

SUPREME COURT OF INDIA

Subhash Chandra

Vs.

Gulab Bai & Ors.

C.A.No.1696 of 2016

(T.S.Thakur,CJI., Kurian Joseph,J.)

24.02.2016

JUDGMENT

T.S. Thakur,CJI.,

S.L.P.(Civil.) No.23066 of 2013

1. Leave granted.

2. The short question that falls for determination in these appeals is whether a retired Municipal Corporation employee can also maintain an application for eviction under Chapter III-A of the Madhya Pradesh Accommodation Control Act, 1961 and, in particular, whether any such 'retired employee' is an employee of a 'company owned or controlled by the State Government' within the meaning of Section 23-J(ii) of the Act aforementioned. A Full Bench of the High Court of Madhya Pradesh at Indore has by a 2:1 decision answered the said question in the negative and declared that 'retired employees' of Municipal Corporation will not be covered under Section 23-J (ii) of the Act to maintain an application for eviction under Chapter III-A thereof.

3. We have heard Mr. Seshtalpa Sai Bandaru, learned counsel for the appellant and Mr. S.K. Dube, learned senior counsel appearing as Amicus on behalf of the respondents. We also had the advantage of going through the judgment and order under challenge and several other decisions rendered by the High Court of Madhya Pradesh including those rendered in *Ranjit Narayan Haksar v. Surendra Verma*¹ and *Ghanshyam v. Subhash*²

4. In Ranjit Narayan's case (supra) a Division Bench of the High Court of Madhya Pradesh was examining whether Madhya Pradesh State Road Transport Corporation was a 'company owned or controlled by the State Government' so as to entitle any employee who retired from its service

to maintain an eviction petition under Chapter III-A of the Madhya Pradesh Accommodation Control Act, 1961. Answering the question in the affirmative, the High Court held that keeping in view the objects and reasons and the scheme of the Act, especially the scheme underlying Chapter-III A thereof, the expression 'company owned or controlled by the State Government or Central Government' must be understood to include even statutory corporations like the Madhya Pradesh State Road Transport Corporation established under the State Road Corporation Act. The High Court while saying so, approved the ratio in *Vipin v. Ranajitnarayan and Ors*³. while overruling the decision in *Sobhagyal v. Prakash Pharmaceuticals, Indore*⁴.

5. In a Special Leave Petition filed against the said judgment and order, this Court by a short order affirmed the reasoning and the view taken by the High Court. This Court observed:

"We agree with the view taken by the Division Bench that the word 'company' in Section 23(J)(ii) would include 'Corporation' created under the special Statute which is owned or controlled by the Central or the State Government. Hence, the S.L.P. is dismissed."
(*Surendra Verma v. Ranjeet Narayan Haksar*⁵:

6. Ghanshyam (supra) is a Single Bench decision of the High Court of Madhya Pradesh where the question which fell for consideration was whether a retired Municipal Corporation employee could maintain an application for eviction under Section 23-A(b) of the Madhya Pradesh Accommodation Control Act, 1961. The High Court answered the said question in the affirmative and dismissed the revision petition filed before it. Reliance in support was placed by the High Court upon a Division Bench decision in *Ranjit Narayan Haksar* (supra). The Court held that Municipal Corporation was a statutory corporation on account of its constitution under Section 7 of the Madhya Pradesh Municipal Corporation Act, 1956 and that Chapter XXXIV of the Act contains several provisions which empower the State Government to exercise control over it. Such being the case, the retired employee of the Municipal Corporation was a landlord within the meaning of Section 23-J(ii) of the Act declared the Court. The contrary decision delivered by the Single Bench of that Court in *Mohan Das v. Deven Das*⁶ was held to have been impliedly overruled by the pronouncement in *Ranjit Narayan Haksar's* case (supra). A Special Leave Petition filed against the decision was dismissed by this Court by a non-speaking order.

7. In the case at hand the question whether a 'retired employee' of the Municipal Corporation can maintain an eviction petition under Chapter III-A appears to have arisen once again before the High Court which was referred to a Full Bench of the High Court for an authoritative pronouncement. The Full Bench has, by majority, taken the view that such an employee is not covered under Section 23-J(ii) of the Act so as to entitle him to maintain an eviction petition under Chapter-III A thereof. The majority judgment draws a distinction between the fact situation in *Ranjit Narayan Haksar's* case (supra) and observes that the Court was not in that case concerned with the status of a retired employee of the Municipal Corporation or his right to

maintain an eviction petition. The decision in Ranjit Narayan Haksar's case (supra) was, therefore, of no assistance, declared the majority view. The minority view, however, relied upon Ranjit Narayan Haksar's case (supra) and held that Municipal Corporation is an instrumentality of the State over which the State Government exercises its control not only touching its constitution but the conduct of its business also.

8. Having heard learned counsel for the parties at some length we are of the view that the matter deserves to be referred to a larger Bench of three Judges for an authoritative pronouncement on the subject. We say so because Ranjit Narayan Haksar (supra) dealt with the case of an employee of a trading corporation like the Madhya Pradesh State Road Transport Corporation. A Municipal Corporation is, however, not a trading corporation. Such corporations have in the Indian context, a constitutional status inasmuch as Chapter IX-A of the Constitution of India provides for establishment of Municipalities as institutions of local self-Government. Article 243-Q envisages a Municipal Corporation for a larger area. The provision mandates the State to establish Municipalities/ Corporations depending upon the size of the area comprising such units of local self-Government. Having regard to the nature of the functions which the Corporations discharge in terms of the constitutional scheme and the scheme of the Municipal Corporation Act, there can be no manner of doubt that such Corporations are distinctly different from trading corporations or companies. The question that would, therefore, arise is whether Section 23-J(ii) was intended to benefit employees of trading companies or corporations alone or was such benefit also meant to be available to Municipal Corporations which are in terms of their activities materially different from trading companies or corporations. If the answer be in the negative the incidental question that may require to be examined would be whether the term 'company owned or controlled by the State Government or Central Government' appearing in the statute deserves an expansive and liberal interpretation to save the same from being declared unconstitutional. That is because even when employees of Municipalities or Municipal Corporations may not be government employees or employees of a company owned or controlled by the State within the meaning of the statute and even when the classification between the State Government employees and employees of Companies and Corporations owned or controlled by the State Government on the one hand and those of Municipal Corporation on the other may be an intelligible classification, yet, there may be no nexus between such classification and the object sought to be achieved by the statute. The object underlying Chapter-III A, there is no gainsaying, is to make it easier for retired government employees and employees of Corporations owned or controlled by the government to get their properties vacated from the tenants or occupants of the same. If that be the so, there is no reason why employees of Corporations that are discharging governmental functions or functions akin thereto should be deprived of that benefit. It may be difficult to justify the refusal of benefit or discover a nexus between the classification as suggested by the majority judgment and the object sought to be achieved by the legislation. All told, the issues are not only interesting but substantial having regard to the conflict in pronouncements and the inferences that can be drawn from the orders passed by this Court in Ranjit Narayan Haksar's and in Ghanshyam's cases (supra). We accordingly refer these appeals to a larger Bench. Papers be placed before Hon'ble the Chief Justice of India for constitution of an

appropriate Bench.

Judgment Referred.

¹*(1995 MPLJ 0021*

²*ILR (2011) MP 2586*

³*(1986 MPRCJ Note 0011*

⁴*AIR 1990 MP 0345*

⁵*(1995) JLJ 0460*

⁶*(1994) 1 MPJR 0259*