SUPREME COURT OF INDIA

State of Madhya Pradesh

Vs.

Shri Ram Singh

(K.T. Thomas and R.P. Sethi.JJ.)

S.L.P.(Crl.) No.1603 of 1997

01.02.2000

JUDGMENT

SETHI,J.

Heard. Leave granted.

Relying upon the judgment of this Court in State of Haryana & Ors. vs. Bhajan Lal & Ors. [1992 (1) Suppl.

SCC 335] and exercising powers under Section 482 of the Criminal Procedure Code, the High Court of Madhya Pradesh vide the judgment impugned in these appeals quashed the investigations and consequent proceedings against the respondents initiated, conducted and concluded by the police under Sections 13(1)(e) and Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the Act). The Court found that for the offence punishable under Section 13(1)(e) of the Act the investigation had not been conducted by an authorised officer in terms of Section 17 of the Act. It was observed: It is of utmost importance that investigation into criminal offence must always be free from any objectionable features or infirmities which may legitimately lead to the grievance of the accused that the work of investigation is carried on unfairly and with any ulterior motive. The prosecution of the accused on the basis of investigation by a person who had no legal authority to investigate cannot be allowed:

In order to appreciate the legal controversy, it is proper to refer to some of the facts regarding which there does not appear to be any dispute at this stage in these appeals.

Regarding Ram Singh respondent, a secret information is stated to have been received on 4.7.1992 alleging that when he was a Sub Inspector, Excise and District Excise Officer, he had acquired properties disproportionate to his known sources of income. On verification it was found that he had earned movable and immovable properties allegedly much more disproportionate to his known sources of income during the check period commencing from 1.1.1982 to 4.8.1992.

Resultantly Crime No.103/92 under Sections 13(1)(e) and 13(2) of the Act was registered against him. On 4.8.1992 a raid was conducted by Shri B.N. Bhatia, Dy.Superintendent of Police, SPE, Lokayukt Office, Gwalior after obtaining a search warrant from the Chief Judicial Magistrate, Gwalior and a seizure memo was prepared with respect to recovery of movable articles from the possession of his son, namely, Pratap Singh, Advocate. On 7.8.1992 another raid was conducted by

Shri C.P.S. Chaturvedi, Dy.Supdt. of Police, Lokayukt Office, Gwalior at the Government Quarter allotted to the said respondent at Vikas Nagar, Betul, under a search warrant dated 3.8.1992. Some documents, one transistor, one pistol and diaries were recovered in the raid. The respondent Shri Ram Singh moved Criminal Misc.No.143 of 1993 before the High Court of Madhya Pradesh at Gwalior praying for anticipatory bail which was allowed. Vide letter dated 14.12.1993, the Additional Excise Commissioner, Madhya Pradesh, Gwalior directed the respondent to submit the statement on the prescribed form Nos.1, 2 and 3 to the Lokayukt Gwalior. The statements were submitted to Shri P.S. Sisodia, Deputy Superintendent of Police, Lokayukt Office, Moti Mahal, Gwalior on 16.5.1994. It was mentioned in the statement that the total income of the respondent from all sources was Rs.4,19,000/- and expenditure was Rs.2,58,700/- which show the savings of Rs.1,60,300/-. He declared that his assets were not disproportionate to the known sources of his income. After further information was submitted by the respondent, a further enquiry was made on 5.6.1995 with respect to his bank account. In May, 1996 the respondent filed the Petition No.2481/96 under Section 482 of the Criminal Procedure Code praying for quashing the proceedings relating to Crime No.143/93 and charge-sheet thereof filed against him. He contended that the entire search and seizure made by Special Police Establishment was illegal, malafide and without any basis. It was further contended that the search was conducted without jurisdiction and was in contravention of the provisions of Section 17 of the Act. He alleged that the investigation was malicious inasmuch as the accounts of his family members had illegally been freezed. The State in its reply filed in the High Court alleged that after investigation it had transpired that during the check period, the respondent had a total income of Rs.3,13,470.68 from all known sources and his expenditure being Rs.16,25,723.49. Thus the disproportionate amount came to Rs.13,12,252.81 which was stated to be 350 times more than the known sources of his income. After investigation sanction was obtained and charge-sheet was filed. The initial investigation was conducted by Shri B.N. Bhatia, Dy.Superintendent of Police, Special Police Establishment, Gwalior and thereafter by Shri D.S. Rana, Inspector SPE, Gwalior who was stated to have been duly authorised by the Superintendent of Police, SPE, Gwalior vide order No.SPE/2766/94 dated 12.12.1994. The order of the Supteintendent of Police was claimed to be strictly under Section 17 of the Act. Respondent Jagdish Prasad was appointed as a Sub-Inspector and was also holding the post of A.D.E.O. On 16.11.1984 Preliminary Enquiry No.120/84 was registered against him. On 7.5.1985 one Shri Tara Chand, resident of Dahimandi, Gwalior filed a complaint against the said respondent whereupon another Preliminary Enquiry No.5/85 was registered which was taken for investigation. On the basis of Preliminary Enquiry No.5/85 Crime No.132/92 under Sections 13(1)(e) and 13(2) of the Act was registered against him on 7.10.1992. After investigation it transpired that during check period commencing from 1.2.1964 to 31.1.1984 the respondent had earned a sum of Rs.1,12,380.54 from his known sources of income and incurred an expenses of Rs.2,14,608.84. In this way he was found to be possessing disproportionate property worth Rs.1,02,228.30. After obtaining the sanction for prosecution by the competent authority a charge-sheet was submitted in the Court on 5.8.1986. The respondent moved the High Court under Section 482 of the Criminal Procedure Code praying for quashing the investigation and consequent proceedings against him in the light of the judgment in Bhajan Lals case (supra) which was allowed vide the order impugned. Respondent Kedarilal Vaishya had joined the service in the Government on 15.7.1978 as Sub-Engineer and was promoted to the post of Assistant Engineer on 8.3.1990.

An information was received in the office of the Superintendent of Police, SPE Regional Lokayukta Karyalaya, Gwalior that the aforesaid respondent had immovable properties much more disproportionate to known sources of his income. After verification Crime No.17/94 was registered under Sections 13(1)(e) and 13(1)(d) read with Section 13(2) of the Act. A search warrant was

received by Inspector Ram Lakhan Singh Bhadhouria from the Court of the Chief Judicial Magistrate, Gwalior. The Superintendent of Police SPE Regional Lokayukta Karyalaya, Gwalior issued order No.454 dated 8.2.1994 authorising the investigation of the case by Shri Ram Lakhan Singh Bhadhouria. On investigation it was found that during the check period from 7.7.1978 to 2.9.1994 the respondent had earned a total amount of Rs.3,86,966.75 and incurred an expenditure of Rs.7,95,243.98. In this way he was found to be possessing Rs.4,08,277.23 more than his earnings which was found to be disproportionate to his known sources of income, punishable under Section 13(1)(e) and 13(2) of the Act. The sanction for prosecution was obtained on 26th October, 1996 whereafter a charge-sheet was filed against the respondent in the Court of Sub-Judge Shivpuri which was registered as Special Session Case No.4/1996. Not satisfied with the investigation the respondent filed a petition under Section 482 of the Criminal Procedure Code praying for quashing of the investigation and consequent proceedings in Crime No.17/94 which was allowed vide the order impugned in these appeals. Corruption in a civilised society is a disease like cancer, which if not detected in time is sure to maliganise the polity of country leading to disastrous consequences. It is termed as plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as Royal thievery.

The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society. The menace of corruption was found to have enormously increased by first and second world war conditions. The corruption, at the initial stages, was considered confined to the bureaucracy who had the opportunities to deal with a variety of State largesse in the form of contracts, licences and grants.

Even after the war the opportunities for corruption continued as large amounts of Government surplus stores were required to be disposed of by the public servants. As consequence of the wars the shortage of various goods necessitated the imposition of controls and extensive schemes of post-war reconstruction involving the disbursement of huge sums of money which lay in the control of the public servants giving them wide discretion with the result of luring them to the glittering shine of the wealth and property. In order to consolidate and amend the laws relating to prevention of corruption and matters connected thereto, the Prevention of Corruption Act, 1947 was enacted which was amended from time to time. In the year 1988 a new Act on the subject being Act No.49 of 1988 was enacted with the object of dealing with the circumstances, contingencies and shortcomings which were noticed in the working and implementation of 1947 Act. The law relating to prevention of corruption was essentially made to deal with the public servants, as understood in the common parlance but specifically defined in the Act. The Act was intended to make effective provision for the prevention of bribe and corruption rampant amongst the public servants. It is a social legislation defined to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object. Dealing with the object underlying the Act this Court in R.S. Nayak vs. A.R.

Antulay [1984 (2) SCC 183] held: The 1947 Act was enacted, as its long ltitle shows, to make more effective provision for the prevention of bribery and corruption. Indisputably, therefore, the provisions of the Act must receive such construction at the hands of the Court as would advance the object and purpose underlying the Act and at any rate not defeat it. If the words of the Statute are

clear and unambiguous, it is the plainest duty of the court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or the plain meaning of the words used in the statute would be self-defeating. The court is entitled to ascertain the intention of the Legislature to remove the ambiguity by construing the provision of the Statute as a whole keeping in view what was the mischief when the Statute was enacted and to remove which the Legislature enacted the Statute. The rule of construction is so universally accepted that it need not be supported by precedents. Adopting this rule of construction, whenever a question of construction arises upon ambiguity or where two views are possible of a provision, it would be the duty of the Court to adopt that construction which would advance the object underlying the Act, namely, to make effective provision for the prevention of bribery and corruption and at any rate not defeat it.

Procedural delays and technicalities of law should not be permitted to defeat the object sought to be achieved by the Act. The overall public interest and the social object is required to be kept in mind while interpreting various provisions of the Act and decided cases under it.

For the purposes of deciding these appeals reference to Sections 13 and 17 of the Act is necessary. Section 13 deals with the criminal misconduct of the public servants and prescribes the punishment for the commission of offence of criminal misconduct. A public servant is said to commit the offence of criminal misconduct:

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or (b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned;

or (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ him or under his control as a public servant or allows any@@ JJJJJJJJJJJJJJJ other person so to do; or (d) if he,-- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or (e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ possession for which the public servant cannot@@ JJJJJJJJJJJJJJJ satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

ExplanationFor the purposes of this section, known sources of income means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant (2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

Section 17 deals with investigation into cases under the Act and provides:

17. Persons authorised to investigateNotwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank,-- (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the metropolitan area of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of Section 8 of the Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank.

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefore without a warrant;

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefore without a warrant;

Provided further that an offence referred to in clause (e) of sub- section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

This Section provides that no police officer below the rank of an Inspector in the case of Delhi Special Police Establishment, an Assistant Commissioner of Police in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and any other metropolitan area notified as such and Dy.Superintendent of Police or a police officer of the equivalent rank shall investigate an offence punishable under the Act without prior order of the metropolitan Magistrate or a Magistrate of the First Class, as the case may be, or make any arrest thereof without warrant.

According to the first proviso if a police officer not below the rank of an Inspector of Police is authorised by the Government in this behalf by general or special order, he can also investigate in such offences without the order of Metropolitan Magistrate or the Magistrate of First Class, as the case may be, or make arrest thereof without a warrant.

Regarding compliance of this part of the section there is no controversy in the present appeals. However, the second proviso provides that where an offence referred to in clause (e) of sub-section (1) of section 13 is sought to be investigated, such an investigation shall not be conducted without the order of a Police Officer not below the rank of a Superintendent of Police. The interpretation of this proviso is involved in the present controversy. The investigation conducted and the consequent proceedings are stated to have been quashed on similar grounds in Bhajan Lals case(supra). The facts of that case were, one Dharam Pal presented a complaint against Ch.Bhajan Lal, the former Chief Minister of Haryana making certain serious allegations against him which prima facie showed commission of offence punishable under the Act. The complaint was presented in the Chief Ministers Secretariat on 12.1.1987 when said Shri Bhajan Lal had ceased to be the Chief Minister. An endorsement was made by the Officer on Special Duty in the Chief Ministers Secretariat to the effect: C.M. has seen. For appropriate action and was marked to the Director General of Police who in turn made endorsement on the same day which read, Please look into this; take necessary action and report and marked it to the Superintendent of Police, Hissar. The complaint alongwith the above

endorsement of OSD and DGP was put up before the SP on 21.11.1987 on which date the SP made his endorsement reading Please register a case and investigate. The Station House Officer of the Police Station registered a case on the basis of the allegations in the complaint under Sections 161 and 165 of the Indian Penal Code and Section 5(2) of the Prevention of Corruption Act, 1947. After forwarding the copy of the First Information Report to the Magistrate and other officers concerned, the SHO took up the investigation and proceeded to the spot accompanied by his staff. At this stage Shri Bhajan Lal filed Writ Petition No.9172/87 under Articles 226 and 227 of the Constitution of India seeking quashing of the First Information Report and issuance of directions restraining the police from further proceeding with the investigation. The High Court held that allegations made in the complaint do not constitute a cognizable offence for commencing a lawful investigation and granted relief as prayed for by the petitioner therein.

Aggrieved by the aforesaid judgment the State of Haryana preferred an appeal in this Court which was disposed of as under:- We set aside the judgment of the High Court quashing the First Information Report as not being legally and factually sustainable in law for the reasons aforementioned; but, however, we quash the commencement as well as the entire investigation, if any, so far done for the reasons given by us in the instant judgment on the ground that the third appellant (SHO) is not clothed with valid legal authority to take up the investigation and proceed with the same within the meaning of Section 5A(1) of the Prevention of Corruption Act, as indicated in this judgment. Further we set aside the order of the High Court awarding costs with a direction that the said costs is payable to the first respondent (Ch.Bhajan Lal) by the second respondent (Dharam Pal).

In the result, the appeal is disposed of accordingly but at the same time giving liberty to the State Government to direct an investigation afresh, if it so desires, through a competent Police Officer empowered with valid legal authority in strict compliance with S.5A(1) of the Act as indicated supra. No order as to costs.

In the facts and circumstances of that case this Court posed a question to itself in the following terms:

Now what remains for consideration is whether there is any valid order of the S.P. permitting the third appellant to investigate the offence falling under clause (e) of sub-section (1) of Section 5. As we have already mentioned in the earlier part of this judgment, the S.P. (the second appellant) has given the one word direction on 21.11.1987 investigate. The question is whether the one word direction investigate would amount to an order within the meaning of second proviso of Section 5A(1).

The Court found on facts that as there was absolutely no reason given by the SP in directing the SHO to investigate, the order of the SP was directly in violation of the dictum of law. The SHO was, therefore, found not clothed with the requisite legal authority within the meaning of second proviso to Section 5A(1) of 1947 Act to investigate the offences under clause (e) of Section 5(1) of the Act. This Court held that (1) as the salutary legal requirement of disclosing the reason for according the permission is not complied with; (2) as the prosecution is not satisfactorily explaining the circumstances which impelled the SP to pass the order directing the SHO to investigate the case; (3) as the said direction manifestly seems to have been granted mechanically and in a very casual manner, regardless of the principles of law enunciated by this Court and (4) as the SHO had got neither any order from the Magistrate to investigate the offences under Sections 161 and 165 IPC nor any order from the SP for investigation of the offences under Section 5(1)(e) of the Prevention

of Corruption Act in the manner known to law, the order of direction reading only investigate suffered from legal infirmity. The Court found that despite quashing the direction of the SP and the investigation thereupon would not, in any manner, deter the State of Haryana to pursue the matter and direct the investigation afresh in pursuance of the FIR, if the State so desire.

It may be noticed at this stage that a three Judge Bench of this Court in H.N. Rishbud & Anr.vs. State of Delhi [AIR 1955 SC 196] had held that a defect or illegality in investigation, however, serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. Referring to the provisions of Section 190, 193, 195 to 199 and 537 of the Code of Criminal Procedure (1898) in the context of an offence under the Prevention of Corruption Act, 1947, the Court held:

A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in Section 190, Cr.P.C. as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the Court to take cognizance. Section 190, Cr.P.C. is one out of a group of sections under the heading Conditions requisite for initiation of proceedings. The language of this section is in marked contrast with that of the other sections of the group under the same heading, i.e., Sections 193 and 195 to 199.

These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (a), (b) and (c) of Section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under Clause (a) or (b) of Section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation Section 537, Cr.P.C. which is in the following terms is attracted:

Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice.

If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the court for trial is well settled as appears from the cases in Prabhu v. Emperor, AIR 1944 PC 73 (C) and Lumbhardar Zutshi v.

The King, AIR 1950 PC 26(D).

It further held:

In our opinion, therefore, when such a breach is brought to the notice of the Court at an early stage of the trial, the court will have to consider the nature and extent of the violation and pass

appropriate orders for such investigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Act. It is in the light of the above considerations that the validity or otherwise of the objection as to the violation of Section 5(4) of the Act has to be decided and the course to be adopted in these proceedings, determined.

In Bhajan Lals case this Court had found on facts that the SP had passed the order mechanically and in a very casual manner regardless of the settled principles of law.

The provisions of Section 17 of the Act had not been complied with. As earlier noticed the SP while authorising the SHO to investigate had made only endorsement to the effect please register the case and investigate. The SP was shown to be not aware either of allegations or the nature of the offences and the pressure of work-load requiring investigation by an Inspector. There is no denial of the fact that in cases against the respondents in these appeals, even in the absence of the authority of the SP the Investigating Officer was in law authorised to investigate the offence falling under Section 13 of the Act with the exception of one as is described under sub-section (1)(e) of the Act. After registration of the FIR the Superintendent of Police in the instant appeals is shown to be aware and conscious of the allegations made against the respondents, the FIR registered against them and pending investigations.

The order passed by the SP in case of Ram Singh on 12.12.1994 with respect to a Crime registered in 1992 was to the effect: In exercise of powers conferred by the provisions on me, under Section 17 of the Prevention of Corruption Act, 1988, I P.K. RUNWAL, Superintendent of Police, Special Police Establishment, Division-I Lokayukt Karyalaya, Gwalior Division Gwalior (M.P.), authorised Shri D.S. RANA INSP-(SPE) LAK-GWL (M.P.) to investigate Crime No.103/92 U/s 13(1)(E), 23(2) of the Prevention of Corruption Act, 1988 against Shri RAM SINGH D.O. EXCISE BATUL (M.P.).

Similar orders have been passed in the other two cases as well. The reasons for entrustment of investigation to the Inspector can be discerned from the order itself. The appellant-State is, therefore, justified in submitting that the facts of Bhajan Lals case were distinguishable as in the instant case the Superintendent of Police appears to have applied his mind and passed the order authorising the investigation by an Inspector under the peculiar circumstances of the case. The reason for entrustment of investigation were obvious. The High Court should not have liberally construed the provisions of the Act in favour of the accused resulting in closure of the trial of the serious charges made against the respondents in relation to commission of offences punishable under an Act legislated to curb the illegal and corrupt practices of the public officers. It is brought to our notice that under similar circumstances the High Court had quashed the investigation and consequent proceedings in a case registered against Shri Ram Babu Gupta against which Criminal Appeal No.1754 of 1986 was filed in this Court which was allowed on 27th September, 1986 by setting aside the order of the High Court with a direction to the trial court to proceed with the case in accordance with law and in the light of the observations made therein.

We are not satisfied with the finding of the High Court that merely because the order of the Superintendent of Police was in typed proforma, that showed the non-application of the mind or could be held to have been passed in a mechanical and casual manner. As noticed earlier the order clearly indicates the name of the accused, the number of FIR, nature of the offence and power of Superintendent of Police permitting him to authorise a junior officer to investigate. The time between the registration of the FIR and authorisation in terms of second proviso to Section 17

shows further the application of mind and the circumstances which weighed with the Superintendent of Police to direct authorisation to order the investigation.

Under these circumstances the appeals are allowed and the judgments of the High Court impugned in these appeals regarding the interpretation of Section 17 and holding the investigation to have not been investigated by an authorised officer being not sustainable in law are hereby set aside with the direction to the Trial Court to proceed with the trial in accordance with the provisions of law. The respondents would be at liberty to defend their cases on all such contentions on facts and law as are available to them which have not been adjudicated upon against them by the High Court and this Court.