

State of Gujarat versus Mirzapur Moti Kureshi Kassab Jamat and others
(2005)

1. Procedural History

Respondents first challenged the amendment to the Bombay Animal Preservation Act before the High Court, which held that the amendment was unconstitutional. The State of Gujarat appealed the decision to the Supreme Court.

2. Facts

By the Bombay Animal Preservation (Gujarat Amendment) Act of 1994, the restriction that bulls and bullocks below the age of 16 years could not be slaughtered was enlarged to a total prohibition on the slaughter of the progeny of the cow in the State of Gujarat.

3. Issue

Respondents challenge the constitutionality of the Gujarat Amendment, contending that such amendment violates the fundamental rights of butchers under art. 19(1)(g) of the Constitution.

4. Ruling

The Supreme Court sided with the appellant (State of Gujarat), considering that the restriction placed on the fundamental right of butchers is reasonable in that the ban does not run in clear conflict with the fundamental right of butchers, and has been enacted within the legislative competence of the enacting legislature. The Court holds that, in removing the age-limit of sixteen years for slaughtering cow progeny, the State of Gujarat secured the mandates set forth in art. 48, 48-A and 51-A of the Constitution (dissenting opinion: A.K. Mathur, J.).

The Supreme Court further holds that the use of expression “milch or draught cattle” is a description of a classification species of cattle as distinct from cattle, which by their nature, are not milch or draught, and does not exclude milch or draught cattle, which on account of age or disability cease to be functional for those purposes. This opinion is strengthened by art. 51-A(g) which implies that cattle that have served human beings are entitled to compassion in their old age (per majority).

Relevant rules: art. 19(1)(g); art. 48, 48-A and 51-A of the Constitution.

5. Extracts

“A cattle which has served human beings is entitled to compassion in its old age when it has ceased to be milch or draught and becomes so-called ‘useless’. It will be an act of reprehensible ingratitude to condemn a cattle in its old age as useless and send it to a slaughterhouse taking away the little time from its natural life that it would have lived, forgetting its service for the major part of its life, for which it had remained milch or draught. We have to remember: the weak and meek need more of protection and compassion.”