



CASE STUDY: JAORA SUGAR MILLS V. STATE OF MADHYA PRADESH AND OTHERS

By Dhruvi Anajwala
From Gujarat National Law University

INTRODUCTION

In the concerned case, *Jaora Sugar Mills v. State Of Madhya Pradesh And Others*¹ deals with the scope of parliament's residuary power under article 248 read with entry 97 of list 1 (Union List) of the Indian constitution. Deviation from the other traditional federal countries, where residuary powers are allocated to the states, Indian constitution confers residuary powers in favour of the Centre.

ANALYSIS

➤ FACTS OF THE CASE:

State of Madhya Pradesh (Respondent) made the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958, and the Jaora Sugar Mills (Appellant) is doing business on business of production and sale of sugar since 1955. Sugarcane cess was made payable under section 23 of the Madhya Pradesh Act. Payment of commission to the Cane Development Council is given under section 21 of the said Act. This act purports to validate the imposition and collection of cesses on sugarcane. Under the said Act respondents demanded the cesses on sugarcane from the appellant as sugarcane factory was treated as a 'local area'. Parliament passed the Sugarcane Cess (Validation Act 1961) as many states' act suffered infirmity, this act was passed in September 1961 with the

assent of President. By S.3, all the assessments and collections made before its commencement under the various State Acts and laid down that all the provisions of the State Acts, as well as the relevant notifications, rules, etc. made under the State Acts, would be treated as part of S. 3. Further, the said section was to be deemed to have existed at all material times when the cess was imposed, assessed, and collected under the State Acts. Appellant challenged these demands as they were asked to pay the cess at the rate prescribed by them for the years 1959-60 and 1960-61. They challenge the levy in the writ petition before the high court but it was dismissed by the high court. The appellant came with the certificate to the court.

A question arose that whether the decision of the High Court was right in holding that the act is constitutionally valid or not? , whether central legislation is valid or not? Also, another question arose concerning the demand for commission for the year 1959-60.

➤ CONTENTION OF APPELLANT:

1. It alleges that demands of the respondent were invalid because the act under the authority of which they implied have been made, was itself ultra vires and unconstitutional. Cane Development Council was constituted on August 26, 1960, and the respondent demanded cess which was fairly not permissible as it did not exist during the period covered by the demand for the year 1959-60.
2. What the validation of the Act had done was to attempt to cure the legislative incompetence of the State Legislatures by

¹*Jaora Sugar Mills v. State Of Madhya Pradesh And Others* [1966] AIR 416.



validating State Acts which were invalid on the ground of absence of legislative competence in the respective State Legislatures. The whole contention is based on what he regards to be the true scope and effect of Section 3 of the Uttar Pradesh Sugarcane Cess (Validation) Act.

3. It was contended that the act was the colourable piece of legislation because the motive of the levying cess was enabling the respective states to retain the amounts which they had illegally collected.
4. The act had not been passed for the motive of the Union of India and the recoveries of cesses which were retrospectively authorised by it were not likely to go into the consolidated fund of India.

➤ **CONTENTION OF RESPONDENT:**

1. It was contended that the validity of S. 23 of the Madhya Pradesh act was challenged before the MP High Court under Article 226 of the constitution, and they relied on *Bhopal Sugar Industries v. State of Madhya Pradesh*². Article 226³ empowers High Courts to issue directions, orders or writs like habeas corpus, mandamus, prohibition, quo warranto, and certiorari. Therefore according to Article 226 of the Constitution in the High Court of Madhya Pradesh for a writ restraining the State of Madhya Pradesh from enforcing the Bhopal State Agricultural Income-tax Act, 1953, claiming that the Act contravened the respondent's right.
2. Where a challenge to the validity of legal enactment is made on the ground that it is a colourable piece of legislation, **K.C.**

²*Bhopal Sugar Industries v. State of Madhya Pradesh* AIR[1967] MP 197.

³The Constitution of India, 1950

*Gajapati Narayan Deo & Ors. v. State of Orissa*⁴ was referred for this issue.

3. It was further contended that the validity of an Act must be judged in the light of the legislative competence of the legislature. Therefore it was impermissible to contend that the Act was invalid because the funds in question would not go into the Consolidated Fund of India.
4. The functions of the Cane Development Council as prescribed by Section 6 of the Madhya Pradesh Act show that the Council is expected to render service to the mills like the appellant and so it can be safely assumed that the commission which was authorised to be recovered under Section 21 of the Madhya Pradesh Act is a 'fee'.

➤ **DECISION**

The Supreme Court held that:

1. As respondent rightly relied on *Diamond Sugar Mills Ltd. v. The State of Uttar Pradesh* and *Bhopal Sugar Industries v. State of Madhya Pradesh* court gave the decision in favour of respondents. The common characterised point of the charging sections in both the Madhya Pradesh and the Uttar Pradesh acts was that they authorised the respective State Government to impose a cess on the entry of cane into the premises of a factory for use, consumption or sale therein. Now here the question of local area arose in *Diamond Sugar Mills Ltd* of "local area" and was urged as per given in the answer to the question whether the impugned law was within or beyond the legislative competence of the State legislature depends on whether the law falls under Entry 52 of the State List-

⁴*K. C. Gajapati Narayan Deo and others v. The State of Orissa* AIR[1953] Ori 185.



List II of the Seventh Schedule to the Constitution. It is quite clear that there is no other entry in either the State List or the Concurrent List under which the legislation could have been made. This argument was accepted by the majority in Diamond Sugar Mills case that the proper meaning to be attached to the words “local area” in Entry 52 of the Constitution (when the area is a part of the State imposing the law) is an area administered by a local body like a municipality, a district board, a local board, a union board, a Panchayat or the like. So following this decision the Madhya Pradesh High Court struck down Section 23 of the impugned Madhya Pradesh Act in the Bhopal Sugar Industries case.⁵

2. In the matter of colourable piece of legislation, again the court decided in favour of respondents. In *K. C. Gajapati Narayan Deo and others v. The State of Orissa* it was held that “The idea conveyed by the expression colourable legislation is that although apparently a legislature in passing a statute purported to act within the limits of its powers, yet in substance and reality it transgressed these powers, the transgression being veiled by what appears, on proper examination, to be a mere pretense or disguise.”⁶
3. In the matter of demand made by the respondent for the payment of cess commission for the year 1959-60 court held it invalid and the notice to that extent must be cancelled. As a result, the appeal substantially fails and the order passed by the High Court is confirmed, subject to the modification regarding the demand for the payment of cane commission for the year

1959-60. There would be no order as to costs.

This case shows that the Union can generally, if it is so disposed, go to the rescue of the State to sustain invalid State legislation by invoking the residuary powers. This adds a new dimension to co-operative federalism.

CONCLUSION

From the above case analysis and a discussion of further judicial pronouncements, it tends to be concluded that the residuary powers which were supposed to have a very limited scope because of the elaborate enumeration of the topics of legislation in the three Legislative Lists in the Constitution have ended up to be not so limited. Specifically, in the field of taxation, the resort to residuary powers to justify wealth, gift, expenditure, etc. taxes shows that it has evolved a new extent to the Union power. Since the landmark judgement of the Supreme Court in *U.O.I v. H. S. Dhillon*⁷, a new approach in the constitutional interpretation of the legislative entries has been opened.

In India, the residuary power has received its due constitutional treatment, as an exclusive Union power which has primacy over the State and Concurrent powers. It is unlikely that a position similar to that of Canada will develop in India concerning the residuary powers. The residuary power in India has sharpened further the dominant position of the Centre. It is hoped that it will not encourage careless drafting of Union legislation.

⁵*Bhopal Sugar Industries v. State of Madhya Pradesh* [1961] AIR 652.

⁶*Supra* 4.

⁷*U.O.I v. H. S. Dhillon* AIR[1972] 1061 (SC).



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