

**THE HON'BLE MS JUSTICE B.S.BHANUMATHI**

**WRIT PETITION. No. 8685 OF 2023**

**ORDER :**

This Writ Petition is filed to declare the action of the respondents in denying permission to organize 'banda laagudu poteelu' (bull race), 'pouranika natakam' (mythological play) and use of loud speakers for the said play on 11.04.2023 in Remata village, Kurnool District".

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Home/ R1.

3. The brief facts leading to filing of the present writ petition. The petitioner submitted that since time immemorial, an *Urusu* is being organized in their village in the month of April in the memory of Sri Sri Sri Gokaramayya swami. Along with the *Urusu*, it has also been a tradition to organize competitions involving farmers. Continuing the said tradition, an *Urusu* is scheduled to be held in their village, i.e. Remata from 10.04.2023 to 12.04.2023. All the elders of the village have decided to conduct the *Urusu* in a peaceful manner. As part of the *Urusu* certain cultural and sports activities are also being conducted in their village this time as well.

Accordingly, the petitioner had sought permission of the police personnel for the purpose of organizing bull race and mythological play on 11.04.2023, subsequently they have also issued representations dated 08.04.2023 and 09.04.2023 sought permission. The respondents have denied the permission for the aforementioned by way of an endorsement dated 09.04.2023 and have made the following remarks.

*“Basing on the report of SI, Gudur PS, we are not giving permission on bull races and pouranika natakam due to which these days have heavy BB duties i.e., SSC exams and Town BB duties because there have been many fights and murders in Gokaraya Urusu earlier and there will be disturbance of law and order there. According to the Intelligent report, there is a chance of riots and fights in this Urusu too. In the recently held auction of God’s Manyam Farms, small incidents have started in the village.”*

4. Learned counsel for the petitioner submitted that the permission has been improperly refused to conduct both bull race and mythological play to be organized today, when the police were approached by the villagers seeking permission to perform their long standing traditional celebration in their village. He further

submitted that no force is used to the animals to participate in the game since it is meant for exhibiting the strength of the bulls and no violence is involved in this case like a Jalli Kattu game. He further added that the bulls will be encouraged and not lashed to pull the weight attached to them and it does not amount to subjecting the animal to pain or suffering. In so far as the play is concerned, he submitted that the petitioner is ready to give undertaking that it would be conducted peacefully under the surveillance of the police and the earlier instances which are cited in the objections by the police are mere past about three decades ago. It is also submitted that every year celebrations are held and even today everything was made ready to conduct the game but in view of the refusal to give permission by the police, the petitioner is awaiting the permission. He further submitted that in the objection raised by the police, no objection was raised with regard pain to animals as per Section 11 (1) of the Prevention of Cruelty to Animals Act, 1960, but now such contention is being raised.

5. Learned Government Pleader for Home-II representing respondent Nos. 1 to 4 opposed the petition submitting that the provisions of Prevention of Cruelty to Animals Act, 1960 vide Sections 3 and 11 (1) would not allow the petitioners to conduct this kind of game involving bulls and in that connection he has

drawn the attention of this Court the definition of 'domestic animal' in Section 2(d), 3 and 11 (1) (a), (m) and (n) of the Act, and also to the decision of the Supreme Court in **Animal Welfare Board of India Vs. A. Nagaraju**<sup>1</sup>. He has further submitted in so far as the play is concerned, as per the instructions if permission is accorded to this group the another rival group is also ready to perform such play and in that event there would be clash between these two groups causing serious problem of law and order. He further submitted that as the police personnel are engaged in relation to other duties such as SSC examinations, etc., the police force is not sufficient to deploy them to have a peaceful celebration and therefore the police have rightly objected to grant permission. He further submitted that for a long time there is no community in organizing these games or events due to law and order problem but again they want to organize the events and therefore rightly refused the permission.

6. Perused the record.

7. **Section 3 reads as follows:**

**Duties of persons having charge of animals.**- It shall be the duty of every person having the care of charge of any animal to take all reasonable measures to ensure the

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<sup>1</sup> (2014) 7 SCC 547

well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

**Section 11 (1) (a) (m) and (n)** of the Prevention of Cruelty to Animals Act, 1960 reads as follows:-

“11. Treating animals cruelty:- (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.

(m) Solely with a view to providing entertainment –

(i) Confines or causes to be confined any animal 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

(n) Organizes, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or he shall be punishable...”

8. A perusal of the above provisions indicates that the proposed bull race falls within the scope of sections 11 (1) (a) of the said Act, and also violation of Section 3 if the said Act. So, what is prohibited under law cannot be permitted. Moreover the

observations of the Supreme Court (Supra) at para 87, 89, 90 and 91 fortifying the above observation are excepted as follows ;

*“87. Section 2 (d) of the PCA Act speaks of domestic animal and taming the animal for use of men, which is evidently for domestic use, being domestic animal, not for entertainment or amusement. Section 11(3), as already stated excludes five categories of cases from Section 11 “ due to necessity” and Section 28 speaks of killing of animal in a manner required by the religion of any community. Section 22 of the Act speaks of performing animal, meaning thereby, exhibition and training only for performance of the animal. The PCA Act does not speak of “ taming of animals” (overpowering animals). Taming of animal for domestic use and taming of animal for exhibition or entertainment are entirely different. Section 2 (c ) of the TNRJ Act speaks of “taming of bulls” which is inconsistent and contrary to the speak of bull tamers. Bull tamers, therefore, tame the bulls in the arena during Jallikattu, as per the State Act, is not for the well-being of the animal and causes unnecessary pain and suffering, that is exactly what the Central Act (the PCA Act) wants to prevent for the well-being and welfare of animals, which is also against the basic natural instinct of the bulls. 89. The TNRJ Act, in its Objects and Reasons, speaks of ancient culture and tradition and also safety of animals, participants, and spectators. The PCA Act was enacted at a time when it was noticed that in order to reap maximum gains, the animals were being exploited by human beings, by using*

*coercive methods and by inflicting unnecessary pain or suffering and for the well-being and welfare of the animals and to preserve the natural instinct of the animal.*

90. *We, therefore, hold that AWBI is right in its stand that jallikattu, bullock cart race and such events per se violate Sections 3, 11(1)(a) and 11(1)(m) (ii) of the PCA Act and hence we uphold the Notification dated 11-7-2011 issued by the Central Government. Consequently, bulls cannot be used as performing animals, either for the Jallikattu events or bullock cart races in the State of Tamil Nadu, Maharashtra or elsewhere in the country.*

91. *We, therefore, make the following declarations and directions.*

91.1. *We declare that the rights guaranteed to the bulls under Section 3 and 11 of the PCA Act read with Articles 51 – A(g) and (h) of the Constitution cannot be take away or curtailed, except under Sections 11(3) and 28 of the PCA Act.*

91.2 *We declare that the five freedoms, referred to earlier be read into Sections 3 and 11 of the PCA Act, be prodctected and safeguarded by the States, Central Government, Union Territories (in short “the Government”), MoEF and AWBI.*

91.3. *AWBI and dthe Governments are directed to take appropriate steps to see that the persons in charge or care of animals, take reasonable measures to ensure the well-being of animals.*

91.4. AWBI and the Governments are directed to take steps to prevent the infliction of unnecessary pain or suffering on the animals, since their rights have been statutorily protected under Sections 3 and 11 of the PCA Act.

91.5. AWBI is also directed to ensure that the provisions of Section 11 (1) (m) (ii) are scrupulously followed, meaning thereby, that the person in charge or care of the animal shall not incite any animal to fight against a human being or another animal.

91.6. AWBI and the Governments would also see that even in cases where Section 11(3) is involved, the animals be not put to unnecessary pain and suffering and adequate and scientific methods be adopted to achieve the same.

91.7. AWBI and the Governments should take steps to impart education in relation to humane treatment of animals in accordance with Section 9 (k) inculcating the spirit of Articles 51 – A (g) and (h) of the Constitution,

91.8. Parliament is expected to make proper amendment of PCA Act to provide an effective deterrent to achieve the object and purpose of the Act and for violation of Section 11, adequate penalties and punishments should be imposed.

91.9. Parliament, it is expected, would elevate rights of animals to that of constitutional rights, as done by many of the countries around the world, so as to protect their dignity and honour.



*91.10. The Governments would see that if the provisions of the PCA Act and the declarations and the directions issued by this Court are not properly and effectively complied with, disciplinary action be taken against the erring officials so that the purpose and object of the PCA Act could be achieved.*

*91.11. The TNRJ Act is found repugnant to the PCA Act, which is a welfare legislation, hence held constitutionally void, being violative of Article 254 (1) of the Constitution of India.*

*91.12. AWBI is directed to take effective and speedy steps to implement the provisions of the PCA Act in consultation with SPCA and make periodical reports to the Governments and if any violation is noticed, the Governments should take steps to remedy the same, including appropriate follow-up action.”*

9. In so far as the mythological play is concerned, there is no legal bar to conduct the same. However, it is the responsibility of everyone associated to it either in conducting or participating to maintain peace in holding the play and not to cause any law and order problem. Since the petitioners expressed their readiness to give undertaking to maintain peace and not to cause law and order problem while playing mythological play and the learned Government Pleader representing the respondents also expressed,

on instructions, that the respondents have no objection if the petitioner and those who made representation to the notice give such undertaking to the satisfaction of the respondent No.4, mythological play can be permitted to be peacefully conducted

10. Accordingly, the writ petition is partly allowed in so far as mythological play is concerned. It is also made clear that if there is any breach of the undertaking, police are at liberty to proceed as per law.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

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**JUSTICE B.S.BHANUMATHI**

Date : 11-04-2023

**Note:**  
Issue CC today.  
B/o  
RMD

**THE HON'BLE MS JUSTICE B.S.BHANUMATHI**