



## JALLIKATTU- A CULTURAL RIGHT

*By Sameeksha Shukla & Harshi Arora  
From School of Law, University of  
Petroleum and Energy Studies, Dehradun*

### INTRODUCTION

The enormous protest of Tamil people against the ban on Jallikattu, a bull taming sport held during the harvest festival of Pongal, attracted large number of people's attention across the world. A sport that was famous only in a few districts of Tamil Nadu suddenly acquired an authentic Tamil identity, over a decade after it drew the attention of those who makes their efforts and struggled to ban it. Animal lovers have been carrying out a legal battle against Jallikattu on the allegation that it amounted to cruelty to bulls. But the argument of the protesters is that the sport is not about bull taming but embracing them. From the view of the ancient Tamil literature, the person in favour of sports argued that the sports more about embracing the bull rather than showing cruelty and human power over the bull.

The debate started for over a decade in courts, and other public fora, animal lovers, who came under a heap of banners like Animal Welfare Board of India (AWBI) and People for the Ethical Treatment of Animals (PETA), were ahead of those who wanted the conservation of their ancient culture. In May 2014, the Indian Supreme Court had struck down the Tamil Nadu Regulation of Jallikattu Act, 2009, and had banned the practice altogether along with bullock-cart

racing in both Tamil Nadu and Maharashtra. In *Animal Welfare Board of India vs. A. Nagaraja*<sup>1</sup>, the court stated, "Forcing a bull and keeping it in the waiting area for hours and subjecting it to the scorching sun is not for the animal's well-being. Forcing and pulling the bull by a nose rope into the narrow, closed enclosure or 'vadi vassal' (entry point), subjecting it to all forms of torture, fear, pain and suffering by forcing it to go to the arena and also over-powering it in the arena by bull tamers, are not for the well-being of the animal"<sup>2</sup>. Nine months later, in January 2016, the Indian government reversed the Supreme Court's

ban. In that same year, a group of supporters of the Jallikattu the native of Alanganallur, the village near Madurai that is famous for the sport, demanding the removing of the ban. Many of the protesters were students who were expressing disparity with the local people. When police arrested the protesters, the news spread like fire through social networking sites and a group of students and other people in Chennai gathered at the Marina sands to demand the release of the students. On the same day, people all over Tamil Nadu organised unregulated protests, led by students and youth. The protest acquired an iconic place in the history of Tamil Nadu for many reasons. Not only was it massive, nonviolent, and spontaneous, it attracted and gathered people from all walks of life with a large number of women

<sup>1</sup> K.S. Radhakrishnan, Pinaki Chandra Ghose. "Animal Welfare Board Of India vs. A. Nagaraja & Ors on 7 May

<sup>2</sup> Venkatesan J. 2014. "Supreme Court bans Jallikattu in Tamil Nadu", *The Hindu*, May 7



participating in the protest. The protesters saw the Jallikattu ban as an intrusion on Tamil culture and identity, though many of them might not have watched a live bull sport in their lifetime. Thus, Jallikattu became a symbol of Tamil pride.

### **THE CONCEPT OF JALLIKATTU**

The literal meaning of Jallikattu is—Jalli/salli (coins) and kattu (tied)—grabbing a bag of coins tied to the horns of the bulls. A sport which is also known as eruthazhuuuthal and manzuvirttu in Tamil nadu. It is the most popular bull taming festival in Tamil Nadu which is played during the Pongal festival on matte Pongola day. The tradition is the extended as a part of matte Pongal which is 3<sup>rd</sup> day of the four day long harvest Pongal. ‘matte’ means bull and the 3<sup>rd</sup> day of Pongal is dedicated to cattle. The bull is always the most preferred animal over the cow when it comes about ploughing. Bulls help in ploughing the field and helps in pulling the cart of goods. Jallikattu is the century old tradition followed by people of Tamil Nadu. And they believed that Jallikattu is to judge a man’s ability and masculinity it was seen as win a women’s hand for marriage.

When there was no modern facility for sloughing the field the farmer used bulls for the same. It is a traditional way of farming. Native cattle have evolved over golden age, adapting to the local environmental conditions. They are an integral part of farming, especially for small and marginal farmers as they serve multiple purposes like sloughing, transportation, source for farmyard manure, organic treatments, and as a source of A2 milk. The native cattle are both an input as well as insurance to the livestock keepers. In ancient Tamil and

Sanskrit literature, cattle are considered as wealth. Cattle were measured as a unit of wealth. So it has a socio-cultural significances which denote lives and livestock having co-existed and cultures having coined usages around them.

Once the sloughing is done the farmers let their cows and bulls lose in the graze land away from the village. But after the harvesting was done the bulls were needed in the field for transporting the harvest. So here it all begins, the farmers start hunting there bulls. They catch them by hanging on their humps and trying to stop the bulls from running from different tricks. So this is how the farmer brings their bulls back on the field. The bull owner’s puts cash coin pouch on bulls head and reward them whosoever catches the bull for them. And this hunting of bull and getting reward from the bull owner named as Jallikattu.

### **HOW THE SPORT ACTUALLY PLAYED<sup>3</sup>**

Bulls are brought to the arena the previous day and tied in coconut groves around the village. Fodder is brought along and water is provided by the host villagers. Sometimes fodder is also provided. A team of veterinarians, animal welfare officials inspect the bulls and give a medical certificate. Before the event starts, they are lined up in batches of 15 close to the rear side of the Vadis vaasal. After the temple bull of the host village has left the arena, each bull is taken into the vaadi vaasal, where Animal Welfare officers are

<sup>3</sup> <https://thewire.in/agriculture/banning-jallikattu-will-decimate-indias-indigenous-cattle-breeds>



present. The nose rope of the bull is cut and the bull is free to run. Young bulls and untrained ones participating for the first few times hesitate to leave the vaadi and are prodded by their owners. It is not easy to move them as they weigh anywhere between 250-350 kilos. The experienced bulls (which have long memories) are familiar with Jallikattu events and offer their head to the owners to cut the rope. They plan their exit from the vaadi vassal and time their jump to avoid the players. These are intelligent animals and have evolved in this environment over millennia. The sport consists of holding on to the hump of the bull and running along with it for a given distance usually about 20-30 meters which is covered in barely 10-20 seconds. Although a few hundred players are present in the arena, only 2-3 attempts to get close to the bull and only 1 have a shot at grabbing the hump. Everything happens so fast that most players hit the dirt and the bulls go free. After leaving the arena, they go to a barricaded collection area of about 44,000 sq. ft. where experienced herders await the owners. Owners follow the bulls from the vaadi into the collection arena, this takes about 5-10 minutes. Once they enter, the herders help the owners rope in the bulls and take them out of the collection arena. 1-2 bulls will refuse to be roped and charge at everyone, some of them jump out of the collection area and make a run for it. Most of them head in the direction of their villages. There is the occasional injury due to the bulls not being roped.

#### **Legal Framework for Protection of Cultural Rights**

In February, 2017 People for Ethical Treatment of Animals (PETA) in order to quash the new law related to Jallikattu was

passed by the Tamil Nadu Assembly. According to the new law, it brings back the bulls in the category of performing animals thereby giving an opportunity to conduct the bull-taming sport in the name of culture and tradition, despite of being already banned by the Supreme Court in the year 2014.

PETA has given certain reasons as to why Jallikattu should be banned in India. As PETA has demonstrated Animal Welfare Board of India (AWBI) authorized assessments, that bulls got so frightened by the large crowds of the people that they become very distressed and even jumped off the cliff in order to escape the large crowds. The participants of Jallikattu purposely bamboozled the bulls by forcing them to consume alcohol; twisted and bite their tails; punched and stabbed them with sickle, knives and sticks causing severe hurt to them.<sup>4</sup>

A 2011 PETA examination discovered ill-use of animals at Jallikattu occasions in Alanganatham, Avaniapuram and Palamedu in Madurai. Examiners noted that the bulls were tied so decisively that they faced extreme uneasiness and pain, being hit with compress hands, having their tails bent and pulled and in addition being bounced on and wrestled to the ground. Bulls were scared, confused and provoked by the shouting crowds, amplifiers and forcefulness of the men gathering them, hopping on them and pulling them. Bulls struggling to escape the assault ran carelessly into wall.

PETA India also noted that the participants and to the non-participants as well. As from

<sup>4</sup><https://www.petaindia.com/blog/faq-on-jallikattu-bull-races-and-peta-india/>



2010 to 2014, media released reports in which it was given that about 1100 human injuries and 17 deaths were caused by Jallikattu-styled sports or events, which also included the death of children. In *Animal Welfare Board of India vs. Nagaraja*<sup>5</sup>, it was confirmed that the ban on the use of bulls was not structurally correct. It was also observed that forcing the bulls in order to participate in the event which led to unnecessary pain and suffering, so such races were not permitted by law.<sup>6</sup>

At 7 July 2011 report in *The Gazette of India* made using bulls as performing animals illegal. This applies to Jallikattu, *kambala*, bull races, bullfights and other uses of bulls for performances.

On 7 May 2014, the Supreme Court put a ban on use of the bulls as performing animals. The court also ruled that cruelty is natural in these events, as bulls are not physically matched to them. It also observed that forcing bulls to participate subjects them to redundant pain and suffering, so it ruled that such races are not permitted by law.

Jallikattu, bull races and other similar events also violated the provisions of the Prevention of Cruelty to Animals (PCA) Act, 1960. This means the causing of unnecessary suffering to bulls which is inherent in these events has been illegal for 56 years.

Section 42 of the 7 May 2014 Supreme Court judgment says, “The Statement of Objects and Reasons of the TNRJ Act refers to ancient culture and tradition and does not state that it has any religious significance. 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 is Tamil culture and tradition, they do not approve of infliction of any pain or suffering on the bulls, on the other hand, Tamil tradition and culture are to worship the bull and the bull is always considered as the vehicle of Lord ShivaYeruThazhuvu, in Tamil tradition, is to embrace bulls and not overpowering the bull, to show human bravery”. It concluded, “Jallikattu or the bullock cart race, as practiced now, has never been the tradition or culture of Tamil Nadu”.<sup>7</sup>

Section 43 of the same judgment reads, “PCA Act, welfare legislation, in our view, over-shadows 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 or culture. Assuming, it has been in vogue for quite some time, in our view, the same should give way to the welfare legislation, like the PCA Act which has been enacted to prevent infliction of unnecessary pain or suffering on animals and confer duties and obligations on persons in-charge of animals”.<sup>8</sup>

Section 3, 11(1)(a), makes it illegal if any person “beats, kicks, over-rides, over-drives,

<sup>5</sup>(2014) 7 SCC 547

<sup>6</sup> *Animal Welfare Board of India vs. Nagaraja & ors.*(2014) 7 SCC 547

<sup>7</sup> *AWBI vs. Nagraja& ors.*(2014) 7 SCC 547

<sup>8</sup>*AWBI vs. Nagaraja&ors.*(2014) 7 SCC 547



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 animal to be so treated". Section 11(1)(m)(ii), makes it illegal if any person "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 or prey for any other animal".

Further, the court held that Section 3 of the PCA Act would be abused since the exercises were dispensing pain on the animals. The court likewise considered whether exercises, for example, Jallikattu was a necessity under Section 11(3)<sup>9</sup> of the same Act and in this matter as was previously held in the case of *BhuriNath and Others vs. The State of Jammu and Kashmir & Others*.<sup>10</sup> Here, the court held that anticipation, performance or entertainment don't fall under the exempted classifications under Section 11(3) and was not a need. The court additionally considered the Statement of Objects and Reasons of the TNRJ Act and held that the Act tried to safeguard aged society and custom and not religious noteworthiness. Bull as an animal was likewise the vehicle utilized by Lord Shiva, consequently the court brought out the misinterpretations brought out by the individuals regarding the role of the animal. The Court has further held that AWBI was right in its stand that Jallikattu and the Bullock-cart race did in fact violate Sec 3, Sec 11(1)(a) and Sec 11(1)(m)(ii) of the PCA Act.

The Supreme Court clarified, "Fight can be with an animal or a human being". Its order said, "Section 5 of TNRJ Act envisages a fight between a Bull and Bull tamers, that is, Bull tamer has to fight with the bull and tame it."<sup>11</sup> Such fight is prohibited under Section 11(1)(m)(ii) of PCA Act read with Section 3 of the Act".<sup>12</sup>

The Tamil Nadu Regulation of Jallikattu (TNRJ) Act was struck down by the Supreme Court because it was "inconsistent and in direct collision with Section 3, Section 11(1)(a), 11(1)(m)(ii) and Section 22<sup>13</sup> read with Articles 51A(g)&(h)<sup>14</sup> and hence repugnant to the PCA Act".

Furthermore, Section 429 of the Indian Penal Code reads, "Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.—Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both"<sup>15</sup>.

### **JALLIKATTU: BANNED OR LEGALISED**

Jallikattu, in recent has been a topic of intense debate. In Tamil Nadu, many people opposed the banning of this 'bull taming sport' as they considered it as an important

<sup>9</sup> Prevention of Cruelty to Animals Act, 1960

<sup>10</sup>(1997) 2 SCC 745

<sup>11</sup> Tamil Nadu Regulation of Jallikattu Act, 2009

<sup>12</sup> Prevention of Cruelty to Animals Act, 1960

<sup>13</sup> Prevention of Cruelty to Animals Act, 1960

<sup>14</sup> Constitution of India, 1950

<sup>15</sup> Indian Penal Code, 1860



part of their culture and tradition. This ban upon the sport dates back to 2006, when a petition was filed in the Madras High Court, seeking permission to conduct Jallikattu. Though it was banned by the single bench. But the Divisional bench overturned the banning and gave the permission to conduct Jallikattu over certain conditions.

Jallikattu still continued, with the ignorance of the conditions. Therefore, the Animal Welfare Board of India (AWBI) gave a notification restricting bulls from being exhibited or trained as performing animals. In the case of Animal Welfare Board of India and others vs. Nagraja and Others, the petitioners approached the Supreme Court with an appeal against the judgment of the divisional bench. On the other hand the respondents claimed Jallikattu is a traditional sport of Tamil Nadu and therefore it should not be banned.

The Supreme Court passed an interim order which recognized the validity of the abovementioned AWBI notification and the rights which were guaranteed to the bulls under the Prevention of Cruelty of Animals (PCA) Act. In context of the cruelty inflicted upon the bulls, the Supreme Court put bar on Jallikattu recapitulating the 'five freedoms' which include:

- Freedom from hunger, thirst and malnutrition
- Freedom from fear and distress
- Freedom physical and thermal discomfort
- Freedom from pain, injury and disease; and
- Freedom to express normal patterns of behavior

However, despite the notification given by AWBI and the Supreme Court in the year 2014, on 8<sup>th</sup> of January 2016, a notification was issued by the Environment Minister Prakash Javadekar exploiting the certain ambiguities in the legal policies and rules, whereby Jallikattu bulls were removed from the list. Animal welfare activists and organizations approached the Supreme Court and asked to put an injunction to this notification.

On January 12, 2016 a writ was filed before the Supreme Court to quash the above said notification. In **Compassion Unlimited Plus Action vs. Union of India and Others**<sup>16</sup>, the Supreme Court put a stay on the notification that was issued by the Environmental Minister on 8<sup>th</sup> January, 2016.

But again, an effort was made to avoid the judicial order; the Tamil Nadu state government, exercising its power under the Constitution, came up with an ordinance evading the ban and legalizing Jallikattu by changing the name and nature of Jallikattu from a 'sport' to a 'fair'. The ordinance was promulgated by the Governor of Tamil Nadu which removed the ban from Jallikattu.

### CONCLUSION

It offers indispensable lessons for India where increasing attempts are being made to eradicate malcontents in various cultural practices under the guise of culture leveling. There are both good and bad outcomes. Difficult task rests with the Supreme Court of India over the decision of either the

<sup>16</sup> 2016 (3) SCC 85



retaining a complete ban on the Jallikattu or regulating the controversial practice. It is customary that these ancient traditional practices are left as they are but with rules to organise and regulate them. But if Jallikattu is banned, livestock keepers will be forced to abandon the raising of native livestock, which already stands threatened, and it would be the death knell of native cattle species in Tamil Nadu. It only required rules and can be implemented to enhance the safety of the animals and men if required. India has already lost many cattle breeds and it can't afford to lose any more.

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