

Case Comment on

Animal Welfare Board of India v. A. Nagaraja

(2014 (6) SCALE 468)

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The judgment depicts the strong and compassionate approach taken by the court towards animals, particularly bulls used in bullock cart races and Jallikattu. The case is another addition to the several decisions that have pushed in for a more expansive reading to the expression “life” and “dignity” under the Constitution. To give a more inclusive meaning to life and dignity, the case accommodates the duty to preserve the dignity and wellbeing of animals as being a part of the constitutional framework.

As per the facts of the case, the question that arose before the court was whether bullock-cart races and Jallikattu taking place in the states of Tamil Nadu and Maharashtra are violative of the provisions of the Prevention of Cruelty to Animals Act, 1960 (hereinafter PCAAct).

In this regard, the Animal Welfare Board of India (hereinafter AWBI), a statutory board established under the PCA, highlighted through its reports and photographs before the court the conditions of barbarity with which the bulls were being used during the said events. The information provided by the AWBI highlighted that bulls were being physically and mentally tortured for human pleasure and enjoyment, being subjected to ear cutting, mutilation, fracture, deaths, twisting of the tail, poking with sharp objects, lack of food – water, etc.

In response to the facts highlighted by the AWBI, the organizers of the bullock-cart races and Jallikattu took the plea that the events have been going on for more than three hundred years, and are part of custom and tradition. In addition, the organizers stated that such events generate

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revenue for the state, and serve the purpose of enjoyment for the participants. The organizers also claimed that no cruelty is meted out to the performing bulls in bullock-cart races to be violative of the PCA Act. The state of Tamil Nadu took up the stand that every effort will be made to ensure that bulls are not subjected to cruelty to violate the PCA Act, and the sports event can be regulated under the Tamil Nadu Regulation of Jallikattu Act, 2009 (hereinafter TNRJ). The TNRJ safeguards the interest of the organizers and the spectators while conducting the event of Jallikattu. After taking note of the submissions made by the AWBI, the organizers, and the concerned states, the court stated that the events of bullock- cart racing and Jallikattu are derogatory to the provisions of the PCA Act, which is a welfare legislation. According to the court, “sadism and perversity is writ large in the actions of the organizers of the Jallikattu”. In this regard, specific reference was made to section 3 of the PCA Act dealing with duties of persons having charge of animals, to take all reasonable measures to ensure the wellbeing of the animal, and to prevent the infliction of unnecessary pain and suffering. Also, section 11 prohibits treating an animal in a way that causes unnecessary pain or suffering and prohibits the mutilation of an animal's body.

The court also went on to ascertain the authenticity of the claim of the organizers that bullock-cart races and Jallikattu are part of tradition and culture. The court in this regard stated that:

Even the ancient culture and tradition do not support the conduct of Jallikattu or bullock-cart race, in the form in which they are being conducted at present. Welfare and the well being of the bull in Tamil culture and tradition, they do not approve of infliction of any pain or suffering on the bulls, on the other hand, Tamil culture and tradition are to worship the bull and the bull is always considered as the vehicle of Lord Shiva...PCA Act, welfare legislation, in our view, overshadows or overrides the so-

called tradition and culture. Jallikattu and bullock-cart races, the manner in which they are conducted, have no support of Tamil tradition and culture.

Based on the facts placed before it, the court concluded that the TNRJ Act 2009 (anthropocentric legislation) is repugnant to the PCA Act (eco-centric legislation). That the rights guaranteed under sections 3 and 11 of the PCA Act cannot be taken away, and Jallikattu and bullock-cart races violate the provisions of the PCA Act. That bullock-cart races and Jallikattu cause immense pain, suffering, and discomfort to the bulls. The essence of the judgment flows from the following reasons/interpretations crafted and asserted by the court:

- Every species has a right to life and security. Article 21 of the Constitution, while safeguarding the rights of humans, protects life, and the word “life” includes animal life. Concerning animals, life means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honor, and dignity.
- The duty cast by the PCA Act under section 3 is mandatory and hence confers corresponding rights on animals. Rights so conferred on animals are thus the antithesis of duty and if those rights are violated, the law will enforce these rights with legal sanction.
- The rights guaranteed to the animals under the PCA Act are statutory. The same has to be elevated to the status of fundamental rights, as have been done by a few countries around the world, to secure their honor and dignity.
- It is expected of the Parliament to elevate the rights of animals to that of constitutional rights, as done by many countries across the globe, to protect their dignity and honor.
- The standard to apply in deciding the issue on hand is the "Species Best Interest".
- The organizers of Jallikattu feel that their bulls have only instrumental value to them, forgetting their intrinsic worth.
- The World Health Organization of Animal Health, of which India is a member, states that an animal is in a good state of welfare if it is healthy, comfortable, well-nourished, safe, able to express innate behavior, and if it is not suffering from unpleasant states such as pain, fear, and distress.