

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

Animals, Birds and Fish

Animal rights and welfare

Philosophy behind and constitutional principles discussed - Concepts like compassion [Art. 51-A(g)], humanism [Art. 51-A(h)], Speciesism and of all forms of animal life being included in expanded meaning of life in Art. 21, postulated - Clarified that all these ecocentric principles as distinguished from anthropocentric principles, have been incorporated in PCA Act and the PCA Act must be viewed in this prospective, (2014) 7 SCC 547-A

Animals, Birds and Fish

Prevention of Cruelty to Animals Act, 1960

Ss. 3 & 11 r/w Ss. 21 and 22 and S. 28 - Duty to protect welfare of animals and not to put them to avoidable pain and suffering [except for unavoidable necessary actions for human benefit, or exceptions to such right laid down in Ss. 11(3) and 28, PCA Act] - Manner of interpretation of - Held, animal welfare laws have to be interpreted keeping in mind the welfare of animals and species best interest subject to just exceptions out of human necessity mentioned in Ss. 11(3) and 28, PCA Act - Said exceptions, clarified, are unavoidable activities though these cause pain and suffering to animals - But other activities which are avoidable and which are not exceptions under Ss. 11(3) and 28 and which do not arise out of human necessity (for example Jallikattu) violate Ss. 3 and 11, PCA Act and cannot be permitted - Because pain, suffering and anxiety inflicted to bulls during Jallikattu events is solely for human pleasure and can be avoided, (2014) 7 SCC 547-B

Environment Protection and Pollution Control

Anthropocentrism vis--vis Ecocentrism

Three stages of development of international law from Anthropocentrism to Ecocentrism via the principle of sustainable development, explained - Stage 1 (human self-interest, reason for environmental protection), Stage II (sustainable development and treaties for future generations), Stage III (Nature's own rights), (2014) 7 SCC 547-C

Animals, Birds and Fish

Animal rights and welfare

International recognition of animal rights - 5 internationally recognised freedoms of animals (Brambell's Five Freedoms), their implications for PCA Act and India, clarified and authorities directed accordingly - The five freedoms being: (i) freedom from hunger, thirst and malnutrition; (ii) freedom from fear and distress; (iii) freedom from physical and thermal discomfort; (iv) freedom from pain, injury and disease; and (v) freedom to express normal patterns of behaviour - Said five freedoms, held, have to be read into Ss. 3 and 11 of the PCA Act and have to be protected and safeguarded by the States, Central Government, Union Territories, MoEF and AWBI, (2014) 7 SCC 547-D

Animals, Birds and Fish

Animal rights and welfare

International recognition of animal rights - Organisations involved in animal welfare and countries recognising animal rights in their Constitutions - Resultant suggestions for Indian Parliament - Elevation of status of animal rights from mere statutory right to a fundamental right and provision of more stringent penalties for violations of PCA Act - Countries like Germany, Switzerland, Austria, Slovenia and UK already had asserted the intrinsic worth of animals - Though no international agreement ensures protection of animals' welfare, campaigns like UDAW and WSPA's and OIE's efforts in this regard, taken judicial note of, (2014) 7 SCC 547-E

Constitution of India

Arts. 19(1)(f) and 300-A - Effect of deletion of right to property from fundamental rights - Implication for animal rights, (2014) 7 SCC 547-F

Animals, Birds and Fish

Prevention of Cruelty to Animals Act, 1960

Ss. 3 & 11 r/w Ss. 21 and 22, S. 28 and Ss. 9(a) to 9(l) - Duty to protect welfare of animals and not to put them to avoidable pain and suffering [except for unavoidable necessary actions for human benefit, or exceptions to such right laid down in Ss. 11(3) and 28, PCA Act] - Such animal rights, held, extend to bulls, and such right and corresponding duty is violated by Jallikattu, bullock cart races, other such events and TNRJ Act, 2009 permitting such events - Jallikattu, bullock cart races, other such events performed anywhere in the country and TNRJ Act, 2009, held, are illegal - They violate Ss. 3, 11(1)(a) and 11(1)(m) and 22 PCA Act r/w Arts. 51-A(h), 51-A(g) and 21 of the Constitution - TNRJ Act further violates Art. 254(1) of the Constitution - Jallikattu also violates R. 8 of the Performing Animals (Registration) Rules, 2001 - Therefore, TNRJ Act is declared void and illegal - Thus impugned judgment of Madras High Court set aside and impugned judgment of the Bombay High Court and Noti. dt. 11-7-2011 issued by Central Government, upheld - Consequently, bulls cannot be used as performing animals, either for Jallikattu events or bullock cart races in the State of T.N., Maharashtra or elsewhere in the country - Detailed directions issued, (2014) 7 SCC 547-G

Animals, Birds and Fish

Prevention of Cruelty to Animals Act, 1960

S. 11(1)(a) - Expression or otherwise - Whether implies that doctrine of ejusdem generis should be applied - Held, or otherwise not used as words of limitation and said doctrine will not be applicable - It will cover all situations where animals are subject to unnecessary pain and suffering, (2014) 7 SCC 547-H

Animals, Birds and Fish

Prevention of Cruelty to Animals Act, 1960

Ss. 11 and 3 - Meaning of pain and suffering - Pain informs an animal which stimuli it needs to avoid and suffering informs it about a situation to avoid - Report of AWBI clearly indicated that bulls were subject to pain and suffering in Jallikattu, etc., (2014) 7 SCC 547-I

Animals, Birds and Fish

Prevention of Cruelty to Animals Act, 1960

Ss. 3 & 11 r/w Ss. 21 and 22 and S. 28 - Duty to protect welfare of animals and not to put them to avoidable pain and suffering [except for unavoidable necessary actions for human benefit, or exceptions to such right laid down in Ss. 11(3) and 28, PCA Act] - Rationale why Jallikattu is illegal, explained - Research and study about nature of bulls and reports and photographs of AWBI about Jallikattu events, held, indicate that bulls are herbivores, prey by nature, herd animals, have long memories, avoid source of noise and disturbance and vocalise when they are separated from their herd or when they are under stress - They exhibit flight or fight response when exposed to a perceived threat - And studies regarding Jallikattu indicate that their welfare is compromised for the pleasure of human beings - The organisers deliberately beat, agitate and injure the bulls for increasing their fear and anxiety and keep them in acutely painful and uncomfortable positions for hours without food and water - All this is evident from reports and photographs of investigating team of AWBI - Said reports also indicate that at the surface the events look organised but behind the scenes abuse and violations of law continue - Bulls in these events suffered terribly both mentally and physically - Further, many people come to Jallikattu with the hope of being a part of the action and undo whatever the system has built in as checks and balances, (2014) 7 SCC 547-J

Environment Protection and Pollution Control

Environment (Protection) Act, 1986

S. 3 - MoEF Noti. dt. 11-7-2011 issued under, for protection of bulls - Contrary proposal of MoEF to exempt Jallikattu events in State of Tamil Nadu as an exception on grounds of long-standing culture and tradition, held, is not tenable - Reasons being: (a) custom and tradition in Tamil Nadu do not in fact support Jallikattu in the form in which it is practiced

today, (b) welfare and well-being of bull is considered as Tamil culture and tradition, (c) Jallikattu is illegal, (d) MoEF advanced this proposal without any expert consultation rather expert body for animals, AWBI took a contrary stand based on reports of investigators of Jallikattu events, (e) even State of Maharashtra has decided to stop such evil practices, (f) even assuming that Jallikattu has been in vogue for some time, our country has a history of doing away with long followed practices if they are evil practices, and (g) the Court in exercise of parens patriae jurisdiction should stop this evil practice, (2014) 7 SCC 547-K

Animals, Birds and Fish

Animal rights and welfare

Scientific study as to when can animals be stated to be in good state of welfare - Views of international bodies - World Health Organisation of Animal Health (OIE) (of which India is a member) says that an animal is in good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour and if it is not suffering from unpleasant states such as pain, fear and distress, (2014) 7 SCC 547-L

Constitution of India

Arts. 246, 254 and Sch. VII List III Entry 17 - TNRJ Act, held, is repugnant to PCA Act - Various provisions of TNRJ Act, held, are contrary to PCA Act - TNRJ Act is an anthropocentric legislation whereas PCA Act is an ecocentric legislation - TNRJ Act declared ultra vires, (2014) 7 SCC 547-M

Constitution of India

Arts. 246, 254 and Sch. VII Lists I, II and III - Repugnancy - Three situations in which repugnancy can arise restated: (a) where Sch. VII List II laws overlap and conflict with List I laws, (b) where both State and Centre have made laws under List III and they overlap and conflict, and (c) where there is no overlapping or conflict but the Central legislation was intended to be exhaustive and to cover the entire field, (2014) 7 SCC 547-N