IN THE HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE MR. JUSTICE ALOK ARADHE , THE HON'BLE MR. JUSTICE ANIL KUMAR JUKANTI

WP NO. 34708 OF 2012 & WP NO. 36673 OF 2012 & WP NO. 39793 OF 2012 & WP NO. 5397 OF 2016

27.03.2024

Nuziveedu Seeds Limited and others, rep. by its Consultant Mr. S. Sartaj Mohammed Khan

... Petitioner

v.

Government of Andhra Pradesh, rep. by its Principal Secretary, Hyderabad, and others

... Respondent

Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Rules, 2007 — Constitutional validity/challenge — District Level Committee empowered to determine compensation for defective seeds — Petitioners alleged breach of separation of powers, contending adjudicatory function improperly conferred on an executive body and exclusion of seed manufacturers was arbitrary and discriminatory — Claimed violation of Article 14 — Held, conferring compensation assessment on Committee does not infringe core judicial functions — No breach of separation of powers or discriminatory treatment — Provisions valid — Petitions dismissed without costs.

Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2007 — Legislative competence — District Level Committee to grant compensation for defective seeds — Challenge on grounds of separation of powers and exclusion of seed manufacturers — Mechanism ensures timely resolution for 120-day cotton crop — Held, no violation of core judicial function or Article 14 — No infringement of due process — Petitions dismissed without costs.

Works of Defence Act, 1903 — Assessment of compensation by administrative bodies — §. 9 empowers Collector to deal with claims for compensation in respect of land affected by declarations under §. 3 — Similar provisions in other enactments indicate that executive authorities may assess compensation — No violation of judicial power or separation of powers — Petitions dismissed.

Manoeuvres, Field Firing and Artillery Practice Act, 1938 — Collector's power to assess compensation — Act entrusts administrative authority to determine compensation for damage or interference with rights arising from military manoeuvres — Delegation to an executive body does not infringe separation of powers — No constitutional invalidity found.

Seaward Artillery Practice Act, 1949 — Payment of compensation for damage from seaward artillery practice — Collector empowered under §. 6

to assess damage and deputize revenue officers — Recognized as an administrative or executive function — No violation of separation of powers — Statutory practice of entrusting compensation determination to executive upheld.

FACTS. The petitioners, seed companies engaged in research, development, and sale of seeds, challenged provisions of the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2007 and the associated Rules. They argued that the Act's price-fixing measures and the District Level Committee's authority to grant compensation for alleged seed defects affected their business interests and potentially violated constitutional principles. The District Level Committees, established by the State Government and led by the District Collector, investigated farmers' complaints about poor germination, pest susceptibility, or genetic impurity and awarded compensation. The petitioners sought relief from this Court to overturn the compensatory orders and questioned whether such an executive mechanism lawfully exercised adjudicatory powers. The State defended its legislation and emphasized protecting farmers, ensuring equitable seed pricing, and preventing inferior seed supply.

PRAYER. The petitioners in these writ petitions have assailed the validity of Section 5(1)(b) and Section 7 of the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2007 as well as the Rules 27, 28 and 29 of the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Rules, 2007 on the ground that the same are unconstitutional. The petitioners, in addition, have assailed the validity of the Order dated 03.10.2012 passed by the Chairman, District Level Committee granting compensation in favour of the farmers.

ISSUES OF LAW.

Whether the State legislature can regulate and fix cotton seed sale prices; whether conferring adjudicatory power to a District Level Committee violates separation of powers; whether the 2007 Act and its rules are arbitrary or discriminatory by excluding seed manufacturers' representation; whether granting compensation under the 2007 Act infringes due process or Article 14; whether a District Level Committee can lawfully exercise judicial or quasi-judicial authority.

SUMMARY. The petitioners, who manufacture and market cotton seeds, sought to invalidate legislation empowering a District Level Committee to award compensation to farmers for alleged seed defects. They argued that the statute and rules unconstitutionally entrusted judicial functions to an executive body, excluded seed manufacturers' representation, and violated separation of powers and equal protection. The State contended that the statute offered necessary protection to small and marginal farmers through timely, expert-led resolution of complaints. The court found no infringement of core judicial functions and held that delegating compensation assessment to the Committee was valid. The petitions were dismissed without costs.

HELD. The court dismissed the petitions, holding that the provisions do not breach

separation of powers and lawfully empower the District Level Committee to determine compensation. The petitions lacked merit and were dismissed without costs, and all pending applications were closed.

FINAL STATUS. Dismissed.

CASES REFERRED

A.K.Behera vs. Union of India [(2010) 11 SCC 322]
Associated Cement Companies Limited vs P.N.Sharma [1964 SCC OnLine SC 62 : AIR 1965 SC 1595]
Attorney-General for Australia vs Queen and the Boilermakers' Society of Australia [1957 AC 288]
Directorate of Enforcement, rep. by its Assistant Director vs. Karvy India Realty Limited [(2024 SCC OnLine TS 18)]
Durga Shankar Mehta vs Thakur Raghuraj Singh [(1955) 1 SCR 267]
Pareena Swarup vs. Union of India [(2008) 14 SCC 107]
State of Gujarat vs. Utility Users’ Welfare Association [(2018) 6 SCC 21]
Union of India vs. Madras Bar Association [(2010) 11 SCC 1]
Waterside Workers' Federation of Australia vs Alexander (J.W.) Ltd. [(1918) 25 CLR 434]

COUNSELS

Mr. S.Niranjan Reddy (for Petitioners)
Mr. Mohammed Imran Khan (for respondents)

Judgment Pronounced on 27.03.2024

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

+ WRIT PETITION Nos. 34708, 36673 AND 39793 OF 2012 AND 5397 OF 2016

% Date: 27.03.2024

Nuziveedu Seeds Limited, rep by its Consultant Mr. S.Sartaj Mohammed Khan and others

... Petitioners

v.

$ Government of Andhra Pradesh, rep by its Principal Secretary, Hyderabad, and others

... Respondents

! Counsel for the Petitioners : Mr. S.Niranjan Reddy, Learned Senior Counsel

^ Counsel for the respondents : Mr. Mohammed Imran Khan Learned Additional Advocate General for the State

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➢ HEAD NOTE**:**

? CASES REFERRED:

1. (2008) 14 SCC 107
2. (2010) 11 SCC 1
3. (2010) 11 SCC 322
4. (2018) 6 SCC 21
5. 2024 SCC OnLine TS 18
6. 1964 SCC OnLine SC 62 : AIR 1965 SC 1595

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THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION Nos.34708, 36673 AND 39793 OF 2012 AND 5397 OF 2016

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

The petitioners are the companies incorporated under the provisions of the Companies Act, 1956 and are *inter alia* engaged in the business of research, development, production, marketing and sale of seeds. The petitioners in these writ petitions have assailed the validity of Section 5(1)(b) and Section 7 of the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2007 as well as the Rules 27, 28 and 29 of the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Rules, 2007 on the ground that the same are unconstitutional. The petitioners, in addition, have assailed the validity of the Order dated 03.10.2012 passed by the Chairman, District Level Committee granting compensation in favour of the farmers. In order to appreciate the grievance of the

petitioners, relevant facts need mention which are stated infra.

(i) **Relevant Statutory Provisions**:-

2. In the year 1955, the Parliament enacted Essential Commodities Act. The law relating to seeds is governed by the Seeds Act, 1966. The provisions of the Seeds Act, 1966 regulate the quality of seed in respect of notified varieties. Over the period of time, there has been a substantial change of pattern of agriculture particularly in usage of seed. Therefore, the provisions of the Act have been found to be inadequate for enforcement in respect of quality of cotton seed and regulation of trade of non-notified cotton varieties, research hybrid varieties etc., as a result the entire economy of farmers is affected. Seed was initially declared to be an essential commodity under the Essential Commodities Act, 1955. The Government of India in exercise of powers under Section 3 of the Essential Commodities Act, 1955 has issued Seeds (Control) Order, 1983.

3. The expression "cotton seed" was deleted by way of amendment w.e.f. 24.12.2006 from the Schedule of the Essential Commodities Act, 1955. The provisions of the Environment Protection Act, 1986, the Rules made thereunder and the Rules for Manufacture, Use/Import/ Export and Storage of Hazardous Micro Organisms/ Genetically Engineered Organism or Cells, 1989 deal with only biosafety aspects of transgenic cotton seed. The State Legislature noticed that traders who were dealing in cotton seed including transgenic cotton seeds have been resorting to dubious methods and exploitation of poor farmers, particularly in respect of scarce type of cotton seed. The said methods and exploitation of farmers led them into debt trap and sometimes suicides as well. It was further noticed by the State Legislature that multinational companies were taking undue advantage of their monopoly in respect of scarce type of cotton seed.

4. The State Legislature also noticed Article 39(b) of the Constitution of India which requires the State to make statutory prescription so as to make available the

commodities essential at the fair price. Therefore, in the interest of farming fraternity and in order to ensure free flow of supply, equal distribution and price of all cotton seeds including transgenic cotton seeds and to protect farmer economy, and to ensure that Cotton Seed Regulation law is in consonance with National Seed Policy, 2002, the State Legislature enacted the Act, namely Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2007 (hereinafter referred to as 'the 2007 Act').

5. The salient features of the Act are to constitute and appoint a Controller at the State level, to notify the Seed Testing Laboratories and to curtail the supply of spurious or inferior quality of seed. The Act also provides for evolving an efficient regulatory system which enables effective quality assurance, supply, distribution at fair price as well as punishment for violation of provisions of the Act. The Act contains a mechanism for providing adequate compensation to the farmers in the event of supply of inferior quality of cotton seed. The Act incorporates a

regulatory mechanism for regulation of trade of transgenic and genetically modified varieties by way of compulsory DNA finger printing tests or genetic purity test, mandatory registration of all types of cotton seed produced in the State or imported to the State.

6. Section 2 of the 2007 Act defines the expression 'Controller' to mean the Cotton Seed Controller appointed by the Government under Section 3 of the Act. Section 5(1)(b) of the Act empowers the Controller to grant compensation to the farmers. Section 7 of the Act deals with compensation to farmers which is extracted below for the facility of reference:

> "**7. Compensation to farmer** - (1) The producer or distributor or vendor of cotton seeds or whose address appears on the label shall as the case may be disclose the expected performance of such seed, under given condition to the Controller and if such seed fails to provide the expected performance under such given conditions, the Government or farmer may claim compensation in such manner as may be prescribed. In respect of transgenic seed all the conditions that are imposed by Genetic Engineering Approval Committee, has to be complied.

(2) In case the claim of expected performance found fictitious, the possessor of such cotton seed shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1).

(3) The compensation payable under sub-sections (1) and (2) shall be assessed and fixed by the Committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the Government as may be notified."

7. Under Section 20 of the aforesaid Act, the Rules, namely the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Rules, 2007 (hereinafter referred to as 'the 2007 Rules') have been framed. Part VI of the aforesaid Rules deals with compensation to farmers. Rule 27 prescribes the action to be taken by the Seed Inspector if a complaint is lodged with him, whereas Rule 28 prescribes the procedure for handling field complaints lodged by the farmers. Rule 29 prescribes for an Appeal to the Appellate Authority. Rules 27, 28 and 29 of the 2007 Rules read as under:

"**27. Action to be taken by the seed inspector if a complaint is lodged with him.** - (1) If farmer has lodged a complaint in writing in Form 'V' about the failure of cotton crop due to inferior quality of cotton seeds supplied to him, the Seed Inspector shall take in his

possession the marks or labels, the seed containers, the cash bill and a sample of cotton seeds to the extent possible from the complainant for establishing source of supply of seeds and shall investigate the cause of failure of crop by,-

(a) sending cotton seed samples of the lot to the Seed Analyst for detailed analysis;

(b) inspecting the complainant field and record the data in Form 'M';

(c) inform the District Level Committee for conducting a detailed investigation and for award of compensation.

28. Procedure for handling field complaints lodged by the farmers. - (a) Complaints related to poor germination, variety specific susceptibility to bollworm and other pests and diseases as claimed by the seed producer for transgenic varieties, genetic impurity, non-adaptability of cotton seed shall be reported in writing in Form 'L' to the Seed Inspectors.

(b) In case of poor germination, the complaint should reach the concerned Seed Inspector within ten days after sowing, for susceptibility to pests and diseases against the claims of seed producers the complaint should reach immediately after noticing the incidence, in case of genetic impurity the complaint should reach within 15 days from the date of 50% flowering or at appropriate stage and in case of non-adaptability, the complaint should reach at appropriate stage of crop.

(c) On receipt of the complaint, the Seed Inspector should inspect the complainant field and furnish the inspection report in Form 'M' (for germination complaints) or Form 'N' (for susceptibility to pests and disease) or Form 'O' (for complaints in respect of genetic impurity) or Form 'P' (for non-adaptability) to the Chairman, District level Committee constituted for the purpose.

A District Level Committee shall be constituted for assessment and evaluation of crop losses sustained by the farmer due to poor germination or susceptibility to pests and diseases or genetic impurity or non-adaptability of cotton seed, with the following members:-

Joint Director of Agriculture Convenor and Chairman of the Committee Scientist dealing with cotton crop Member Representative of the farmers Member
The representative of the seed producer and the complainant farmer are to be invited at the time of field inspection and also for hearings of the Committee

(d) The District Level Committee after examining the complaint and on the basis of field verification report of District Level Committee, shall decide the rate of compensation to the affected farmers after ascertaining the facts and finding the reasons attributed for inferiority in quality of cotton seed, as indicated below, and issue the compensation order to seed producer in Form 'Q'.

(i) The complaint related to poor germination shall be disposed off within two weeks from

date of receipt of the complaint and in case of susceptibility to pests and diseases, genetic impurity and non-adaptability cases, it shall not be more than thirty days from the date of receipt of the complaint,

(ii) If it is a case of germination failure due to defect in the seed and not case of poor soil condition, moisture stress and improper package of practises etc. the compensation shall be Rs. 350/- (Rupees three hundred and fifty) per acre towards cultivation charges besides replacement of seed at free of cost or cash payment equal to the cost of the seed. The compensation so awarded shall be paid to the affected farmers within seven days from the date of decision of the District Level Committee.

(iii) If it is a case of failure of required degree of resistance as per variety specific claim made by the seed producer, the compensation shall be paid based on additional expenditure incurred on plant protection measures and estimated crop losses due to failure of resistance to pests/ diseases. The compensation so awarded shall be paid to the affected farmers within thirty days from the date of decision of the District Level Committee.

(iv) If it is a case of genetic impurity or non-adaptability, compensation shall be paid not less than the cost difference in yield of

the crop in question and that normal yield of cotton crop in the locality. The compensation so awarded shall be paid to the affected farmers within thirty days from the date of decision of the District Level Committee.

(v) In case of delayed payment, 24 percent interest shall be levied and wherever no payment is made, penalty shall be imposed as decided by the Controller.

(vi) If any seed producer fails to comply with the award of the compensation as decided by the District Level Committee or the decision of the appellate authority, the registering authority after giving an opportunity of being heard shall suspend/cancel the certificate of registration granted for sale of cotton seed of such seed producer.

29. Appellate authority. - The aggrieved farmer or seed producer may appeal to the appellate authority designated for the purpose within thirty days from the date of receipt of the award of compensation, along with a fee of Rs. 100/- (Rupees one hundred) and the decision of the appellate authority shall be final in this matter."

(ii) **FACTS**:-

8. The State Government by an order dated 01.10.2011 constituted District Level Committees for deciding the complaints of the farmers. The composition of the District Level Committee is as under:

The District Collector	- Chairman
The District Jt. Director of Agriculture	- Member/Convenor
The District Horticultural Officer	- Member
The concerned crop Scientist (ANGRAU/APHU)	– Member
The Representative of farmers to be nominated by the District Collector	- Member
The Representative of Seed Growers at District Level to be nominated by the District Collector	- Member

9. On the basis of the complaints made by the farmers, the District Level Committee passed orders granting compensation to the farmers. In the aforesaid factual background, the petitioners have assailed the validity of the 2007 Act as well as the orders passed by the District Level Committee under the 2007 Act, granting compensation.

(iii) **Submissions on behalf of Petitioners**:-

10. Learned Senior Counsel for the petitioners submitted that the impugned provisions purport to breach the principles of separation of powers and give judicial powers of adjudication and assessment of compensation with regard to the determination of loss and payment of compensation to the executive body, which is a committee. It is further submitted that Rule 28 of the 2007 Rules is arbitrary and discriminatory, inasmuch as, despite the fact that every dispute will have two parties to it, the impugned Rule purports to include the representative of the farmers only, without including any corresponding representative of seed manufacturer industry. It is further submitted that the impugned provisions are violative of rule of law as well as Article 14, as payment of compensation is adjudicatory function, which has been left to the executive body. In support of the aforesaid submissions, reliance has been placed on the decisions of the Supreme Court in **Pareena Swarup vs. Union of India**[1], **Union of India vs. Madras**

[1] (2008) 14 SCC 107

Bar Association[2], A.K.Behera vs. Union of India[3] and **State of Gujarat vs. Utility Users' Welfare Association[4]**.

(iv) **Submissions on behalf of Respondents**:-

11. On the other hand, learned Additional Advocate General for respondents has submitted that the main object of the 2007 Act and the 2007 Rules is to protect the farmers against the failure of cotton crop due to inferior quality of cotton seeds. It is further submitted that the District Level Committee is constituted for assessment and evaluation of crop losses sustained by the farmers due to poor germination or susceptibility to the pests and diseases or genetic impurity. It is submitted that the representative of the seed manufacturer and the complainant farmer are to be invited at the time of field inspection and also at the time of hearing of the Committee. It is contended that under the 2007 Act, timelines are fixed for lodging the complaint and for disposal of the complaint. It is further contended that cotton is 120 day crop and therefore, the

[2] (2010) 11 SCC 1
[3] (2010) 11 SCC 322
[4] (2018) 6 SCC 21

farmer is entitled to get his complaint adjudicated within the time limit. It is also contended that the 2007 Rules apply only to cotton crop and not for any other crops as cotton is only rainfed commercial crop, which is cultivated by the small and marginal farmers, who constitute 80% of the total farmers. It is pointed out that the writ petitions suffer from non-joinder of necessary parties inasmuch as the farmers have not been impleaded in these writ petitions. Therefore, the issue of validity of the orders granting compensation in favour of the farmers cannot be examined in these writ petitions. In support of his submissions, learned Additional Advocate General has placed reliance on the decision of this Court in **Directorate of Enforcement, rep. by its Assistant Director vs. Karvy India Realty Limited**[5].

(v) **Rejoinder Submissions**:-

12. By way of rejoinder, learned Senior Counsel for the petitioners submitted that the petitioners shall confine their relief only to the *vires* of the 2007 Act and the 2007

[5] 2024 SCC OnLine TS 18

Rules and the presence of the farmers is not necessary to examine the issue of validity of the Act and the Rules. It is also submitted that technical input is one of the inputs for determination of the compensation and the Government can constitute Special Courts for expeditious disposal of the claims lodged by the farmers for compensation.

(vi) **ANALYSIS**:-

13. We have considered the submissions made on both sides and perused the record.

14. The modern day government which is a welfare State has undertaken many functions and regulates several activities. New laws are enacted to create statutory rights and obligations. A citizen may be at issue with regard to his rights and obligations with the administration or with another citizen or a body. The said disputes require adjudication. Therefore, under the Acts, the Rules and the Regulations framed by the Legislation, vast adjudicative paraphernalia has been created outside the court which can be designated as administrative adjudication. The expression 'administrative adjudication' is also indicative of

the fact that the executive which acquires deep knowledge and understanding due to continuous experience with the concerned activity, participates in the process of adjudication.

15. It is noteworthy that function of assessment of compensation has been entrusted to the administrative or executive bodies under several enactments. We may refer to few such statutory provisions. However, reference to such provisions is only illustrative, and not exhaustive. For instance, under Section 9 of the Works of Defence Act, 1903, the Collector is empowered to deal with claim for compensation in respect of land affected by a declaration, which may be issued under Section 3 of the Act. Under Manoeuvres, Field Firing and Artillery Practice Act, 1938, the Collector is empowered to assess compensation in respect of any damage to person or property or interference of rights or privileges arising from military manoeuvres. Another Act, namely, the Seaward Artillery Practice Act, 1949, provides that compensation shall be payable for any damage to person or property or interference with the

rights or privileges arising from Seaward Artillery practice. Section 6 of the aforesaid Act deals with the method of compensation. Section 6 empowers the Collector to depute revenue officers for assessment of compensation. Similarly, Section 27 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, empowers Collector to assess total compensation to be paid in respect of the land which is sought to be acquired under the Act. Thus, under several statutory provisions, the work of assessment of compensation has been entrusted to executive.

16. The issue whether the judicial power can be vested in any authority other than a Court has been examined by a Constitution Bench of Supreme Court in **Associated Cement Companies Limited vs. P.N.Sharma**[6]. The Supreme Court in the aforesaid decision dealt with the issue whether the State of Punjab, exercising the appellate jurisdiction under Rule 6(6) of Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952 is a

[6] 1964 SCC OnLine SC 62 : AIR 1965 SC 1595

Tribunal within the meaning of Article 136(1) of the Constitution of India and in paragraphs 9, 29, 30 and 44, held as under:

> "**9.** Tribunals which fall within the purview of Article 136(1) occupy a special position of their own under the scheme of our Constitution. Special matters and questions are entrusted to them for their decision and in that sense, they share with the courts one common characteristic; both the courts and the tribunals are "constituted by the State and are invested with judicial as distinguished from purely administrative or executive functions", (vide *Durga Shankar Mehta* v. *Thakur Raghuraj Singh* [(1955) 1 SCR 267 at p. 272]). They are both adjudicating bodies and they deal with and finally determine disputes between parties which are entrusted to their jurisdiction. The procedure followed by the courts is regularly prescribed and in discharging their functions and exercising their powers, the courts have to conform to that procedure. The procedure which the tribunals have to follow may not always be so strictly prescribed, but the approach adopted by both the courts and the tribunals is substantially the same, and there is no essential difference between the functions that they discharge. As in the case of courts, so in the case of tribunals, it is the State's inherent judicial power which has been transferred and by virtue of the said power, it is the State's inherent judicial function which they discharge. Judicial functions and judicial powers are one of the essential

attributes of a sovereign State, and on considerations of policy, the State transfers its judicial functions and powers mainly to the courts established by the Constitution; but that does not affect the competence of the State, by appropriate measures, to transfer a part of its judicial powers and functions to tribunals by entrusting to them the task of adjudicating upon special matters and disputes between parties. It is really not possible or even expedient to attempt to describe exhaustively the features which are common to the tribunals and the courts, and features which are distinct and separate. The basic and the fundamental feature which is common to both the courts and the tribunals is that they discharge judicial functions and exercise judicial powers which inherently vest in a sovereign State.

29. There is another point to which we would like to refer before we part with this topic. In the *Attorney-General for Australia* v. *Queen and the Boilermakers' Society of Australia* [1957 AC 288] an interesting question arose for the decision of the Court under Sections 29(1)(*b*) and (*c*) and 29-A of the Commonwealth Conciliation and Arbitration Act, 1904-1952. These provisions purported to vest judicial power — even to the extent of finding a citizen or depriving him of his liberty — in the Court of Conciliation and Arbitration established under the Act with powers of an administrative, arbitral and executive character. It was held that the said provisions were invalid, because the function of an industrial arbitrator is completely outside the realm of

judicial power and is of a different character. This decision also is based on the doctrine of rigid and strict separation of powers on which the Australian Constitution is based. Viscount Simonds, who delivered the judgment of their Lordships, has referred to the structure of the Australian Constitution and observed that in the matter of conferring judicial powers, it was not open to Parliament to turn from Chapter III to some other source of power (p. 313). Indeed, he cited with approval the observations made by Griffith, C.J. in *Waterside Workers' Federation of Australia* v. *Alexander (J.W.) Ltd.* [(1918) 25 CLR 434, 442] that it is impossible under the Constitution to confer such functions (i.e. judicial functions) upon anybody other than a court, nor can the difficulty be avoided by designating a body, which is not in its essential character a court, by that name, or by calling the functions by another name. In short, any attempt to vest any part of the judicial power of the Commonwealth in any body other than a court is entirely ineffective.

30. We have referred to these two decisions only for the purpose of emphasising the fact that the technical considerations which flow from the strict and rigid separation of powers, would not be applicable in dealing with the question about the status of Respondent 2 by reference to Article 136(1) of our Constitution. The use of the expression "judicial power" in the context, cannot be characterised as constitutionally impermissible or inappropriate, because our Constitution does not provide, as does

Chapter III of the Australian Constitution, that judicial power can be conferred only on courts properly so-called. If such a consideration was relevant and material, then it would no doubt, be inappropriate to say that certain authorities or bodies which are given the power to deal with disputes between parties and finally determine them, are tribunals because the judicial power of the State has been statutorily transferred to them. In that case, the more appropriate expression to use would be that the powers which they exercise are quasi-judicial in character, and tribunals appointed under such a scheme of rigid separation of powers cannot be held to discharge the same judicial function as the courts. However, these considerations are, strictly speaking, in-applicable to the Indian Constitution, because though it is based on a broad separation of powers, there is no rigidity or exclusiveness involved in it as under Section 71 as well as other provisions of Chapter III of the Australian Constitution; and so, it would not be inappropriate to say that the main test in determining the status of any authority in the context of Article 136(1) is whether or not inherent judicial power of the State has been transferred to it.

44. An authority other than a court may be vested by statute with judicial power in widely different circumstances, which it would be impossible and indeed inadvisable to attempt to define exhaustively. The proper thing is to examine each case as it arises, and to ascertain whether the powers vested in the authority can be truly described as judicial functions

or judicial powers of the State. For the purpose of this case, it is sufficient to say that any outside authority empowered by the State to determine conclusively the rights of two or more contending parties with regard to any matter in controversy between them satisfies the test of an authority vested with the judicial powers of the State and may be regarded as a tribunal within the meaning of Article 136. Such a power of adjudication implies that the authority must act judicially and must determine the dispute by ascertainment of the relevant facts on the materials before it and by application of the relevant law to those facts. This test of a tribunal is not meant to be exhaustive, and it may be that other bodies not satisfying this test are also tribunals. In order to be a tribunal, it is essential that the power of adjudication must be derived from a statute or a statutory rule. An authority or body deriving its power of adjudication from an agreement of the parties, such as a private arbitrator or a tribunal acting under Section 10-A of the Industrial Disputes Act, 1947, does not satisfy the test of a tribunal within Article 136. It matters little that such a body or authority is vested with the trappings of a court. The Arbitration Act, 1940 vests an arbitrator with some of the trappings of a court, so also the Industrial Disputes Act, 1947 vests an authority acting under Section 10-A of the Act with many of such trappings, and yet, such bodies and authorities are not tribunals."

17. Thus, on a perusal of the aforesaid Constitution Bench decision of the Supreme Court, following propositions can be deduced:

(i) The judicial functions and judicial powers are one of the essential attributes of a sovereign State and the State transfers its judicial functions and powers mainly to the Courts established by the Constitution, but that does not affect the competence of the State, by appropriate measures, to transfer a part of its judicial powers and functions to Tribunals by entrusting them the task of adjudicating upon special matters and disputes between the parties;

(ii) The strict and rigid separation of powers, on which Australian Constitution is based, does not apply to our Constitution, though it is based on a broad separation of powers, yet there is no rigidity or exclusiveness involved in it; and

(iii) An authority other than a Court may be vested by statute with judicial power in widely different circumstances, which it would be impossible and indeed inadvisable to attempt to define exhaustively. Such power

of adjudication implies that the authority must act judicially and must determine the dispute by ascertainment of the relevant facts on the materials before it and by application of the relevant law.

18. Now, we may advert to the facts of the case in hand. Cotton is a 120 day crop and farmer, immediately after noticing any problem, can approach the Committee for field inspection and assessment of the basic ground problem. As pointed out by respondents in the counter-affidavit, the Cotton is rainfed commercial crop which is cultivated by small and marginal farmers, who possess less than 2.5 hectares and constitute 80% of the total farmers. The following timelines are fixed for lodging a complaint by the farmer and for its disposal:

Nature of complaint	Time lines for lodging complaint	Time lines for disposal	Time lines for compensation to be paid
Poor germination	Within 10 days after sowing	Within two weeks from date of receipt of the complaint	Within 7 days from date of decision of the Committee
Susceptibility of pests and diseases	Immediately after noticing the incidents	Not more than 30 days from the date of receipt of complaint	Within 30 days from date of decision of the Committee

Genetic impurity Non-adaptability	15 days from the date of 50 per cent of flowering At the appropriate stage of crop	Not more than 30 days from the date of receipt of complaint	Within 30 days from date of decision of the Committee

19. The expression 'cotton seed' was deleted from the Schedule of Essential Commodities Act by way of Essential Commodities (Amendment) Act, 2006, which came into force on 24.12.2006. The State Legislature therefore enacted the 2007 Act in the interest of the farming fraternity and in order to ensure free flow of supply, equal distribution and fair price of all cotton seeds. The Act provides for evolving an efficient regulatory system. The Act contains a mechanism for providing adequate compensation to the farmers in the event of supply of inferior quality seed and also provides for regulatory mechanism for regulation of trade of transgenic and genetically modified varieties by way of compulsory DNA finger printing test or genetic purity test and mandatory registration of all types of cotton seeds produced in the State or imported to the State. The Act and the Rules

provide for timelines to avoid delay in providing relief to the farmers who are subjected to loss by reason of poor germination or susceptibility to the pests and diseases or genetic impurity or non-adaptability of cotton seed.

20. The Act and the Rules create a right as well as a liability. The Act empowers the District Level Committee to assess the compensation within the timelines provided therein. In view of the decision of the Constitution Bench in **Associated Cement Companies Limited** (supra), the contention that the provisions of the impugned Act or Rules constitute either breach of separation of powers or give judicial powers of adjudication and assessment of compensation to the Executive Body is not worthy of acceptance. The Rule 28 of the 2007 Rules requires that the representative of the seed producer and the complainant farmer are to be invited at the time of field inspection and also for hearing of the Committee. Therefore, the contention that the Committee comprises of representative of the farmer only is misconceived.

21. Insofar as reliance placed on behalf of the petitioners to the decisions of **Pareena Swarup** (supra) and **Madras Bar Association** (supra) is concerned, the ratio in the aforesaid decisions is that whenever traditional Court is divested of its jurisdiction and the same is transferred to any other analogous court/tribunal, the qualification and acumen of such a member in the tribunal must be commensurate with that of the court, from which such adjudicatory function is transferred. In the instant case, none of the adjudicatory functions of the Court have been transferred to the District Level Committee. Therefore, the aforesaid decisions are of no assistance to the petitioners in the facts of the case. Similarly, in **Utility Users' Welfare Association** (supra), the Supreme Court dealt with the scope and ambit of Section 86(1)(f) of the Electricity Act, 2003 and held that the Commission has the option of either adjudicating the dispute between the licensees and generating company or refer the same to the arbitration. In the aforesaid context, the Supreme Court examined the issue that the State Regulatory Commission constituted under the Electricity Act is required to have one judicial

member. The aforesaid decision in the facts of the case is of no assistance to the petitioners.

22. For the aforementioned reasons, we do not find any merit in these writ petitions. The same fail and are hereby dismissed. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

ALOK ARADHE, CJ

ANIL KUMAR JUKANTI

27.03.2024

Note: LR copy be marked.
(By order)
Pln/gbs