

SUPREME COURT OF INDIA

State of Maharashtra

Vs.

Man Singh Suraj Singh Pandvi

C.A.No.2212 of 1969

(R. S. Sarkaria and S. Murtaza Fazl Ali, JJ.)

22.01.1976

ORDER

After having a peep into the case with the aid of the counsel on both sides, we are satisfied than an important question r3elating to the inter pretation of Para 5 of the Schedule Fifth of the constitutuion is involved in this case. The question is whether the non-obstante clause "Notwithstanding anything in this Constitution" Para 5 covers the prvisions in Part III of the Constitution, also. There is a conflict of judicial opinion on this point. A decision of the Andhra Pradesh High court in Nagabhushanam v. Secy. To govt. Panchayat Raj govt. of Andhra Pradesh, Hyderabad,AIR 1965 Andh Pra 332 has taken the view that this clause is wide enough to encompass the provisions of Part III of the constitution. A contrary view has been taken in the judgment under appealby the Bombay High Court. It is submittedy Cousel that there is some incnsistency in the point between the decisions of this Court in state of Bihar v. Rameshwar Pratap Narain Singh, (1962) 2SCR 382: (AIR 1962 SC 1649) Jayvantsinghji v. State of Gujarat, 1962 Supp (2) SCR 411: (AIR 1962 SC 821) which requires to be resolved by a larger Bench. The Bombay High Court has chosen to follow the decision of theis Court in Jayvansinghji v. State of Gujarat (supra). Let the matter be, therefore, placed before the Hon"ble Chief Justice fir directions.

Order accordingly.

