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# Jallikattu: An Analysis

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## I. INTRODUCTION

Jallikattu is a bull-taming sport which takes place annually during and after the festival of Pongal in Tamil Nadu, Jallikattu is an ancient cultural and traditional religious ritual of Tamil People that honour and glorify the domestic milch and draught cattle.

All over India there are so many indigenous cows and bulls which has special traits and Tamil Community strongly believes that Jallikattu is a way to conserve our indigenous cattle breeds which is essential for our ancient agricultural practices. The supporters of Jallikattu vehemently argued that Jallikattu is not only a cultural sport, it is an identity of a Tamil community and the people have been celebrating their cattle for its immense support to their life and livelihoods.

Animal right activists in India i.e PETA argued that Jallikattu causes immense mental and physical torture to bulls, creating fear and distress in the animal to provoke aggression for making the sport of bull taming more “enjoyable”. The event results in injuring and even killing several people each year, including spectators. Various news sources have reported that in the past ten years, around 1100 injuries and 17 deaths, including that of a child were caused by Jallikattu. Several injuries and deaths go unreported.

There are numerous instances of cruelty perpetrated during Jallikattu, such as rubbing irritants (chilli/pepper powder) into the eyes and nose of the bull; constant yanking and dragging of bulls by a nose-rope; prodding and poking bulls in the vadi vassal (bull pen) with iron rods, sticks, knives and other sharp objects, to agitate the bulls; biting, pulling, twisting and breaking of the bulls’ tails to again injure and agitate the bull; beating and kicking; kept in cramped conditions without sufficient food, water or shelter; cutting of ears; injuries and deaths sustained by bulls trying to escape.

The Tamil Nadu Government had enacted a separate legislation to regulate the Jallikattu in the year 2009 but our Hon’ble Judiciary has supported the view of animal right activists and analysing the same with international perspective to our Constitutional view in the land mark case of AWBI vs A.Nagaraja & others<sup>2</sup> then the Tamil Nadu government had brought an

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<sup>2</sup> Animal Welfare Board Of India vs A. Nagaraja & Ors on 7 May, 2014 CIVIL APPEAL NO. 5387 OF 2014

amendment in the principal act i.e Prevention of Cruelty to Animals Act in the year 2017 to lift the ban on Jallikattu and the Constitutional Validity of the Amendment of the same is still pending before the five Judge Constitutional bench of our Hon'ble Supreme Court.

## II. STATE ACTIONS ON JALLIKATTU SPORT

The Tamil Nadu State Government had enacted a legislation to regulate Jallikattu named as The Tamil Nadu Regulation of Jallikattu Act, 2009<sup>3</sup> after the judgement<sup>4</sup> passed by Our Hon'ble Madras High Court against Jallikattu Sport. Section 3<sup>5</sup> of the above said act gives power to the district collector to regulate the sport and also states the responsibility of the organisers to conduct the sport and to prevent human and animal rights violations but the same was struck down by the Judgement of Hon'ble Supreme Court<sup>6</sup>, meanwhile the notification<sup>7</sup> issued by MoEF (MoEFCC) banned the use of bulls as performing animals by using its powers under Section 22<sup>8</sup> of the Prevention of Cruelty to Animals Act. Consequently, Jallikattu, Kambala, bullock cart races and all other similar events were also prohibited.

The 2011 Notification of the MoEF was challenged on several grounds by proponents of Jallikattu in the Madras High Court which upheld its validity. The matter came up for consideration before the Supreme Court in Animal Welfare Board of India v. A. Nagaraja and Ors<sup>9</sup>.

## III. SUPREME COURT'S JUDGEMENT ON JALLIKATTU

The Hon'ble Supreme Court of India has taken two sets of cases while taking the case of Animal Welfare Board of India v. A. Nagaraja and others.<sup>10</sup> Our Hon'ble Apex Court has

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(@ Special Leave Petition (Civil) No.11686 of 2007)

<sup>3</sup> Act No.27 of 2009, 5<sup>th</sup> Aug 2009.

<sup>4</sup> K. Muniasamy thevar vs Dy. Superintendent of Police And others, AIR 2006 Mad 255

<sup>5</sup> **Section 3. Duties of persons having charge of animals**—It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

<sup>6</sup> Supra Note.1

<sup>7</sup> Notification order no. GSR 528 (E) dated 11.07.2011

<sup>8</sup> **Section 22 in The Prevention of Cruelty to Animals Act, 1960**

No person shall exhibit or train—

(i) any performing animal unless he is registered in accordance with the provisions of this Chapter;

(ii) as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.

<sup>9</sup> Supra Note 4

<sup>10</sup> **Para 3**.....one set challenges the Division Bench Judgment of the Madras High Court at Madurai dated 09.03.2007, filed by the Animal Welfare Board of India (for short AWBI), Writ Petition No. 145 of 2011 filed by an organisation called PETA, challenging the validity of TNRJ Act and few other writ petitions transferred from the Madras High Court at Madurai challenging/enforcing the validity of the MoEF Notification dated 11.07.2011 and another set of cases, like SLP No. 13199 of 2012, challenging the Division Bench judgment of the Bombay High Court dated 12.03.2012 upholding the MoEF Notification dated 11.07.2011 and the

clearly held that Jallikattu, Bullock-cart races, bullfights and such events are inherently in violation of Sections 3 and 11(1)(m)(ii)<sup>11</sup> of the PCA Act. It upheld the 2011 Notification prohibiting Jallikattu. The Apex Court expressly held that the practice of Bull-Fighting, Bull-Taming or Racing have no support in Tamil culture and even assuming otherwise, the PCA Act, being a welfare statute overrides traditions and culture which are violative of the fundamental rights of animals guaranteed under Article 21 read with Article 51A(g)<sup>12</sup> of the Constitution Of India read with Sections 3 and 11 of the PCA Act. The Apex Court clearly held that the Tamil Nadu Regulation of Jallikattu Act 2009 is Void<sup>13</sup>. Thereafter, a review petition was filed against the Nagaraja judgment which was also dismissed by the Supreme Court on 16.11.2016.

The AWBI informed the Ministry of Environment and Forests of the Supreme Court's clear finding of cruelty in such events, and its directions upholding the ban on performing bulls and enforcing the PCA Act. The AWBI categorically stated that Jallikattu, bull races, bull fights, Kambala and all similar events perpetuate cruelty to animals and have been struck down by the Supreme Court as illegal and unconstitutional. Despite the direction of Supreme Court and AWBI the Central Government against taking a contrary stand to its own Notification order GSR 528 (E) dated 11.07.2011 without consulting the AWBI, the Ministry of Environment, Forests and Climate Change in supersession of the 2011 Notification issued another notification<sup>14</sup>("2016 Notification") allowing bulls to be used as performing animals for events such as Jallikattu and bullock cart races practiced traditionally as part of customs and culture, subject to ensuring that the rights of animals under Sections 3 and clauses (a) and (m)(ii) of sub-section (1) of Section 11 of the PCA Act, and five freedoms declared by the Supreme Court in the Nagaraja judgment, are fully protected.

There were many petitions filed before the Hon'ble Supreme Court for quashing the 2016

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corrigendum issued by the Government of Maharashtra dated 24.08.2011 prohibiting all Bullock-cart races, games, training, exhibition etc. Review Petition No. 57 of 2012 was filed against the judgment of the Bombay High Court, which was dismissed by the High Court on 26.11.2012, against which SLP No. 4598 of 2013 has been filed.

**<sup>11</sup> Section 11(1) in The Prevention of Cruelty to Animals Act, 1960**

(1) If any person—

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animals to be so treated; or

[m] solely with a view to providing entertainment—

(i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or

(ii) incites any animal to fight or bait any other animal;

<sup>12</sup> (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

<sup>13</sup> Para 77...11) TNRJ Act is found repugnant to PCA Act, which is a welfare legislation, hence held constitutionally void, being violative of Article 254(1) of the Constitution of India.

<sup>14</sup> No. GSR13(E) dated 07.01.2016

Notification and seeking a stay order to that effect. The Court was pleased to grant an interim stay on the 2016 Notification, thus upholding the ban on Jallikattu<sup>15</sup>.

#### **IV. MARINA PROTEST**

The Tamil Nadu had witnessed a massive protest on January 2017 famously known as “Marina Protest” against the ban on Jallikattu ordered by our Hon’ble Supreme Court, the protests erupted across the State of Tamil Nadu to lift the ban on Jallikattu, response to these protests, the Governor of the State of Tamil Nadu promulgated an Ordinance dated 21.01.2017 amending the PC Act to allow Jallikattu to be held.

Thereafter, the Legislative Assembly of State of Tamil Nadu passed a law on 23.01.2017 amending the Act by the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017, which replaced the Ordinance promulgated on 21.01.2017<sup>16</sup> viz. amending Sections 3, 11, 22, 27 and 28.

#### **V. PCA ACT 1960- TAMIL NADU AMENDMENT 2017**

Tamil Nadu government was forced to bring an amendment in the PCA Act 1960 due to a massive Marina Protest at Marina Beach, Chennai and the amendment was brought out on the grounds of cultural heritage of the State of Tamil Nadu and to ensure the survival and wellbeing of the native breeds of bulls.

Section 3 of the PCA Act was amended by adding a sub-section 2<sup>17</sup> which permitting Jallikattu with the rules and regulations framed by state government.

Section 11<sup>18</sup>&27<sup>19</sup> of PCA Act was amended with added subclause which supports the purpose of Jallikattu especially about the preservation of native breeds of bulls.

The amendment also lifts the ban to exhibit & training the bulls for Jallikattu by amending section 22 and also inserted saving Clause as section 28-A in the PCA Act to save Jallikattu sport.

#### **VI. LEGALITY OF THE TN AMENDMENT ACT-ANALYSIS**

The TN amendment Act 2017 is somewhere replacing the Tamil Nadu Regulation of

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<sup>15</sup> WP (C) 24/16 Compassion Unlimited Plus Action Vs U.O.I dated 12.01.2016

<sup>16</sup> Act 1 of 2017 dated 31<sup>st</sup> January 2017

<sup>17</sup> “(2) Notwithstanding anything contained in sub-section (1), conduct of ‘Jallikattu’, subject to such rules and regulations as may be framed by the State Government, shall be permitted.”

<sup>18</sup> “(f) the conduct of ‘Jallikattu’ with a view to follow and promote tradition and culture and ensure preservation of native breeds of bulls as also their safety, security and wellbeing.”

<sup>19</sup> “(c) the conduct of ‘Jallikattu’ with a view to follow and promote tradition and culture and ensure survival and continuance of native breeds of bulls.”

Jallikattu Act 2009 and how the state can amend the Central Act on the grounds of cultural rights is the major question involved in the amendment and the same was expressed by our Hon'ble Supreme Court while transferring the matter into five Judge Constitution bench.<sup>20</sup>

The Animal rights activists who fight against the Jallikattu Sport expressed their agitation against the TN amendment Act which seeks to legalise the Jallikattu indirectly. The TN amendment Act in essence seeks to overcome the Nagaraja judgment and an amendment Act cannot subvert or circumvent the judicial determination of the Supreme Court through legislation.

The Nagaraja judgment has been reaffirmed by the Apex Court<sup>21</sup>. The review against the judgment, filed by the State of Tamil Nadu, was also dismissed. This reaffirmation is an unambiguous, categorical and unassailable endorsement of the opinion of the Supreme Court.

The Supreme Court has authoritatively held that where legislation seeks to correct the defect found by the Courts in such Act, the validating Act may be effective only when the ineffectiveness or invalidity is removed. In this case, the amendment Act cannot and does not state that Jallikattu is not a cruel practice, and therefore, the basis of the determination of the Supreme Court's decision is unchanged.

The Nagaraja judgment held that the underlying basis of the event is one that is cruel. Therefore, the only way in which the Amendment Act may legally render the Nagaraja judgment ineffective is to conduct an entirely different event than the one that is referred to and described as Jallikattu in ancient texts, historical accounts which it has not done.

## VII. CONCLUSION

From the above analysis it is clearly understood that the Animal rights activist and the organisers of Jallikattu are having a similar thought that to save our Native cattle breeds but the way of saving is differed. Our Hon'ble Supreme Court also stood against the cruelty not against the culture or any particular community. Cruelty against any animal is highly condemnable hence the Jallikattu sport is now been successfully organised and conducted by the organizers with the help of State government with the proper guidelines.

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<sup>20</sup> The apex court had said on December 12, 2018 that it would refer to a five-judge constitution bench a batch of pleas challenging Tamil Nadu and Maharashtra laws allowing Jallikattu and bullock cart races. The court, while reserving its order, had said the larger bench would decide whether states have the "legislative competence" to make such laws on grounds, including that 'Jallikattu' and bullock cart racing fell under the cultural rights enshrined under Article 29(1) and can be protected constitutionally.

[https://economictimes.indiatimes.com/news/politics-and-nation/sc-refers-pleas-against-jallikattu-to-constitution-bench/articleshow/62752587.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/politics-and-nation/sc-refers-pleas-against-jallikattu-to-constitution-bench/articleshow/62752587.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

<sup>21</sup> Supra Note 11

**VIII. REFERENCE****Laws on Jallikattu**

1. Prevention of Cruelty of Animals Act 1960
2. The Tamil Nadu Regulation of Jallikattu Act, 2009
3. Prevention of Cruelty to Animals (Tamil Nadu Amendment), Act, 2017

**Govt Notifications about Jallikattu Issued by MOEF**

1. G.S.R. 528(E) dated 11<sup>th</sup> July 2011
2. G.S.R.13(E) dated 7th January, 2016

**Supreme Court Judgements on Jallikattu**

1. Animal Welfare Board of India vs. A. Nagaraja and Others (2014) 7 SCC 547
2. Writ Petition (Civil) No.24 of 2016 dated 12.01.2016

**Madras High Court Judgement**

1. K. Muniasamy thevar vs Dy. Superintendent of Police And others, AIR 2006 Mad 255

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