

(2012) 01 MP CK 0054

Madhya Pradesh High Court

Case No: Writ Petition No. 3710 of 2000

Union of India

APPELLANT

Vs

Registrar General, High Court of
M.P. and another

RESPONDENT

Date of Decision: Jan. 11, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227, 227(2), 323A

Citation: AIR 2013 MP 98 : (2012) ILR (MP) 837 : (2012) 1 JLJ 145 : (2012) 1 MPHT 382

Hon'ble Judges: Sushil Harkauli, Acting C.J.; Alok Aradhe, J; Ajit Singh, J

Bench: Full Bench

Advocate: R.L. Gupta, Asstt. Solicitor General and Mr. O.P. Namdeo, for the Appellant;
Ashish Shroti, Advocate for the Respondent No. 1 and Mr. Kumaresh Pathak, Dy. Advocate
General for the Respondent No. 2, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Alok Aradhe, J.

A Division Bench of this Court vide order dated 8-4-2002 found that the issue involved in the instant writ petition is of grave importance and immense signification and, therefore, deserves consideration by the Larger Bench. In view of the aforesaid order the matter has been placed for consideration by this Bench. The petitioner has challenged the vires of Schedule appended to M.P. High Court Superintendence of Tribunals Rules, 1998 in so far as it pertains to Entries 9 and 10 of the Schedule. In order to appreciate the petitioner's challenge, few facts need mention which are stated infra. In exercise of powers under Article 323-A of the Constitution of India the Parliament has enacted Administrative Tribunals Act, 1985. Under the aforesaid Act. the Central Administrative Tribunal, and the Madhya Pradesh State Administrative Tribunal were established. In exercise of powers

conferred by clause (2) of Article 227 of the Constitution of India the High Court of Madhya Pradesh has framed the Rules, namely, Madhya Pradesh High Court Superintendence of Tribunals Rules, 1998 (for short "the Rules"). The Rules were made with the object to supervise the functioning of the Tribunals. In the Schedule appended to the said Rules. M.P. State Administrative Tribunal and the Central Administrative Tribunals have been mentioned at Sr. Nos. 9 and 10. Thus, the aforesaid Rules apply to the aforesaid Tribunals as well.

2. Learned Counsel for the petitioner submitted that Supreme Court in the case of [L. Chandra Kumar Vs. Union of India and others](#), in Paragraphs 96 and 99 has categorically held that the High Court has the power of judicial review but does not have the supervisory jurisdiction. It is further submitted that High Court cannot frame Rules which would empower it to exercise powers of administrative superintendence over the Tribunals in question.

3. On the other hand, Mr. Ashish Shrotri, learned Counsel appearing for the respondents submitted that expression "superintendence" used under Article 227 does not make any compartmentalization between the judicial supervision and administrative supervision. It is further submitted that if the Tribunal is situated within the territorial jurisdiction in which High Court functions it has to be within the sphere of Superintendence of High Court. It is also submitted that expressions "judicial superintendence" should be given broader meaning and should be held to include the power of supervision.

4. We have considered the submissions made in both sides. The Supreme Court in the cases of T. Sudhakar Prasad Vs. Govt., of A.P. and others, (2001) 1 SCC 516 and [Dhyan Investments and Trading Co. Ltd. Vs. Central Bureau of Investigation and Others](#), has held that power of superintendence exercised by the High Court under Article 227 of the Constitution of India is judicial superintendence and not administrative superintendence.

5. It is well settled rule of statutory interpretation that Legislature is deemed not to waste its words or to anything in vain. [See : Principles of Statutory Interpretation, Justice G.P. Singh, 12th Edition, Page 75]. In [Nasiruddin and Others Vs. Sita Ram Agarwal](#), it has been held that Court cannot enlarge the scope of statutory provisions or intention when the language of the provision is plain and unambiguous and the real intention of Legislation must be gathered from language used. Similar view has been taken in Maniklal Majumdar and others Vs. Gouranga Chandra Dey and others, (2004) 12 SCC 488.

6. In the backdrop of aforesaid well settled principles with regard to statutory interpretation, the provisions of Article 227 (2) of the Constitution of India may be examined under which the rules have been framed. The relevant extract of clauses (1) and (2) of Article 227 read as under :-

(1) Every High Court shall have superintendence over all Courts and Tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provisions, the High Court may-

(a) call for returns from such Courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such Courts; and

From careful scrutiny of words in clauses (1) and 2 (b) of Article 227 it is apparent that though in clause (1) of Article 227 words "Courts and Tribunals" have been used but in Clause 2 (b) only the word "Court" has been used. Thus, it is a case of deliberate and conscious omission of the word Tribunal" in Clause 2(b) of Article 227 of the Constitution of India which confers rule making power on the High Court, which in turn leads to irresistible conclusion that Article 227 (2) (b) does not empower the High Court to frame rules with regard to Tribunals.

7. For the aforementioned reasons, the M.P. High Court Superintendence -Rules, 1998 in so far as they relate to Administrative Tribunals in question are declared ultra-vires the Article 227 (2) (b) of the Constitution of India. In the result, the writ petition succeeds and is hereby allowed.