

**SUPREME COURT OF INDIA**

The Animal Welfare Board of India

Vs.

Union of India

WP(Civil)No.23 of 2016

(Dipak Misra,CJI., R.F.Nariman,J.,)

02.02.2018

**JUDGMENT**

**R.F.Nariman,J.,**

1. The present batch of writ petitions was originally filed to quash and set aside a notification issued by the Union of India on 7th January, 2016, and to direct the Respondents to ensure compliance with this Court's judgment reported as *Animal Welfare Board of India v. A. Nagaraja and Ors*<sup>1</sup>.

2. However, while these writ petitions were pending, The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017, which received the Presidential assent on 31st January, 2017, was passed. The writ petitions were then amended so as to include prayers to set aside the aforesaid Tamil Nadu Amendment Act on several grounds.

3. After hearing the Petitioners and the Respondents for some time, we are of the view that these writ petitions need to be authoritatively decided by a Constitution Bench of 5 learned Judges, as the writ petitions involve substantial questions relating to the interpretation of the Constitution of India. The questions, which require reference to a Bench of 5 learned Judges, apart from the other questions raised in the writ petitions, are set out hereinbelow:

“i. 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?

ii. 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?

iii. 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?

iv. 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?

v. 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 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?

4. Let the papers be placed before the learned Chief Justice to constitute a Bench of 5 Hon' ble Judges.

Judgment Referred.

<sup>1</sup>(2014) 7 SCC 0547