

PATNA HIGH COURT

Dhalbhum Trades and Industries Ltd

Vs

Union of India

Civil Writ No. 410 of 1971

(S.N.P. Singh and Akbar Husain, JJ.)

14.03.1972

JUDGMENT

S.N.P. Singh, J.

1. Messrs. Dhalbhum Trades and Industries Limited, the petitioner, is a joint stock company with limited liability, incorporated under the Indian Companies Act, 1913, having its registered office at Calcutta and its local office at Ghatsila in the district of Singhbhum. The petitioner, in this writ application under Articles 226 and 227 of the Constitution of India, has challenged the validity of the Bihar Land Reforms Laws (Regulating Mines and Minerals) Validation Act, 1969 (Act 42 of 1969) - hereinafter to be called the "Validation Act". The petitioner has further made a prayer-

- (a) for quashing the order of the Deputy Commissioner, Singhbhum, Chaibassa, communicated to it under memo No.4094/M, dated the 22nd of September, 1970, a copy whereof is annexure-"10" to the writ petition;
- (b) for restraining the respondents from taking action under the Bihar Minor Mineral Concession Rules, 1964, read with Bihar Act 4 of 1965, Bihar Act 6 of 1965 and the Central Act 42 of 1969; and
- (c) for directing the respondents to take steps for getting dismissed District Certificate (Mining) Case No.521 of 1970-71, pending in the Court of the District Certificate Officer, Chaibassa.

2. The material facts which are stated in the application are these: Shri Jagadish Chandra Deo Dhabal Deb, the ex-proprietor of Pargana Dhalbhum within the district of Singhbhum, by a registered deed of lease, dated the 6th of December, 1948, granted a lease to the petitioner of all mines, quarries, beds, seams and veins of building stones in the entire pargana of Dhalbhum on certain terms and conditions mentioned in the deed of lease for a period of 30 years commencing from the 1st of January, 1948. Clause (xiii) of the said lease is in these terms:

"If the lessee fails to pay the annual royalty or any part thereof on due date it shall be

liable to pay interest on the sum due at the rate of 12% per annum during which the default continues and also to the stoppage of export until the sum due and interest have been paid and to the cancellation of this lease at the discretion of lessor, but such cancellation will not in any way affect the rights of the lessor to recover all such dues from the lessee."

According to the terms of the lease, the lessee had to pay to the lessor a fixed royalty of Rs.500/- per year and the lessee could not sub-let the premises or any part thereof without the consent, in writing, of the lessor. The lease, in question was modified and altered to some extent by a registered supplementary lease, dated the 14th of December, 1949. By the supplementary lease, the right to grant sublease, without the consent of the lessor, was granted to the lessee and different rates of royalty were fixed for different stones with a minimum of Rs.500/-. The Dhalbhum Pargana consists of a very large area and contains about 1600 villages. According to the calculation of the Government, the entire area of Dhalbhum Pargana is 7,08,205.48 acres. According to the petitioner, the building, stones, etc., covered by the lease are in portions of only about 100 villages. The Dhalbhum estate vested in the State of Bihar in the end of 1951 by virtue of the provisions of the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950) and was taken possession of by the State of Bihar on the 19th of June, 1952. After the vesting of the estate, the State of Bihar, as the new lessor, accepted the royalty paid by the petitioner.

3. As stated in the application, the petitioner had granted permits for building stones to various persons who supplied them to several other persons. The petitioner, having learnt that working on permits was being stopped, wrote to the Executive Engineer, P.W.D., World Bank Projects Wing, Ghatsila, about the same, whereupon the said Executive Engineer replied under his letter No.4471, dated the 9th of November, 1964, that the Mining Officer, Chaibassa, had intimated to him that the petitioner had no right to grant such, permits or to realise any royalty from the Dhalbhum area, in accordance with the terms of the leases held by it. The petitioner, thereupon, moved the authorities and ultimately it was decided that the petitioner could grant such permits. The petitioner, thereafter, continued to grant such permits without the knowledge of the Officers of the State.

4. The Bihar Land Reforms Act, 1950 was amended by an Ordinance promulgated by the Governor of Bihar, being the Bihar Land Reforms (Amendment) Ordinance, 1964 (Bihar Ordinance No.3 of 1964), which was published in an issue of the Bihar Gazette, dated the 15th of October, 1964. By the said Ordinance, a second proviso was added to Section 10(2) of the Bihar Land Reforms Act, 1950 which read thus:

Provided further that the terms and conditions of the said lease in regard to minor minerals as defined in the Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957) shall, in so far as they are inconsistent with the rules made by the State Govt. under Section 15 of that Act, stand substituted by the corresponding terms and conditions by those rules and if further ascertainment and settlement of the terms will become necessary then necessary proceedings for that purpose shall be undertaken by the Collector."

5. By a letter, dated the 5th of December, 1964, the Deputy Commissioner, Singhbhum informed the petitioner about the promulgation of the above Ordinance and its publication in the Bihar Gazette and pointed out that in accordance with the proviso to Section 10(2) of the Bihar Land Reforms (Amendment) Ordinance, 1964, which was followed by the Bihar Land Reforms (Amendment) Act (Bihar Act 4 of 1965), the terms and conditions of the petitioner's lease, dated the 6th of December, 1948 and the supplementary lease, dated the 14th of December, 1949, for building stones etc. stood substituted by the terms and conditions prescribed under the Bihar Minor Mineral Concession Rules, 1964. It may be stated here that sub-section (2) of Section 10 of the Bihar Land Reforms Act was amended by Bihar Act 6 of 1965. A copy of the aforesaid letter is annexure-"1" to this writ application. It was further stated in this letter as follows:-

"The lease in question is not in conformity with the Bihar Minor Mineral Concession Rules, 1964 and thus following terms and conditions stand substituted in your leases per provisions of the said Rules:

1. Area: Not more than 250 acres as per Rule 16(b) of the Bihar Minor Mineral Concession Rules, 1964.
 2. Mineral: Building stone etc.
 3. Period: Five years with effect from 15-10-1964 with option of renewal for another 5 years.
 4. Dead rent: Rs.50/- per acre per annum for each mineral.
 5. Surface rent: Equal to the land revenue and cess assessable on the lands.
 6. Other terms and conditions as per Bihar Minor Minerals Concession Rules, 1964.
- You are hereby directed to furnish a map showing the area which you want to retain out of the lease area. The area should be within 250 acres as per Rule 16(b) of the Bihar Minor Mineral Concession Rules, 1964. You are further directed to give in writing the specific minor minerals which you want to retain out of the list mentioned in your lease. The map and the list of minerals proposed to be retained should reach the undersigned by 25-12-1964 positively."

6. The petitioner, thereupon, sent a reply to respondent No.2 on the 27th of January, 1965, pointing out that the Bihar Minor Mineral Concession Rules, 1964 had no retrospective effect and, as such, the leases granted in favour of the petitioner could not be governed by the provisions of the said Rules. It was further stated that the petitioner could not be called upon to select an area of 250 acres only as per Rule 16(b) of the said Rules. A copy of that letter is annexure-"2" to the writ petition. The respondent Deputy Commissioner, thereafter, started a proceeding which was numbered as Minor Mineral Proceeding No.2 of 1965, and issued a notice to the petitioner dated the 19th of February, 1965, a copy whereof is annexure-"3" to the writ petition. The material portion of annexure-"3" reads thus:

"You have already been informed vide my letter No.4185M dated 5-12-1964 that the rate of the dead rent and rate of royalties have been automatically modified as per provisions of the Bihar Minor Mineral Concession Rules, 1964 with effect from 15-10-1964 i.e. the day on which the Bihar Ordinance No.III of 1964 came into force.

So far modification of the area and period of the lease are concerned, I propose to modify the same as follows:-

1. Area: 250.00 acres for each mineral.
2. Period: Five years from 15-10-1964.

You are, therefore, directed to appear before me in my Court on 11-3-1965 at 11 A.M. either personally or through a lawyer along with a map of the area as mentioned above which you want to retain (its survey number, boundary etc.) out of the area leased out to you by lease dated 6-12-1948. Please note that in the absence of compliance the case shall proceed ex parte against you and your lease shall be liable to be modified as mentioned above. Please further note that you will be charged dead rent at the rate of Rs.50/-per acre per annum for the entire leased area from 15-10-1964 till the date you get the area modified according to the provisions of the Bihar Minor Mineral Concession Rules, 1964."

7. Thereafter, it is said that an application was filed by the petitioner in the Court of respondent Deputy Commissioner challenging the stand of the department on the ground that the Bihar Minor Mineral Concession Rules, 1964 did not apply to the existing mining leases and that the new proviso to Section 10 was inconsistent with the Bihar Land Reforms Act, 1950 and violative of Article 31(1) of the Constitution of India. This case, however, stood adjourned from time to time till May, 1965. Thereafter, on a wrong advice of its lawyer, the petitioner made a prayer for time to file the map, and this prayer was allowed by respondent No.3. The petitioner, however, could not get the map prepared till the middle of 1966. In the meantime, the District Mining Officer, Singhbhum (respondent No.4 herein), by his letter, No.523/M, dated the 19th of February, 1965, demanded from the petitioner payment of dead rent amounting to Rs.1,04,70,779.78 paise in accordance with the provisions contained in the Bihar Minor Mineral Concession Rules, 1964 in respect of an area of 7,08,205.48 acres for the period from the 15th October, 1964 to the 31st of January, 1965. In that letter, the petitioner was asked to pay the amount by the 28th of February, 1965, failing which the said amount was to be realized through certificate proceedings. A copy of that letter is annexure-"4" to the writ petition.

8. The petitioner sent a reply to the above letter on the 26th of February, 1965, denying its liability to pay the dead rent. A copy of this reply is annexure-'5' to the writ petition. In that reply the petitioner took the stand that, pending the final disposal of Minor Mineral Proceeding No.2 of 1965 by the Collector, the demand was premature and the amount could not be realized by certificate proceedings. It is said that, in spite of that reply, a certificate case for realization of the said amount was filed before the Certificate Officer, Jamshedpur, being Certificate (Mining) Case No.1 of 1965-66. An objection was raised on behalf of the petitioner before the Certificate Officer on the question of the liability of the petitioner to pay the said amount, but the objection was overruled on the 15th of July, 1965. Against the said order of the Certificate Officer, the petitioner filed an appeal before respondent Deputy Commissioner, being Certificate Appeal No.32 of 1965-66. The Deputy Commissioner, by his order dated the 2nd of August 1968, remanded the case with certain observations for correction of the certificate. According to the petitioner, it was not aware of the final result of Minor Mineral Proceeding No.2 of 1965.

9. The next letter to which a reference has been made in the writ petition is a letter dated the 27th of July, 1967, issued by the respondent District Mining Officer, asking the petitioner to show cause as to why legal action should not be taken against it for unauthorized issue of permits for removal of minerals. A copy of that letter has been made annexure-'6' to the writ petition, the material portion of which reads as under:

"It has been reported to me that you are issuing permits for removal of minor minerals though you have got no mining lease.

You are, therefore, called upon to show cause as to why legal action should not be taken against you for such unauthorized act of yours. Cause must be shown by 10-8-1967". In reply to that, the petitioner sent a letter on the 14th of September 1967, asserting that its leases were still subsisting and that the permits issued by it were quite legal. A copy of that reply is annexure-'7' to the writ petition.

10. It appears that the, petitioner filed an application under Articles 226 and 227 of the Constitution in this Court on the 18th of September, 1967, giving rise to C.W.J.C. No.585 of 1967, for quashing the second proviso to Section 10(2) of the Bihar Land Reforms Act, 1950, and for a direction to the State of Bihar and its officers to give effect to the terms and conditions of the aforesaid leases of 1948 and 1949, and for restraining them from taking any action in pursuance of the order in terms of the Bihar Minor Mineral Concession Rules, 1964, read with the second proviso to Section 10(2) of the said Act. That writ application was partly allowed on the 10th of December, 1968, and it was held that the area and the period of the leases granted in 1948 and 1949 could not be modified, but the dead rent, royalty and surface rent would be payable in accordance with the Bihar Minor Mineral Concession Rules, 1964, with effect from the 15th of October, 1964. This case was decided on the basis of two previous decisions in *Trivedi Brothers and Co. v. State of Bihar*¹, and *Baij Nath Kedia v. State of Bihar*², In the case of Baij Nath Kedia it had been held that the demand for dead rent, royalty and surface rent, in accordance with the Bihar Minor Mineral Concession Rules, 1964, from the 15th of October, 1964, was valid and justified. An appeal was preferred to the Supreme Court against the decision of this Court in the case of Baij Nath Kedia, being Civil Appeal No.685 of 1967 reported in AIR 970 SC 1436. It is stated that the petitioner also had filed an appeal to the Supreme Court against the decision in C.W.J.C. No.585 of 1967 in Civil Appeal No.461 of 1969, which is still pending.

11. Civil Appeal No.685 of 1967 was allowed by the Supreme Court on the 28th of August, 1969 (reported in AIR 1970 SC 1436), and the State Government was restrained from enforcing the provisions of the second proviso to Section 10(2) of the Bihar Land Reforms Act added by the Bihar Land Reforms (Amendment) Act, 1964 and the second sub-rule to Rule 20 added by a notification on the 10th of December, 1964 to the Bihar Minor Mineral Concession Rules, 1964. It may be stated here that, after the decision of the Supreme Court in Baij Nath Kedia's case, (AIR 1970 SC 1436) the Certificate Officer dismissed aforesaid Certificate (Mining) Case No.1 of 1965-66.

12. It appears that, with a view to obviate the difficulty which resulted on the decision of the Supreme Court in Baij Nath Kedia's case, (AIR 1970 SC 1436), the Parliament enacted the impugned validation Act of 1969. The Act received the assent of the President on the 26th of December, 1969. Before this Validation Act had been enacted, a notice, bearing No.1059/M, dated the 1st of April, 1969, had been received by the petitioner demanding from it dead rent amounting to several crores of rupees. In reply to that notice, the petitioner drew the attention of the authorities to the fact that the matter was till then sub judice and the demand was not in accordance with law. It is stated that respondent No.4, under memo No.1686/1 dated the 21st of May, 1969, demanded Rs.10 crores and odd from the petitioner as rent and royalty up to 30th of

Sept., 1968 in respect of the leases. A copy of that letter is annexure-'8' to the writ petition. The material portion of that letter may be quoted as under:

"Whereas you have failed to deposit rent and royalty amounting to Rupees 10,78,49,033.38 up to 30-9-1968 in respect of mines lease dated 6-12-1948 for minor minerals over an area of 7,08,205.48 acres in villages Guiarah, Lohadih etc. in the district of Singhbhum and thus committed breach of conditions of the lease.

You are, therefore, given notice in writing to remedy the breach by paying off the said dues within 15 days from the date of receipt of this notice and if the said amount is not paid within that period, your lease shall be determined. This is without prejudice to any proceeding that may be taken against you for realisation of the said dues."

13. The petitioner, thereupon, sent a reply, a copy whereof has been made annexure-'9' to the writ petition. In reply, the petitioner made a prayer for not taking any action till the disposal of the case before the Supreme Court. It is alleged that, thereafter, the petitioner received memo No.4094/M, dated the 20th of September, 1970, from the respondent Deputy Commissioner, determining the leases of the petitioner for non-compliance with the provisions of clause (xiii) of the lease dated the 6th of December, 1948. A copy of this order is annexure-'10' to the writ petition, the relevant portion of which reads as follows:

"Whereas you have failed to pay rent and royalties in respect of your mining lease dated 6-12-1948 and supplementary lease dated 14-12-1949 granted by the ex-Raja of Dhalbhum Estate and thus committed breaches of the lease terms for which a notice bearing No. 1059M dated 1-4-1969 was given to you to remedy the breach.

Whereas you have not taken any step to remedy the breach in spite of notice given to you as aforesaid, so your lease dated 6-12-1948 and supplementary lease dated 14-12-1949 are hereby determined as per clause (xiii) of the lease dated 6-12-1948.

You are hereby directed to deliver possession of the area on fifth October, 1970 to the Mines Surveyor."

14. It is stated that, when the petitioner did not get any relief from the officers of the State, on the 20th of October, 1970, he moved the Minister of Mines, Government of Bihar, for recalling the above order. A copy of that petition has been made annexure-'11' to this writ petition. It is stated that, when the petitioner came to know that the Minister had referred the matter to the Commissioner of Mines and Geology for a report, it sent an application to him on the 30th of November, 1970. A copy of that application is annexure-'12' to the writ petition. It is further stated that the petitioner has not received any notice regarding the date fixed for its appearance. The petitioner has further stated that, while it was waiting for the hearing of its case before the Commissioner of Mines and Geology, it received a notice from the District Certificate Officer, Chaibassa on the 21st of February, 1971 demanding rupees 16 crores and odd as dead rent for the period 1st February, 1965 to the 30th of September, 1969. That notice was issued in Certificate Case No.521 of 1970-71 of the Court of the District Certificate Officer, Chaibassa. The petitioner filed an objection within time to the said demand and the case is still pending.

15. On the above mentioned facts, the present writ petition has been filed by the petitioner for the reliefs already stated.

16. In the counter-affidavit filed on behalf of the State of Bihar, it has been stated, that the petitioner has filed objection before the Certificate Officer and the same is pending. It has also been stated that the petitioner has been granting permits to others by virtue of the power given to it under the supplementary lease, and not because it has been authorized by the State of Bihar. The vague allegation of mala fides made in paragraph 38 of the writ application has been denied, and it has been stated that the area under the lease was calculated on the basis of the area of the village and the petitioner never disclosed to the State the area which it was holding under the lease. The allegation of the petitioner that it was not aware of the final result of Minor Mineral Proceeding No.2 of 1965 has been denied and it has been stated that the final result of the case was communicated to the petitioner by letter No.4447/M dated the 4th November, 1966 by the District Officer. It has been asserted that the impugned Act is valid, legal and constitutional.

17. The present writ application was admitted on the 15th April, 1971. The counter-affidavit on behalf of the State was filed on the 6th July, 1971. An affidavit in reply on behalf of the petitioner to the counter-affidavit of the State was filed on the 13th September, 1971. In the affidavit in reply filed on behalf of the petitioner to the counter-affidavit filed on behalf of the State some of the facts stated in the counter-affidavit have been disputed. A supplementary affidavit was filed on behalf of the petitioner on the 27th October, 1971, in which new facts were pleaded and alleged. It was stated in the supplementary affidavit that Raja Satrugan Deo Dhabal Deb, the then proprietor of Dhalbhum Estate, the predecessor-in-interest of Jagadish Chandra Deo Dhabal Deb, had, on the 27th Pous 1306 B.S. (corresponding to 10th January, 1900), granted a permanent mokarrari lease to Prince Mohammad Bakhtiyar Shah by a registered patta and qabuliyat of more than 1100 square miles constituting Pargana Dhalbhum, and granted him right "to prospect and raise gold, silver, copper, lead, zinc, iron, mercury, mica, sulphur, copper sulphate, coal, chalk, red earth, elamati, slate stone and all kinds of precious stones, such as, diamond, ruby, emerald, topaz and crystals etc. lying on the surface and subsoil of the aforesaid Pargana". From that lease, stones for utensils or stone lime and ghutting etc. for building were specifically excepted. The said Prince Mohammad Bakhtiyar Shah and his heir, Mohammad Kamgarh Shah, granted sub-leases in respect of several minerals in that area to several sub-lessees. It has been further stated that the said sub-lessees are working the mines and excavating minerals, both major and minor, in the said area by virtue of their sub-leases under the original lease, except building and like minerals. It has been said that the position of the sub-lessees under the aforesaid mokarrari lease in favour of the Prince had been settled by a decree of the Additional Subordinate Judge, Chaibassa dated the 4th June, 1946, which was affirmed by this Court in First Appeal No.414 of 1946 (Pat). It is further said that this matter also formed the subject-matter of decision in First Appeal No.2 of 1947 decided on 24-9-1952 and the decision of this Court was affirmed by the Supreme Court in Civil Appeal No.81 of 1956 on the 21st April, 1960. It was concurrently held that the mineral rights to the building stones were not granted to the Prince and were reserved by the Raja. Paragraphs 12 and 13 of the supplementary affidavit are relevant and they read as follows:

"12. That by the lease of 1948 as modified in 1949 granted in favour of the petitioner the mineral rights in these areas of Perganah Dhalbhum could not be and had not been

granted to the petitioner except for what was reserved by the principal lessor in clause 16 of the said lease of 1900 namely building stones. Therefore the petitioner got only the residuary rights of the minerals for that area and its mining lease for about 1200 square miles was and must therefore be construed to be subject to the mineral rights of the entire, area granted to the said Prince and held by his heir and sub-lessees."

"13. That the petitioner can be liable only for dead rent for the area after deducting the liability of the Prince, his heirs and sub-lessees in respect of the same area."

18. The Supreme Court in Baij Nath Kedia's case (AIR 1970 SC 1436), held that the Bihar Legislature had no jurisdiction to enact the second proviso to Section 10(2) of the Bihar Land Reforms Act, because by the declaration in Section 2 and the enactment of Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957) the whole of the field relating to minor minerals came within the jurisdiction of Parliament. The Supreme Court further held that the second sub-rule added by notification dated the 10th December, 1964 to Rule 20 of the Bihar Minor Mineral Concession Rules, 1964 did not operate on leases in existence prior to the enactment of the Rules. As I have already stated, the Parliament enacted the impugned Validation Act of 1969 with a view to obviate the difficulty which resulted on the decision of the Supreme Court in Baij Nath Kedia's case, AIR 1970 SC 1436. The preamble of the impugned Act reads thus:

"An Act to validate certain provisions contained in the Bihar Land Reforms Act, 1950, and the Bihar Minor Mineral Concession Rules, 1964, and action taken and things done in connection therewith."

The Act consists of only two sections. In Section 1, the title of the Act is given. Section 2 of the Act reads thus:

"2. Validation of certain Bihar State laws and action taken and things done connected therewith.

(1) The laws specified in the Schedule shall be, and shall be deemed always to have been, as valid as if the provisions contained therein had been enacted by Parliament.

(2) Notwithstanding any judgment, decree or order of any court, all actions taken, things done, rules made, notifications issued or purported to have been taken, done, made or issued and rents or royalties realized under any such laws shall be deemed to have been validly taken, done, made, issued or realized, as the case may be, as if this section had been in force at all material times when such action was taken, things were done, rules were made, notifications were issued, or rents or royalties were realized, and no suit or other proceeding shall be maintained or continued in any court for the refund of rents or royalties realized under any such laws.

(3) For the removal of doubts, it is hereby declared that nothing in sub-section (2) shall be construed as preventing any person from claiming refund of any rents or royalties paid by him in excess of the amount due from him under any such laws."

19. In the Schedule, Section 10 of the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950), as amended by the Bihar Land Reforms (Amendment) Act, 1964 (Bihar Act 4 of 1965) and by the Bihar Land Reforms (Amendment) Act, 1965 (Bihar Act 6 of 1965), and two other sections, namely, Sections 10-A and 31, of the Bihar Land Reforms Act, 1950, as amended by the various amending Acts, are mentioned. Sub-rule (2) of Rule 20 of the Bihar Minor Mineral Concession Rules, 1964, as inserted by the Bihar Minor Mineral Concession (First Amendment) Rules, 1964, published under the Bihar Government Notification No.A/MM-1099/64 (pt.) 7700/M, dated the 19th December, 1964, in the Gazette of Bihar (Pt.II), dated the 30th December, 1964 is also mentioned therein.

20. The main contention which has been raised by Mr. B.C. Ghose, learned counsel appearing for the petitioner, is that the impugned Act was beyond the legislative competence of Parliament and as such it is void. According to him, Parliament was competent to make a law of its own, but it could not validate a State law which the State Legislature was not competent to enact, because the effect of such validation would be to confer legislative competence on the State Legislature in regard to a field outside its jurisdiction. He urged that Parliament can validate executive action by providing legislative coverage to it by either enacting a fresh law or inserting amendments to an existing State law and making them retrospective; but it cannot declare that an invalid law of the State Legislature would be valid.

21. Mr. Ghose developed his argument in this way. He contended that the Supreme Court in Baij Nath Kedia's case, AIR 1970 SC 1436 having held that the Bihar Legislature had no jurisdiction to enact the second proviso to Section 10(2) of the Bihar Land Reforms Act, 1950, because it did not have the legislative competence to deal with the topic covered by it, Parliament could not validate such a law. The effect of such attempted validation, in substance, would be to confer legislative competence on the State Legislature in regard to a field which is outside its jurisdiction. Learned Advocate-General, appearing on behalf of the State, however, submitted that the impugned Act, in substance, makes a legislation by reference adopting the laws set out in the Schedule as laws made by itself. The Act does not purport to declare the Bihar legislation as valid ab initio by its own force, but gives it validity on the footing that the provisions of that legislation were enacted by Parliament. Thus, according to the submission made by the learned Advocate-General, the impugned Act is, in substance, a re-enactment by Parliament. Alternatively, he contended that, even if the impugned Parliamentary Act be held to give validity to the invalid provisions without re-enacting them, in so far as Rule 20(2) of the Bihar Minor Mineral Concession Rules, 1964 is concerned, there is no constitutional obstacle in validating it, because the power to legislate in regard to minor minerals being vested in Parliament, it had the power to cure the invalidity of any rule made by its delegate, the State of Bihar.

22. There can be no dispute on the question that Parliament, by making a law, cannot confer legislative competence on the State Legislature where the topic is not included within the legislative competence of the State Legislature. The question, therefore, which falls for consideration is, whether, on a fair and reasonable construction of Section 2 of the impugned Act, the argument of Mr. Ghose that it purports simply to validate invalid State laws and rules is justified. In the instant case, we are concerned only with the question regarding the validity of the provisions as were contained in the proviso to Section 10(2) of the Bihar Land Reforms Act and the validity of the provisions of the amended Rule 20(2) of the Bihar Minor Mineral Concession Rules, 1964. It is not disputed that Parliament was quite competent to make a law in regard to

minor minerals with retrospective effect, similar in terms of the proviso to Section 10(2) of the Bihar Land Reforms Act. The expression "The laws specified in the Schedule shall be, and shall be deemed always to have been, as valid as if the provisions contained therein had been enacted by Parliament" used in sub-section (i) of Section 2 of the impugned Act, being defective in phraseology, if read in isolation, is susceptible to the argument raised by Mr. Ghose. The reading of the entire Section 2, however, shows that Parliament was conscious of the position that the laws, including the second proviso to Section 10(2) of the Bihar Land Reforms Act, were invalid, because the Bihar Legislature did not possess the legislative competence to enact those laws. It further shows that Parliament was equally conscious of the position that it was fully competent to make a law on the subject-matter of the invalid laws made by the State Legislature. Parliament, instead of making elaborate provisions in respect of the matters covered by the invalid State law, including the law with regard to minor minerals, as contained in the proviso to sub-section (2) of Section 10 of the Bihar Land Reforms Act, thought it convenient to make a compendious provision as is contained in Section 2 of the impugned Act. In substance, Section 2 of the impugned Act declared, that the material provisions of the State Acts as well as the provisions of rules made thereunder, notifications issued, rents and royalties realised shall be deemed to have been validly made, issued or realised at all material times under the impugned Act. The authority under which the rents or royalties would be deemed to have been validly recovered would be the authority of Parliament inasmuch as all the relevant sections, notifications, orders and rules have, in clear terms, been adopted by the impugned Parliamentary statute itself. Mr. Ghose, therefore, is not correct in his submission that Parliament has simply validated the State laws which the State Legislature was not competent to enact. On the contrary, on a reasonable construction of Section 2 of the impugned Act, it is clear that Parliament made the legislation itself by reference adopting the laws set out in the Schedule.

23. In the case of *Jaora Sugar Mills (P.) Ltd. v. State of Madhya Pradesh*³, a similar question was raised and the constitutional validity of Sugarcane Cess (Validation) Act, 1961 was impugned. That Act purported to validate the imposition and collection of taxes on sugarcane under ten different Acts passed by the Legislatures of different States. Section 3 of that Act was the main validating section, the material portion of which ran thus:

"3(1). Notwithstanding any judgment, decree or order of any Court, all cesses imposed, assessed or collected or purporting to have been, imposed, assessed or collected under any State Act before the commencement of this Act shall be deemed to have been validly imposed, assessed or collected in accordance with law, as if the provisions of the State Acts and of all notifications, orders and rules issued or made thereunder, in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force at all material times when such cess was imposed, assessed or collected, and accordingly,....".

It was contended in that case that the Act had attempted to cure the legislative incompetence of the State Legislatures by validating Acts which were invalid on the ground of absence of legislative competence in the respective State Legislatures. Their Lordships of the Supreme Court accepted the proposition that parliament cannot validate an Act passed by a State Legislature which has been held to be invalid on the ground that the State Legislature did not

have the legislative competence to deal with the topic covered by it, and observed as follows:

"... If it is shown that the impugned Act purports to do nothing more than validate the invalid State statutes, then of course, such a validating Act would be outside the legislative competence of Parliament itself. Where a topic is not included within the relevant List dealing with the legislative competence of the State Legislatures, Parliament, by making a law, cannot attempt to confer such legislative competence on the State Legislatures."

Their Lordships of the Supreme Court, however, on construction of Section 3 of the said Act, negated the contention that the said Act had simply attempted to cure the legislative incompetence of the State Legislatures by validating the Acts which were invalid on the ground of absence of legislative competence in the respective State Legislatures, and made the following observation:-

"..... What Parliament has done by enacting the said section is not to validate the invalid State Statutes, but to make a law concerning the cess covered by the said Statutes and to provide that the said law shall come into operation retrospectively. There is a radical difference between the two positions. Where the Legislature wants to validate an earlier Act which has been declared to be invalid for one reason or another, it proceeds to remove the infirmity from the said Act and validates its provisions which are free from any infirmity. That is not what Parliament has done in enacting the present Act. Parliament knew that the relevant State Acts were invalid, because the State Legislatures did not possess legislative competence to enact them. Parliament also knew that it was fully competent to make an Act in respect of the subject-matter covered by the said invalid State Statutes. Parliament, however, decided that rather than make elaborate and long provisions in respect of the recovery of cess, it would be more convenient to make a compendious provision such as is contained in Section 3. The plain meaning of Section 3 is that the material and relevant provisions of notifications, orders and rules issued or made thereunder are included in Section 3 and shall be deemed to have been included at all material times in it. In other words, what Section 3 provides is that by its order and force, the respective cesses will be deemed to have been recovered because the provisions in relation to the recovery of the said cesses have been incorporated in the Act itself. The command under which the cesses would be deemed to have been recovered would, therefore, be the command of Parliament, because all the relevant sections, notifications, orders and rules have been adopted by the Parliamentary Statutes itself.

24. Mr. Ghose attempted to distinguish that case from the case in hand, because the wordings of Section 3(1) of the Sugarcane Cess (Validation) Act, 1961 are not exactly similar to the wordings used in sub-section (2) of Section 2 of the impugned Act. In my opinion, the difference in the wordings used in the two Acts does not make the Supreme Court case distinguishable from the instant case. We have to consider the substance of the enactment to find out whether the Act was

enacted by Parliament with a view to validate an invalid Act of the State Legislature, or whether the Parliament has itself made a law concerning the topic covered by the State law which the State Legislature was incompetent to enact. On the construction which I have put to Section 2 of the impugned Act, it is not possible to hold that the impugned Act was enacted by Parliament to validate an invalid Act the State Legislature.

25. Mr. Ghose next submitted that the words "this section" occurring in sub-section (2) mean the entire Section 2, and not sub-section (2) of Section 2 only, so that, unless the validity of sub-section (1) is upheld, the provisions of sub-section (2) cannot be sustained on its own. In my opinion, the provisions of both the sub-sections have to be read together in order to find out as to what was the real intention of Parliament and purport of the legislation. Reading the provisions of the two sub-sections together, I have no doubt in my mind that Parliament did not simply validate invalid laws passed by the Bihar Legislature, but it re-enacted them with retrospective effect.

26. Mr. Ghose in the course of his arguments, referred to the decision of the Supreme Court in *Jawaharmal v. State of Rajasthan*⁴, and relied on certain observations made in that case. In that case, the validity of Sections 2 and 4 of the Rajasthan Passengers and Goods Taxation (Amendment and Validation) Act (22 of 1964) was impugned. One of the points which arose for consideration in that case was, whether an Act which suffers from the infirmity that it does not comply with the requirements of Article 255 of the Constitution can be validated by a subsequent legislation. While

dealing with that question, their Lordships of the Supreme Court observed as under:-

"..... There are two answers to this question. Article 255 provides, inter alia, that no Act of the Legislature of a State and no provision in any such Act shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to the Act was given by the President later. The position with regard to the laws to which Article 255 applies, therefore, is that if the assent in question is given even after the Act is passed, it serves to cure the infirmity arising from the initial non-compliance with its provisions. In other words, if an Act is passed without obtaining the previous assent of the President, it does not become void by reason of the said infirmity; it may be said to be unenforceable until the assent is secured. Assuming that such a law is otherwise valid, its validity cannot be challenged only on the ground that the assent of the President was not obtained earlier as required by the other relevant provisions of the Constitution. The said infirmity is cured by the subsequent assent and the law becomes enforceable. It is unnecessary for the purpose of the present proceedings to consider when such a law becomes enforceable, whether subsequent assent makes it enforceable from the date when the said law purported to come into force, or whether it becomes enforceable from the date of its subsequent assent. Besides, it is plain that the Legislature may, in a suitable case, adopt the course of passing a subsequent law re-introducing the provisions of the earlier law which had not received the assent of the President, and obtaining his assent thereto as prescribed by the Constitution. We see no substance in the argument that an Act which has not complied with the provisions of Article 255, cannot

be validated by subsequent legislation even where such subsequent Act complies with Article 255 and obtains the requisite assent of the President as prescribed by the Constitution. Whether the infirmity in the Act which has failed to comply with the provisions of Article 255 should be cured by obtaining the subsequent assent of the President or by passing a subsequent Act re-enacting the provisions of the earlier law and securing the assent of the President to such Act, is a matter which the Legislature can decide in the circumstances of a given case. Legally, there is no bar to the legislature adopting either of the said two courses."

27. While specifically dealing with the question regarding the validity of Section 4 of that Act, their Lordships observed:-

"..... What Section 4 in truth and in substance says is that the failure to comply with the requirements of Article 255 will not invalidate the Finance Acts in question and will not invalidate any action taken, or to be taken, under their respective relevant provisions. In other words, the Legislature seems to say by Section 4 that even though Article 255 may not have been complied with by the earlier Finance Acts, it is competent to pass Section 4 whereby it will prescribe that the failure to comply with Article 255 does not really matter, and the assent of the President to the Act amounts to this that the President also agrees that the Legislature is empowered to say that the infirmity resulting from the non-compliance with Article 255 does not matter. In our opinion, the Legislature is incompetent to declare that the failure to comply with Article 255 is of no consequence; and, with respect, the assent of the President to such declaration also does not serve the purpose which subsequent assent by the President can serve under Article 255....."

They further said:-

".....we have tried to read Section 4 as favourably as we can while appreciating the argument of the learned Advocate-General; but the words used in all the three parts of Section 4 are clear and unambiguous; they indicate that the Legislature thought that it was competent to it to cure, by its own legislative process, the infirmity resulting from the non-compliance with Article 255 when it passed the earlier Finance Acts in question, and it was probably advised that such a legislative declaration would be valid and effective provided it received the assent of the President. In our opinion, the approach adopted by the Legislature in this case is entirely misconceived. The Legislature, no doubt, can validate an earlier Act which is invalid by reason of non-compliance with Article 255 and such an Act may receive the assent of the President which will make the Act effective. The Legislature cannot, however, itself declare by a statutory provision that the failure to comply with Article 255 can be cured by its own enactment, even if the said enactment received the assent of the President. In our opinion, even the assent of the President cannot alter the true constitutional position under Article 255. The assent of the President cannot, by any legislative process, be deemed to have been given to an earlier Act at a

time when in fact it was not so given. In this context there is no scope for a retrospective deeming provision in regard to the assent of the President. It is somewhat unfortunate that the casual drafting of Section 2 leaves the period covered by Act 11 of 1962 and the notification issued thereunder as unenforceable as before, and the omnibus and general provisions of Section 4 are of no help in regard to the said period."

In my opinion, the question for consideration before their Lordships of the Supreme Court in that case was quite different, and the observations made in that case, which I have quoted above, do not in any way support the contention of Mr. Ghose. In that case, the validating law merely declared that the original invalid legislation was valid in spite of the contravention of Article 255 of the Constitution. In the instant case, Parliament has not sought to declare that the failure to comply with the requirements of Article 255 of the Constitution is of no consequence. The decision in that case, therefore, is not at all relevant for the present purpose.

28. Mr. Ghose submitted that incorporation by reference of Acts validly enacted has been accepted (though not without disapproval) by Courts both in England and America, but there has been no instance of incorporation by reference of invalid laws. He made a reference to Craies on Statute Law, 6th Edn., page 30, and Crawford on Construction of Statutes, 1940 edition, page 439. He also referred to one or two American decisions. Learned Counsel, however, could not cite any authority for the proposition that incorporation by reference of invalid laws is not permissible. On the contrary, in view of the decision of the Supreme Court in Jaora Sugar Mills (P.) Ltd., AIR 1966 SC 416, it must be held that there is no legal bar to incorporation by reference of provisions of invalid laws.

29. Now I proceed to briefly deal with the alternative argument raised by learned Advocate-General. Mr. Sinha submitted that the object and effect of the amendment of Section 10 of the Bihar Land Reforms Act as well as the amendment of Rule 20(2) of the Bihar Minor Mineral Concession Rules, 1964, being identical, namely, to make the existing rates of royalty applicable to leases which were executed before the original rule came into operation, including statutory leases created by Section 10 of the Bihar Land Reforms Act, even if the provisions of one of them be held to be valid, the question of the validity of the provisions of the other is merely academic. That being the position, learned Counsel contended, even if the extreme argument advanced on behalf of the petitioner, that the impugned Parliamentary Act merely gives validity to the invalid laws without re-enacting them, be accepted as correct, so far as Rule 20(2) of the Bihar Minor Mineral Concession Rules, 1964 is concerned, there is no constitutional obstacle in validating it. Learned Advocate-General developed his argument in this way. The Supreme Court in Baijnath Kedia's case, AIR 1970 SC 1436, held that Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 delegated Parliament's power of legislation in regard to minor minerals to State Govt., but that power did not include the power to make the provisions of the rules retrospectively applicable to leases created before the making of the rules. Thus, the second sub-rule or rule 20 of the Bihar Minor Mineral Concession Rules was held to be bad, because it lacked Parliamentary sanction, and not because it lacked constitutional sanction. The power to legislate with regard to minor minerals being vested in Parliament, it had the power to cure the invalidity of any rule made by its delegate, the State of Bihar, by giving its sanction. This power of validation in Parliament must be regarded as subsidiary or ancillary to the power of legislating on the subject of minor minerals. In support of his contention, learned Advocate-

General relied off two decisions of the Federal Court, in United Provinces Mst. Atiqa Begum, 1940 FCR 110 and *Piare Dusadh v. King Emperor*⁵, and one decision of the Supreme Court, in *Mt. Jadao Bahuji v. Municipal Committee of Khandwa*⁶, In the case of the United Provinces, 1940 FCR 110, it was observed by Gwyer, C.J., as follows:-

"..... The validation of doubtful executive acts is not so unusual or extraordinary a thing that little surprise would be felt if Parliament had overlooked it and it would take a great deal to persuade me that legislative power for the purpose has been denied to every Legislature, including the Central or Federal Legislature, in India. It is true that 'Validation of executive orders' or any entry even remotely analogous to it is not to be found in any of the three Lists; but I am clear that legislation for that purpose must necessarily be regarded as subsidiary or ancillary to the power of legislating on the particular subjects in respect of which the executive orders may have been issued."

In the case of *Piare Dusadh*, 1944 FCR 110, Spens, C.J. quoted with approval the observation made in the United Provinces that the power of validation must be taken to be ancillary or subsidiary to the power to deal with the particular subject specified in the List. In the Supreme Court case, referred to above, the validity of the Khandwa Municipality (Validation of Taxes) Act, 1941, which had been enacted by the Governor, with the assent of the Governor-General, was challenged on the ground that the Act was ultra vires the Provincial Legislature. Learned Advocate-General relied on the following observation made in paragraph 10 of the judgment:

"(10) Retrospective legislation being thus open to the Provincial Legislatures, the Act of the Governor had the same force. Retrospective laws, it has been held, can validate an Act, which contains some defect in the enactment. Examples of Validating Acts, which rendered inoperative decrees or orders of the Court or alternatively made them valid and effective, are many. In *Atiqa Begum's* case, 1940 FCR 110, the power of validating defective laws was held to be ancillary and subsidiary to the powers conferred by the Entries and to be included in those powers. Later, the Federal Court in (1943) 6 FLJ (FC) 187, considered the matter fully, and held that the powers of the Governor-General which were conterminous with those of the Central Legislature included the power of validation. The same can be said of the Provincial Legislatures and also of the Governor acting as a Legislature."

These three decisions cited by the learned Advocate-General fully support his contention.

30. Mr. Ghose, however, submitted that, in absence of a legislative provision like Section 16 of the Mines and Minerals (Regulation and Development) Act, 1957, a mere rule like Rule 20(2) is not sufficient to alter the terms of the existing leases and for a rule like Rule 20(2) to be operative in regard to the existing leases there must be a provision of law enabling the alteration or terms of the existing leases. Therefore, mere validation of Rule 20 would not make it operative unless the second proviso to Section 10 of the Bihar Land Reforms Act is held to be validly enacted. In

support of this contention, Mr. Ghose relied on the following observation made in Baijnath Kedia's case, AIR 1970 SC 1436:-

"..... Although Section 16 applies to minor minerals it only permits modification of mining leases granted before October 25, 1949. In regard to leases of minor minerals executed between this date and December, 1964 when Rule 20(1) was enacted, there is no provision of law which enables the terms of existing leases to be altered. A mere rule is not sufficient."

I do not consider it necessary to further deal with the alternative argument raised by learned Advocate-General as I have rejected the main contention of Mr. Ghose.

31. Learned Advocate-General further raised the contention that, on the principle that "to validate is to confirm or ratify", even the validation of the amendment in Section 10 of the Bihar Land Reforms Act must be held to be valid. In support of this contention, he relied on two or three decisions of the Supreme Court. It is not necessary to deal with this contention in view of my decision on the main question. Mr. Ashwini Kumar Sinha, appearing for the Union of India, adopted the argument of learned Advocate-General on the constitutional validity of the impugned Act.

32. Apart from challenging the constitutional validity of Act 42 of 1969, Mr. Ghose raised the following contentions:

(i) Areas covered by cities, towns, villages, big industries and major minerals of various values cannot be subjected to dead rent for minor minerals only, and, as such, the demand by the State Government for dead rent in respect of the entire area of Dhalbhum Pergana is absurd and highly unjustified.

(ii) Two mining leases having been executed in Pergana Dhalbhum for building stones on the 10th January, 1900 and the 3rd October, 1937 as held by this Court and the Supreme Court in Mohamed Kamgarh Shah's case, (AIR 1960 SC 953), and by this Court in Indu Bhusan's case, First Appeal No.458 of 1968, prior to the execution of the leases in favour of the petitioner on the 6th December, 1948 and the 14th December, 1949, the Raja had no right to grant any lease in respect of the property already leased out, and, as such, the petitioner cannot be asked to pay dead rent for minor minerals in respect of the entire area of Dhalbhum Pergana.

(iii) Schedule I of the Bihar Rules provides that the dead rent for all types of minor minerals shall be Rs.125/- per hectare, and, as such, the liability is cumulative.

(iv) Whereas under Rule 70 of the Mineral Concession Rules, 1960 (Central), sand used for any of the purposes specified in the Rule is not to be treated as minor mineral and is liable to a maximum dead rent of Rs.20/- per hectare and coal, iron etc. of Rs.12.50 paise per hectare, under the Bihar Rules sand used as minor mineral and other minor minerals mostly used for building works and road making has been made liable to pay dead rent of Rs.120/-per hectare; such a levy of high rate of dead rent cannot have any relation with

royalty whose standard rate could be easily available from the Mineral Concession Rules, 1960 (Central); the levy is, therefore, not warranted by law.

(v) There could not be default and cancellation of the lease on the ground of default unless the liability is fixed.

(vi) The certificate proceeding is also invalid and without jurisdiction because liability has not been fixed.

(vii) The action of the State Government in cancelling the lease is illegal because there is no longer a contractual lease, but a statutory lease.

33. The first three contentions raised by learned Counsel for the petitioner may be disposed of together. The question as to what is the area in actual possession of the petitioner for mining purposes and the question as to what is the actual liability of the petitioner to pay dead rent for the area in its possession are pure questions of fact which cannot be determined in a writ proceeding. From the facts as disclosed in the writ application and the counter-affidavit, it is clear that the petitioner non-co-operated with the Government throughout. Although the Government asked the petitioner to supply a map of the area which was in its possession, the petitioner neither supplied the map nor did it disclose to the State Government the total area which it is holding under the lease. The State Government was, therefore, compelled to ask the petitioner to pay dead rent in respect of the entire area covered by the document of lease. As it appears from the counter-affidavit filed on behalf of the State, the petitioner has already filed objection under Section 9 of the Bihar and Orissa Public Demands Recovery Act before the Certificate-Officer denying its liability. As provided under Section 10 of that Act, the Certificate-Officer shall have to determine whether the petitioner is liable for the whole or any part of the amount for which the certificate was signed and, if necessary, he can take evidence. The petitioner can, therefore, agitate before the Certificate-Officer that it is not in possession of the entire area of Dhalbhum Pergana and not liable to pay dead rent in respect thereof. If the Certificate-Officer overrules the objection of the petitioner, the petitioner can file an appeal to the appellate authority under Section 60 of that Act and, if necessary, after the appellate order, a revision under Section 62 of that Act. The petitioner can also file a suit in the Civil Courts for cancellation of the certificate on the ground that no part of the amount stated in the certificate was due by the certificate-debtor to the certificate-holder. This Court, however, on the scanty materials on record, cannot go into the questions of fact and determine the actual liability of the petitioner.

34. The fourth contention raised by Mr. Ghose regarding the rate of dead rent is not tenable. Merely because the rates of dead rent for sand when used for any of the purposes specified under Rule 70 of the Mineral Concession Rules, 1960 (Central) and the dead rent in respect of coal, iron etc. are lower than the dead rent fixed for minor minerals under the Bihar Rules, it cannot be held that the levy of high rate of rent is not warranted by an authority of law.

35. With regard to the fifth contention raised by Mr. Ghose, it was submitted by learned Advocate-General that there could be no dispute on the question that there was a default in the payment of dead rent by the petitioner, because, except for paying the royalty as fixed under the lease, the petitioner did not pay any rent for any area. The State Government was, therefore, justified in cancelling the lease in accordance with clause (xiii) of the lease dated the 6th December, 1948. In my opinion, the question whether the order of the Government cancelling

the lease of the petitioner is valid or not would depend upon the decision of the question whether there was default or not. Since this Court is not in a position, on the materials available on the record, to determine the primary question about default, it is not possible to give a decision on the question of validity or otherwise of the cancellation order. If the petitioner is able to show before the Certificate-Officer that it was not in default in respect of the dead rent, the cancellation order will certainly be illegal and open to challenge.

36. It is really difficult to appreciate the sixth contention raised by Mr. Ghose regarding the invalidity of the certificate proceeding. The certificate proceeding has been started against the petitioner on the basis of the alleged default in the payment of dead rent. The Government rightly or wrongly fixed the liability of the petitioner in respect of the dead rent and filed the certificate case. It cannot, therefore, be said that no liability was fixed in respect of the dead rent before the certificate case was filed. It is for the petitioner to show before the Certificate-Officer that it has no liability to pay dead rent, or the liability fixed by the Government is not correct. The certificate proceeding cannot be held to be without jurisdiction simply because the liability of the demand is in dispute.

37. Now I proceed to consider the last contention raised by Mr. Ghose. According to Mr. Ghose, the action of the Government in cancelling the lease on the basis of clause (xiii) of the lease is invalid, because the lease is no longer a contractual one, but a statutory one. Mr. Ghose, however, could not point out any provision of the Statute which was not followed or which was violated by the order of the cancellation of the lease. He simply referred to a decision of the Supreme Court in the *Bihar Mines Ltd. v. Union of India*⁷. In my opinion, unless it is shown that any provision of law was violated by the order of cancellation of the lease, the order cannot be held to be invalid on the ground that the lease is no longer a contractual lease, but a statutory lease.

38. Having dealt with and considered all the contentions raised by Mr. Ghose in support of this writ application, I am of the view that no relief can be given to the petitioner in this writ application. The application is, accordingly, dismissed; but in the circumstances, there will be no order as to costs.

Akbar Husain, J.

39. I agree.

Application dismissed.

Cases Referred.

¹(1968 BLJR 336)

²(AIR 1968 Pat 50)

³(AIR 1966 SC 416)

⁴ AIR 1966 SC 764

⁵1944 FCR 61

⁶ AIR 1961 SC 1486

⁷ AIR 1967 SC 887