

SUPREME COURT OF INDIA

Reserve Bank of India

Vs.

State rep. by M.R. Bhavsar, Bombay

CrI.A.No.61 of 2002

(Dr.Arijit Pasayat and Dr. Mukundakam Sharma JJ.)

30.09.2008

JUDGMENT

Dr.Arijit Pasayat, J.

1. Challenge in these appeals is to the judgment of the learned Single Judge of the Bombay High Court, dismissing the applications filed questioning issuance of process and also prosecution by which they are sought to be prosecuted for alleged contravention of provisions of Section 7 of the *Contract Labour (Regulation and Abolition) Act, 1970* (in short the `Act'). The appellant in Criminal Appeal no.62/2002 is Principal of the College of Agricultural Banking, Pune (in short `the College'), which is run by the Reserve Bank of India (in short `RBI'), the appellant in criminal appeal no.61/2002. The Labour Enforcement Officer (Central) issued show-cause notice alleging that there was violation of the provisions of the Act thereby attracting prosecution. The appellants in Criminal Appeal no.61/2002 took the stand before the High Court that the Act does not apply to the RBI and/or the college because neither can be treated to be an establishment under the act. The High Court did not accept the stand and held that there was no scope of exercising power in terms of Section 482 of the *Code of Criminal Procedure, 1973* (in short `the Code') or Article 226 of the Constitution of India, 1950 (in short `the Constitution'). The High Court found that the appellants are not prosecuted as an industry but as a government department/office and, therefore, can be treated to be an establishment under the Act. Accordingly, the petitions were dismissed.

2. Learned counsel for the appellants submitted that the High Court has failed to notice that neither the RBI nor the College can be treated to be an establishment as it is neither a governmental department nor an office.

3. Learned counsel for the respondent submitted that whether it is a governmental department or office has to be adjudicated in the trial and the High Court was justified in rejecting the petitions filed in terms of Section 482 of the Code and Article 226 of the *Constitution*.

4. RBI is constituted under the *Reserve Bank of India Act, 1934* (in short 'RBI Act'). In the introduction of RBI Act it is stated as follows:

“To regulate the issue of Bank notes and for the keeping of reserves with a view to securing monetary stability in British India and generally to operate the currency and credit system of the country to its advantage it was found expedient to constitute a Reserve Bank of India. Accordingly, the Reserve Bank of India Bill was introduced in the Legislature.”

5. The preamble to the Act reads as follows:

“An Act to Constitute a Reserve Bank of India WHEREAS it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country of its advantage;

AND WHEREAS in the present disorganization of the monetary systems of the world it is not possible to determine what will be suitable as a permanent basis for the Indian monetary system;

BUT WHEREAS it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures;”

It is hereby enacted as follows:-

6. Section 2(aii) of the RBI Act defines the "Bank" to mean Reserve Bank of India constituted by the Act. The expression "establishment" is defined in Section 2(e) of The *Contract Labour (Regulation and Abolition) Act, 1970* and reads as follows:

“Establishment" means -

(i) Any office or department of the Government or a local authority, or

(ii) Any place where any industry, trade, business, manufacture or occupation is carried on;”

7. A bare reading of the provisions makes the position clear that the Act applies to an establishment which is either an office or department of the Government or local authority in terms of Section 2(e)(i). It is not the case of the respondent that Section 2(e)(ii) has application to the facts of the case. It is only based on Section 2(e)(i). The High Court proceeded on an erroneous basis that RBI is an office or department of the Government. This conclusion is clearly contrary to the scheme of the RBI Act.

8. That being the position, the prosecution initiated on the basis of the complaints filed cannot be maintained. Impugned judgments of the High Court are quashed, so also the proceedings initiated on the basis of the complaints filed.

9. The appeals are accordingly allowed.