

## ROLE OF INDIAN JUDICIARY IN PROTECTION OF ANIMAL RIGHTS

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**DOI No. – 08.2020-25662434**

### Abstract

India is a nation with diverse cultures, animal conservation initiatives, and a strong emphasis on environmental preservation. An increasing human population, urbanization, and consumerism make animals easy prey. Young, healthy animals are murdered for leather, meat, and tallow. Chickens are confined in tiny cages for eggs or killing. Slaughter animals are forced to walk hundreds of kilometres or transported in sardine-like trucks/tempo. The presence of Rhesus monkeys and dancing bears in the streets of India is another affront. India is one of several nations that have enacted animal welfare legislation, and these laws include the required requirements pertaining to animal rights. Animal rights are protected in the Indian Constitution as well, with specific provisions on animal protection included in the Fundamental Duties and DPSP. Here are some landmark judgments that have transformed environmental law in India, defending animal rights and conserving the environment.

**Keyword:** Animal Welfare, India, Judiciary, Legislature, Animal Rights.

### INTRODUCTION

***“He who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals” -Immanuel Kant, German Philosopher***

India is a nation with diverse cultures, animal conservation initiatives, and a strong emphasis on environmental preservation. Environmental conservation and animal preservation are firmly ingrained in India's respect and dedication to nature. The affection and respect for wildlife conservation and animal care in India may be traced all the way back to colonial era. But today times have changed. Increasing human population, urbanization, and consumerism make animals easy prey. They are easy pickings for anyone looking to earn a fast buck. Even young, healthy animals are murdered for leather, meat, and tallow. Calves are starved and malnourished while their milk is sold in marketplaces. Chickens are confined in tiny cages for eggs or killing. Slaughter animals are forced to walk hundreds of kilometres or transported in sardine-like trucks/tempo, where they succumb to suffocation. Rhesus monkeys and Dancing Bears in the streets of India is another affront. Their terror of the baton falling on their backs is palpable. A plethora of measures for animal protection have been adopted. These measures were included particularly to identify and contrast the animal rights with the human rights. The legislature enacted several national animal care policies to guarantee that non-human creatures, like people, enjoy lives of dignity. This should be done on a nationwide scale to preserve and ensure the welfare of animals by contrasting their rights with human rights. The Indian courts has played a significant role in the enforcement and implementation of legislation protecting animal rights. The Indian court has often spoken out in support of this cause, ensuring on several instances that animals are not exposed to cruelty by humans. If they are treated to any kind of cruelty, the court has on multiple times taken stern steps against such persons to ensure that they are not exposed to animal cruelty again, & in this manner,

it has repeatedly taken up & supported the cause of animal welfare.

Animal welfare and animal protection have been prioritized by the Judiciary & the Legislature because animals are living beings who cannot articulate what they are going through in words, & it is critical to promote animal rights in the same way that human rights are protected. Animal welfare has not yet achieved its pinnacle; yet, the judiciary is continually attempting to protect the rights of these species, who may be subjected to intentional cruelty by humans.

This article will discuss how the court has played a significant role in these concerns, repeatedly focusing on bringing justice to these animal's incapable of speaking, enforcing animal rights, & elevating animal rights to the same level as human rights. India have enacted an animal welfare legislation, and these protection laws include the required requirements pertaining to Animal Rights, which are even mentioned in the Constitution. The Indian Constitution, too, protects the rights of animals, and specific provisions on animal protection are included in the Fundamental Duties and the DPSP. India's animal rights legislation like the Prevention of Cruelty to Animal Rights Act, 1960, the Wildlife Protection Act, 1972, and a few articles of the Indian Constitution safeguard animal rights, but the growing frequency of animal-human conflicts necessitates the enactment of additional legislation. However, these laws do not adequately safeguard animals' rights. Regardless, the Indian judiciary has done a fantastic job of filling up the loopholes in the animal welfare statutes and protecting the animals' rights. Here are some Landmark Judgements that have transformed environmental law in India, defending animal rights and conserving the environment.

*State of Bihar vs. Murad Ali Baig*<sup>i</sup>-This lawsuit involved the 1972 Wildlife Protection Act. It especially addressed elephant hunting and whether it is justified under the Indian Penal Code, 1860 and the Wildlife Protection Act. In this case, the Supreme Court ruled that because elephants are included in Schedule I, killing them is banned. That the crime of "hunting" under the Wildlife Protection Act, 1972, is not the same as that under Section 429 of the Indian Penal Code (which provides for the punishment for killing, poisoning, maiming, etc. of any elephants, camel, horse and other animals, the list of which is provided under the ambit of the said section.) The Supreme Court held that the constituents of the crime under the Wildlife Protection Act, 1972 are fundamentally different from the ingredients of the offense within the scope and ambit of the Indian Penal Code.

*Tilak Bahadur Rai v. State of Arunachal Pradesh*<sup>ii</sup>-A Tiger was shot and killed by the accused in this case. While deciding whether the accused behaved in good faith in killing an animal, the court stated that it was necessary to comprehend the nature and the risks that lurked around the accused and under what circumstances did the accused kill the animal. The Court found that the accused shot the tiger that came at him in good faith and to defend himself after considering the arguments made by both sides. The accused would have died if not for his quick shooting of the charging and aggressive tiger, according to the Court. As a result, he shot the tiger to defend himself, which was legal under the doctrine of self-defence. If any animal is killed or injured by a human to defend himself, then the government owns it, according to this ruling. In the case of an animal that has been shot, killed, or wounded, the person who did so has no claim to it.

*Naveen Raheja v. Union of India*<sup>iii</sup> - The Supreme Court had to deal with a horrific situation in this case. The incident was the skinning of a tiger at an Andhra Pradesh Zoo. When the Supreme Court first learned the facts of the case, it was stunned and dismayed. The Court was horrified by the notion that humans were involved in such a heinous conduct, making the animal powerless and in

excruciating anguish and misery. The tiger had no protection from those whose job it was to keep an eye on it and guard it. As a result, the Supreme Court of India decided that summoning the chairman of the Central Zoo Authority to come before the court in person and explain what procedures and measures were being done to maintain and conserve the tiger population in zoos and protected forests was absolutely required. The Supreme Court then issued relevant rulings in the matter, including those pertaining to the preservation of tigers. The Supreme Court clarified that the Central Zoo Authority must take notice of this matter and take the appropriate actions to preserve the condition of these animals since their status is distressing and insufficient.

*Ozair Hussain vs. Union of India*<sup>iv</sup>- In this matter, the Petitioner filed a writ petition asking the court to order the respondents to safeguard the rights of different persons who are strongly opposed to the usage of animals and animal products by requiring manufacturers to put a list of ingredients on their packaging. Consumers will be able to make educated decisions when purchasing different items because of this. The Petitioner further sought that the respondents produce and reveal the entire list of contents on the packages of cosmetics, pharmaceuticals, and food products that it sells as soon as possible. If a company utilizes animal oil or flesh, it should be required to disclose this information on the packaging of its products. Furthermore, the petitioner said that enterprises that create cosmetics, pharmaceuticals, and items derived from animals should be required to display a notice on the package of their product that is immediately recognized and conveys that it contains an animal element. The petitioner argued that 60 percent of Indians are vegetarians, and that it is therefore critical for manufacturers to specify the contents and ingredients used in the manufacturing of their products, so that consumers can make informed decisions about which products to consume and can rely on products that are consistent with their beliefs and opinions. The Petitioner was a volunteer for animal welfare and a member of many animal welfare groups. When it came to the eating and usage of animals and their remains for food, cosmetics, and medications, he was also a conscientious objector. The Petitioner's main argument was that various companies that manufacture cosmetics and food products should make full disclosures, and that such products should have an easily identifiable mark on them that would convey the origin or ingredients of their products, as well as whether they were vegetarian or non-vegetarian. This would allow everyone, whether illiterate or literate, to make well-informed decisions before purchasing things. Articles 19(1)(a), 21, and 25 of the Indian Constitution, as well as the Preamble to the Indian Constitution, compel complete disclosure of facts, according to the petitioner. In a word, the Petitioner's principal argument was whether the Constitution's provisions require information to be disclosed. Taking into account the provisions of Article 19(1)(a) of the International Covenant on Civil and Political Rights, as well as the provisions of Article 10(2) of the International Covenant on Civil and Political Rights, the Delhi High Court declared that the packaging of various food items, drugs (except those that fall under the scope of life-saving drugs), and cosmetics must contain a full disclosure, including a complete list of ingredients. It should specify if the product is vegetarian or non-vegetarian. A brown circle inside a square shape indicating that the food item contains whole or a portion of an animal, save milk, must be labeled as a non-vegetarian food item. Similarly, items that do not include any animal products will have a green circle with a square boundary to indicate that they are vegetarian foods. The basis for this decision was that an individual's freedom of speech and expression extends to his or her food choices as well, and therefore the Delhi High Court's decision in this case allows individuals to make educated decisions about the items they purchase and eat.

*Gauri Maulekhi v. Union of India*<sup>v</sup>-This case included the smuggling of livestock and buffaloes into

Nepal. Nepal celebrates the Gadhimai festival every five years. This event, which is a custom among the indigenous people of Nepal's Bara District, involves the sacrifice of several animals such as buffaloes, rodents, goats, pigs, and birds. They sacrifice these creatures in the hope that the act would aid them in achieving their goals. The Gadhimai Festival's animal sacrifice may be considered one of the biggest in history. These animals were sacrificed by Nepal's indigenous people in order to fulfill their dreams. However, in this case, the Supreme Court of India asked the Central Government of India to guarantee that no cattle or buffaloes be unlawfully transferred to Nepal in 2014, prior to the Gadhimai Festival in Nepal, through an order dated 17th October 2014. The Supreme Court of India issued this decision in accordance with the terms of the Foreign Trade (Development and Regulation) Act, 1992, which empowered the Central Government of India to examine and adjust its export and import policies as necessary. The Central Government is vested with this authority under to Section 5 of the Foreign Trade (Development and Regulation) Act, 1992. Additionally, the Court cited Schedule 2 at serial no. 10 of Table-B of the Act, which said that live cattle and buffalo are included in the scope and ambit of animals that cannot be exported without the exporter obtaining a license to do so. Additionally, the Supreme Court emphasized Section 11(3)(e) of the 1960 Prevention of Cruelty to Animals Act. The court determined that "by virtue of Section 11(3)(e) of the Act, any act committed or omitted in the course of the destruction or preparation of any animal in issue is cruel, unless such destruction or preparation is accompanied by the imposition of needless pain or suffering." The Court held that needless pain or suffering cannot be inflicted on any non-human living thing for the purpose of satisfying human interests. Additionally, the court determined that sacrificing an animal cannot be construed as an act of appeasement toward the Gods. Prior to the court's decision, Sahastra Seema Bal partnered with the petitioner to develop a set of norms and regulations that must be rigorously followed while dealing with animal markets and cattle markets difficulties. The petitioner's set of rules and regulations, developed in partnership with Sahastra Seema Bal, was certified by the Court, and the Court's judgment emphasized the need of rigorously adhering to the suggestions included in these regulations.

*N.R. Nair and Others v. Union of India and Others* <sup>vi</sup>-The Kerala High Court affirmed a Ministry of Environment and Forests notification prohibiting the exhibition or training of bears, monkeys, tigers, panthers, and lions as performing animals. When the notification was challenged in the Supreme Court, the court ruled that animals are subjected to cruelty because they are tortured and imprisoned to perform, and that this violates the PCA Act of 1960. It also rejected the petitioners' claim that their right to carry on any trade or activity under Article 19(g) of the Indian Constitution had been infringed since activities that caused pain and suffering to the animals would be prohibited.

*Shri Ajay Madhusudan Marathe v. New Sarvodaya CHS Ltd.* <sup>vii</sup>-In this case, the Consumer Court ruled in favour of a resident who had filed a complaint with the Consumer Dispute Redress Forum alleging that the Co-operative Housing where he lived had approved a resolution prohibiting dogs from entering the building's elevator. The Society passed this resolution because the dog was not considered a customer, and a dog's use of the building's facilities may result in a large spread of illnesses and infections. The lift, being a confined compartment, would contain bacteria and germs brought by the dog in his hair, which might then spread like wildfire throughout the building and elevators, impacting the tenants' life. These were the justifications given by the society for approving the resolution prohibiting pet dogs from accessing the elevator. After hearing both parties and deliberating, the Court decided that the owner of the dog is a member who owns a



home in the contested co-operative housing organization and so comes under the term of "customer" as defined by Section 2(7) of the Consumer Protection Act, 1986. The owner's complaint and grievance, which he brought to the Consumer Court, were found to be completely within his rights, according to the Court. The dog has a valid Kennel Club of India license and was registered with the Municipal Corporation, according to the Court. The court also determined that the dog was healthy and free of illness since it possessed a Health Certificate from the Bombay Veterinary College. This judgement established a precedent that owners of dwellings in a cooperative society cannot be barred from having pets for any reason, and that such pets may access all the building's amenities in the same way as their owners.

*Mustakeem v. State of Uttar Pradesh*<sup>viii</sup>- In the state of Uttar Pradesh, a First Information Report was filed against the owner when it was discovered that goats were being transported for slaughter in a cruel way (they were firmly chained together), which violated the terms of the Prevention of Cruelty to Animals Act, 1960. However, while the issue was being litigated, the Uttar Pradesh High Court restored custody of the animals to the owner. On appeal, the Hon'ble Supreme Court decided that the animals were to be seized from the owner & put in a gaushala under the care of the state government, which was charged with their care throughout the pendency of the case. The Court made it quite plain in this judgement that once an animal is taken from a person's care due to cruelty to his or her charge, the animal will not be restored until the issue is concluded.

*Kennel Club of India v. Union of India*<sup>ix</sup>-In this case, the petitioner sent a notice to the Veterinary Council of India on November 11, 2011, stating that the Animal Welfare Association Board of India informed them that puppies from different breeds were subjected to avoidable and unnecessary cosmetic surgeries, causing extreme pain & agony. These operations were conducted by Veterinary Doctors, who performed procedures such as docking the tails of these naive pups or clipping off their ears. The Veterinary Surgeons believed that they conducted these procedures on the pups in response to their owners' requests, and that they did so with the highest accuracy and care, assuring that these puppies were not exposed to cruelty at the hands of the physicians. The Petitioner, on the other hand, was of the opinion that this practice of trimming the pups' ears or docking their tails breached Section 11 of the PCAA Act, 1960. According to the petitioner, the operations resulted in significant mutilations to these pups and were declared to be penal acts. The petitioner relied on the fact that nations such as the United Kingdom have previously taken a step ahead and prohibited such acts, in which the pups' tails or ears are cut. The petitioners urged that the Veterinary Council of India investigate the matter & put a stop to the practice of the concerns. However, if they refuse to do so and instead continue to practice, the Animal Welfare Board of India should take strong action against such Veterinary Surgeons. The Honourable High Court of Madras, on the other hand, decided in favour of the veterinary surgeons and overturned the Kennel Club of India's notice to cease the practice of clipping the ears of pups. The Court determined that clipping the dog's ears or docking their tails did not constitute cruelty under the terms of Section 11 of the PCAA Act, 1960. The decision to have their puppy's tail docked or ears cut is entirely up to the owners. The Madras High Court ruled that clipping a pet dog's ears did not constitute mutilation or exposing the animals to excruciating pain and misery. The Court ruled that Veterinary Surgeons licensed with the Veterinary Council of India were particularly educated to do such surgeries with ease, ensuring that the pups did not suffer any discomfort & were not exposed to cruelty under any circumstances. The Court also ruled that neither the Animal Welfare Board of India nor the Veterinary Council of India had the authority to restrict veterinary surgeons from conducting certain surgeries on specific pet dog breeds.

## CONCLUSION

These judicial decisions have helped to some extent alleviate the suffering endured by hapless animals. All these High Court verdicts and a few Apex Court judgements on Animal Rights illustrate that our legal system has maintained animals on par with humans. In recent decades, India has undergone several major developments. Food consumption trends are changing everywhere. Despite the rulings, the applicable laws of the nation need to be stricter when dealing with those who abuse animals, exposing them to barbarous treatment and causing them great anguish. There are various examples showing how low people can sink and their capabilities in treating animals. For this reason, it is vital that the legislature wake up & enact strict animal rights legislation that fully protects animals. India urgently needs comprehensive legislation that addresses all areas of animal rights & the degradation these creatures endure. There are currently laws in existence, but their provisions are obsolete and need to be amended as soon as possible to guarantee that animals are no longer mistreated by creatures that claim to be more reasonable and wiser than them.

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<sup>i</sup> All India Reporter 1989 Supreme Court 1.

<sup>ii</sup> 1979 Criminal Law Journal 1404.

<sup>iii</sup> (2001) 9 Supreme Court Cases 762.

<sup>iv</sup> Civil Writ Petition Number 837 of 2001.

<sup>v</sup> Writ Petition (PIL) Number 77 of 2010.

<sup>vi</sup> Civil Appeal Numbers 3609-3620 of 2001, decided on May 1, 2001.

<sup>vii</sup> First Appeal Number 676 of 2009.

<sup>viii</sup> 1999 (3) ACR 2668

<sup>ix</sup> AIR 2013 (NOC) (Supp) 1439 (Mad.)