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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ANIMAL WELFARE BOARD OF INDIA V/S A.
NAGARAJA & OTHERS 7 SCC 547 [2014]:
AN ANALYSIS

AUTHORED BY - SWETHA.R

TABLE OF CASES REFERRED

- N.Adhityan v/s Travancore Dewasom Board [2002] 8 SCC, 106
- Vijay Kumar Sharma v/s State Of Karnataka [1990] 2 SCC 562
- World wide Fund – India v/s Union of India [2013] 8 SCC 234

TABLE OF STATUTES REFERRED

- Article 51 -A [g]
- Article 51 -A [h]
- Article 14 of Indian Constitution
- Article 21 of Indian Constitution.
- Tamil Nadu Regulation Act ,2009
- Section 11 [1] [a] of Prevention of Cruelty to Animals Act, 1960.
- Section 4 of Prevention of Cruelty to Animals Act, 1960.
- Section 3 of Prevention of Cruelty to Animals Act, 1960.
- Section 11[m][ii] of Prevention of Cruelty to Animals Act,1960.

INTRODUCTION:

Animal welfare board of India v/s A. Nagaraja & others 7 SCC 547 [2014] is a very prominent case .It is a case in which the division bench has completely outlawed or completely imposed a ban on the two common sports that were completely practised in the states of Tamil Nadu and Maharashtra which was referred to as ‘Jallikattu’ and ‘Bullock Cart Race’ respectively. It was used for entertainment purposes and this Supreme Court judgement was something that clearly imposed a prohibition over the practice to an extent. This judgement was delivered on 7th May 2014.This case really turned out

to be a contrary to the provisions mentioned in Article 51-A (g) and (h) and also Articles 14 and 21 of the Constitution of India. According to the Supreme Court records it was stated that at that time Jallikattu was a regulated by Tamil Nadu Regulation of Jalikkattu Act, 2009¹. This regulation was introduced by the Tamil Nadu Government for the regulation and to conduct of the sport Jallikattu. But this regulation was considered as repugnant by the Supreme Court as per Article 254 [1] of the Constitution as the event Jalikkattu was considered as an offence under Section 11[1] [a] of Prevention of Cruelty to Animals Act, 1960 and it was in with a direct collision with Article 51-A[g] and [h] of the Constitution also. Therefore it couldn't be considered as permitted or regulated. The Animal Welfare Board of India is a statutory body which is established under Section 4 of the PCA Act for promoting animal welfare and enforce the law for the Prevention of Cruelty to Animals. It is due the same reason they filed against this event of Jallikattu and Bullock cart race since unnecessary pain and suffering were inflicted upon the bulls for entertainment purposes.

FACTS OF THE CASE:

The Animal Welfare Board of India v/s A.Nagaraja &Others 2014 was a really buzzing problem especially to the states of Tamil Nadu and Maharashtra. Both the entertainment practices of Jalikkattu and the Bullock cart race of the states Tamil Nadu and Maharashtra were considered to be a very wrong way of treating animals. The case pointed out several constitutional backdrops of certain provisions. In the year 2007, Madras High Court banned the bull taming sport of Jallikattu from Tamil Nadu. But in the year 2009, Tamil Nadu government, through the Tamil Nadu Regulation of Jallikattu Act, 2009 allowed the sport and laid down specific guidelines. Later on in 2011, Ministry of Environment, Forests and Climate Change (MoEF) prohibited the training and exhibition of bulls. In 2014 May, the Supreme Court held that Jallikattu, Bullock-cart Race and such events violated Section 3,11[1][a] and 11[1][m][ii]of the Prevention of Cruelty to Animals Act ,1960 and it violated Article 51-A[g] and [h] along with a constitutional backdrop of articles 14 and 21 of the Indian constitution. Consequently bulls weren't allowed to be used either for Jallikattu events or Bullock-cart races in Tamil Nadu, Maharashtra or elsewhere in India.

¹ The Governor of Tamil Nadu thereby made the rule and it simply included 'event' means Jalikkattu which included its various varieties like manjuvirattu, oormaadu, vadamaadu, erudhu vidum vizha and all such events involving taming of bulls as a part of ancient culture and tradition of the Tamils. It was said to have been in tradition for more than 400 years. Tamil Nadu Government had made this regulation by drawing the power from the State List of Schedule 7 of the Constitution.

ISSUES OF THE CASE:

The main issues pointed out by the Supreme Court in this case were as follows:

“Is the Tamil Nadu Amendment Act referable, in pith and substance, to Entry 17, List III of the Seventh Schedule to the Constitution of India, or does it further and perpetuate cruelty to animals; and can it, therefore, be said to be a measure of prevention of cruelty to animals? Is it colourable legislation which does not relate to any Entry in the State List or Entry 17 of the Concurrent List?

The Tamil Nadu Amendment Act states that it is to preserve the cultural heritage of the State of Tamil Nadu. Can the impugned Tamil Nadu Amendment Act be stated to be part of the cultural heritage of the people of the State of Tamil Nadu so as to receive the protection of Article 29 of the Constitution of India?

Is the Tamil Nadu Amendment Act, in pith and substance, to ensure the survival and well-being of the native breed of bulls? Is the Act, in pith and substance, relatable to Article 48 of the Constitution of India?

Does the Tamil Nadu Amendment Act go contrary to Articles 51A (g) and 51A (h), and could it be said, therefore, to be unreasonable and violative of Articles 14 and 21 of the Constitution of India?

Is the impugned Tamil Nadu Amendment Act directly contrary to the judgment in A. Nagaraja (supra), and the review judgment dated 16th November, 2016 in 8 the aforesaid case, and whether the defects pointed out in the aforesaid two judgments could be said to have been overcome by the Tamil Nadu Legislature by enacting the impugned Tamil Nadu Amendment Act?”

JUDGEMENT OF THE CASE:

The Supreme Court of India after scrutinizing each and every problem involved in the case, summarized that “Every species has a right to life and security according to Article 21 of the Constitution amended by the 42nd Amendment, 1976, while safeguarding the rights of humans, protects life, and the word “life” includes animal life too therefore, that provision was taken into consideration. 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, honour, and dignity”. It was also stated that the animals are to be taken care as they were unable to take care of themselves as against human beings. Here the Supreme Court had made use of many precedents. The case N.Adhityan v/s Travancore Dewasom Board [2002] 8 SCC, 106 has been referred by the Supreme Court as a precedent where it was mentioned in the case that ‘Universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above

nature. Let no one species encroach over the rights and privileges of other species’.

The duty cast by the PCA Act under section 3² is mandatory and Supreme Court confers corresponding rights on animals. It was also stated that the rights so conferred on animals are thus to be protected and if those rights are violated, the law will enforce these rights with legal sanction. It also mentioned that Section 22 of PCA Act places restriction on exhibition and training of performing animals. The rights guaranteed to the animals under the PCA Act were statutory in nature and it was asked to consider the same to be elevated and treated equal with the status of fundamental rights, as have been done by a few countries around the world, in order to secure their honour and dignity. The Parliament was asked and expected to elevate the rights of animals to that of constitutional rights. Supreme Court has referred a case at this point in order to draw some inferences. The case World wide fund-India v/s Union of India [2013]8 SCC 234 has been cited or used as a precedent by the Supreme Court as this case clearly stated or highlighted the ecocentric principles and rights of animals. It was mentioned in this case that the ‘state’ obliges to respect ‘animal dignity’.

Supreme Court also stated that the statement of objects and reasons of Tamil Nadu Regulation of Jallikattu Act referred to ancient culture and tradition and doesn’t state that it has any religious significance. It was mentioned that ancient culture and tradition didn’t support the conduct of Jallikattu or bullock cart race. Welfare and well-being of bulls according to the Tamil culture wasn’t followed and the Tamil culture never promoted infliction of pain or suffering upon bulls which were done. Bull was always considered to be sacred as per Tamil culture and was considered as the vehicle of Lord Shiva. Therefore it summarized by stating that the way how Jallikattu and Bullock-cart race was practised then has never been a part of tradition or culture of Tamil Nadu. The main abstract or source that Supreme Court referred here was from the case Vijay Kumar Sharma v/s State of Karnataka[1990]2 SCC 562 where the predominance of the will of Parliamentary Legislation was explained when a conflict or repugnancy between the Parliamentary and State Legislation incurred. It was stated in this case that when such a conflict arises parliamentary legislation will predominate in the first virtue by the non obstante clause as per Article 246[1] and secondly by the reason of Article 254[1] of the Constitution.

² Section 3 of PCA Act states the duties of persons having charge of animals to take reasonable measures and care to ensure the well-being of the animal and prevent the infliction of unnecessary pain or suffering over it.

The organizers of Jallikattu feel that their bulls have only instrumental value to them, forgetting their real worth. Bulls which in normal conditions are very peaceful animals who dedicate their lives for human use and requirement are subjected to suffer pain and suffering at the same time it is also being forced to behave in some ways in which they don't really behave and in that process they are being tortured to the hilt. This was completely demotivated by the Judiciary eventually.

REASONING AND ANALYSIS OF THE CASE:

In the case Animal Welfare Board of India v/s A. Nagaraja & Others 2014, the Supreme Court has given an appropriate decision favouring the Animal Welfare Board of India. Bulls which is the type of animal that has been specifically mentioned in the case under normal conditions is observed to be harmless and a domestic animal which helps very much in farming and other domestic purposes of humans. It is very saddening to see them being used for human entertainment purposes that too by inflicting pain and suffering on them. So according to my personal perspective the judgement delivered by the Supreme Court with respect to this case in the year 2014 is highly appropriate. The point where the equality of animals has been highlighted by Supreme Court is where I highly appreciate. We being human beings do enjoy a lot of privileges by means of law that exists that doesn't mean that we have all rights to torture other living beings for our entertainment purposes and the judgement has clearly stated all related aspects and provisions in accordance with the same perspective. The Supreme Court judgement where the point to treat animals with dignity and honour is something that really holds more prominence and that becomes the main highlight throughout the judgement. According to me, no much of ambiguity can be seen in the judgement. The judgement has furnished with ample information for all the requirements of the case.

CONTRIBUTION OF THE CASE TO THE GROWTH IN THE CONCERNED AREA:

This case is of a great importance when it comes to animal welfare discussions. This case to an extent has reduced the hardships that were faced by the bulls. Unnecessary infliction of pain and suffering over the animals was the main concept of discussion of the case and practices like Jallikattu and Bullock-cart race were some of them. The judgement was in favour of Animal Welfare Board of India and it reduced the suffering of the bulls.

CONCLUSION:

The case Animal Welfare Board of India v/s A.Nagaraja & others 2014 was a very prominent case related to the animal welfare and protection. The case was sued against the animal welfare committee against the practise of performing Jalikkattu and Bullock-cart race as an entertainment. Both the practises involved bull taming and the animal was asked to behave in ways as per instructor stated which completely contrary to it's natural activities and an infliction of pain over the bull was also done as a part of the practise. The Supreme Court summarized and concluded by stating that the practise violated provisions of PCA Act and a constitutional backdrop of Article 14 and 21 was also observed.

Supreme Court delivered judgement in favour of the animal welfare committee and stated that animals are also supposed to be treated with dignity and honour according to the already mentioned provisions of the Constitution. This was a summary of the entire case analysis.

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