humans in jallikattu. The Bench was also apprised that bulls are not structured to fight, and converting them to fighting animals amounts to cruelty within the context of section 11 of the PCA Act.

Ruling of Constitution Bench

State Amendment Acts are not ‘arbitrary’ or ‘unreasonable’

A Constitution Bench of Justices K.M. Joseph, Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy, and C.T. Ravikumar said that the State amendments are ‘valid legislations’ since the State legislatures have the power to make these amendments as per Entry 17 [prevention of cruelty to animals] of the Concurrent List.

The Court observed that just because bulls lack the natural ability to run like a horse, it cannot be inferred that this seasonal sport is contrary to the provisions of the PCA Act

It also refused to accept that irrational classification had been made with respect to the bull sports in violation of Article 14.

Refuting the argument that inflicting unnecessary pain upon the bovines merely for the purpose of entertainment is unreasonable, the Court drew a parallel with horse racing, permitted under the Performing Animals (Registration) Rules, 2001

“Horse is also a sentient animal. But the fact remains that by making them perform in races, some element of pain and suffering must be caused to horses.

Here, the focus shifts from causing pain and suffering to the degree of pain and suffering to which a sentient animal is subjected to while being compelled to undertake certain activities for the benefit of human beings”, the Court underscored.

It also noted that the amendments, having received the assent of the President, cannot be faulted.

Amended laws minimise pain and suffering of bovines

The Court noted that its 2014 judgment in A. Nagaraja, held that Jallikattu attracted the restrictions imposed under the PCA Act due to the manner in which it was practised then.

However, it took into account that the subsequent amendments “substantially reduces the pain and suffering” caused to the participating animals and thus the manner in which the race was carried out has now been altered.”

Saying that the sport is nearly a century old, the Court however refused to delve into the question of whether Jallikattu is an ‘integral part’ of the culture of Tamil Nadu. It was of the opinion that making such a determination would require religious, cultural and social analysis in greater detail —an exercise that cannot be undertaken by the judiciary

The Court ruled that whether the amended laws seek to preserve the cultural heritage of the States is “debatable” and must be left to the wisdom of the legislature. However, it emphasised that it does not accept the view laid down

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in A. Nagaraja, that Jallikattu is not a part of the cultural heritage of State of Tamil Nadu since there was insufficient material to draw that conclusion.

Not prudent to confer fundamental right to life under Article 21 on bulls

Refusing to extend fundamental rights to animals, the Court observed that it would not be prudent to bring bulls within the ambit of Article 21 which guarantees the right to life. It also noted that there is no precedent to show that the Constitution recognises any fundamental right for animals.

"While the protection under Article 21 has been conferred on person as opposed to a citizen, which is the case in Article 19 of the Constitution, we do not think it will be prudent for us to venture into a judicial adventurism to bring bulls within the said protected mechanism," the judgment read.

The Court added that its decision will similarly apply to laws on Kambala and other bull-cart races in Maharashtra and Karnataka. It underscored that the amended laws must be strictly implemented, with due compliance ensured by the concerned District Magistrates.