

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6026 of 2018

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Bihar Rajya Chaukidari Tahsildar Sangh through its President Md.
Junaid Ahmad, son of late Hafizuddin Ahmad, resident of Village and
P.O. Harihans, P.S. Hussainganj, District-Siwan.

Petitioner

Versus

1. The State of Bihar.
2. The Commissioner cum Secretary, Department of Revenue and
Land Reforms, Government of Bihar, Old Secretariat, Patna.
3. The Special Secretary to the Governor, Department of Revenue and
Land Reforms, Government of Bihar, Old Secretariat, Patna.
4. The Joint Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Old Secretariat, Patna.
5. The Commissioner-cum-Principal Secretary, Department of Home,
Government of Bihar, Patna.
6. The Joint Secretary to the Governor of Bihar, Legal Department,
Patna.

.....Respondents.

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Appearance:

For the petitioner/s : Mr. A. B. Ojha, Senior Advocate
Mr. Mrityunjay Kumar, Advocate
Mr. Umesh Prasad, Advocate
Mr. Amardeep, Advocate

For the Respondents : Mr. Md. Khurshid Alam, AAG-12
Mrs. Nutan Sahay, AC to AAG-12

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**CORAM: HONOURABLE THE CHIEF JUSTICE
AND
HONOURABLE MR. JUSTICE S. KUMAR**

CAV JUDGEMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-04-2020

From the submissions made, this Court is called upon to
decide the following questions of law:-

- i) Whether the Bihar Repeal of Laws (which are no longer needed or relevant) Act, 2016 was enacted with an endeavour of setting at naught the judicial pronouncements rendered by this Court?
- ii) Whether the said legislation can be said to be an act of judicial overreach, interfering with the independence of judiciary?
- iii) Whether the said legislation is ultra vires the Constitution?



A brief background leading to the filing of the instant writ petition.

2. By virtue of the provisions of the Village Chaukidari Act, 1870, (hereinafter referred to as 'the Act of 1870') and the Bengal Village Chaukidari Act, 1871 (hereinafter referred to as 'the Act of 1871'), certain persons could be appointed or dismissed as Chaukidars for the purposes of maintenance of village(s) in the State of Bihar. Claiming discrimination and disparity over certain emoluments, that is the pay scale payable to persons appointed as Chaukidars by virtue of and under the Chotanagpur Rural Police Act, 1987 for certain areas termed as 'Chotangapur division', Chaukidars appointed, under the Act of 1870 and the Act of 1871, formed a Union and filed a writ petition before this Court, being CWJC No.4943 of 1983 titled as Bihar Rajya Choukidari Tahsildar Sangh and others Versus The State of Bihar & others. Vide order/ judgement dated 03rd May, 1988, the said writ petition was disposed of with a direction to the State Government to consider the matter afresh. The operative portion whereof reads as under:-

“9. However, in view of the fact that in the counter affidavit itself the respondents have stated that the Circle Sarpanch Sangh has filed a representation before the Chief Minister and the same is under consideration of the State Government, I am of the opinion that the matter should be considered from all its aspects by the State Government afresh. The State Government while



considering the representations of the petitioner, in my opinion, should also take into consideration the salient principles embodied under Article 39 (D) of the Constitution which provides for equal pay for equal work. In any event, the State Government will be well advised to consider the case of the petitioners regard being had to the nature of duties and other functions of the petitioners vis-à-vis Choukidari Tahsildars of Chota Nagpur division in terms of the provisions of the Village Chaukidari Act and the Manual and the Chota Nagpur Rural Police Act, 1914. As the matter has been pending for a long time, it is expected that the State Government shall take a decision in this regard at an early date, preferably within a period of three months from the date of receipt of a copy of this order. The State while passing the order may keep in mind the recent decisions of the Supreme Court.”

(Emphasis supplied)

3. The State Government considered the matter afresh, but did not find any merit, hence the petitioner filed yet another writ petition before this Court being CWJC No.7339 of 1981 titled as Bihar Rajya Choukidari Tahsildar Sangh and another versus the State of Bihar & Ors. which also was disposed of on 29th March, 1996 again with a direction to the State Government to consider the matter afresh. The operative portion of the order reads as under:-

“8. In the result, the writ petition succeeds and is allowed. The impugned order dated 29th April, 1991 of the



respondent No.1 the State of Bihar [Annexure 1] is quashed. The respondent No.1 is directed to decide the matter afresh in accordance with law in the light of observations made above, by a reasoned order, within a period of six months from the date of production of a certified copy of this order on respondent No.2.”

4. Noticeably, in both the cases, on merits, rights of the parties remained un-determined by the Court, much less in favour of the petitioner body, its members or any one of the Chaukidars.

5. On 28th April, 1997, the Commissioner-cum-Secretary, Department of Revenue and Land Reforms, took a fresh decision rejecting the petitioner’s claim, on the premise that in principle, the Government had taken a decision to abolish collection of tax under the Chaukidari system. Again this decision became subject matter of challenge before this Court in separate petitions being CWJC No.1989 of 2015 titled as Raj Kumar Thakur Versus The State of Bihar & Ors. and CWJC No. 19318 of 2013 titled as Bihar Rajya Chaukidari Tahsildar Sangh Versus The State of Bihar & Ors., which were disposed of on 05th July, 2016 holding the action of the State to be illegal, inasmuch as by way of an executive fiat, no legislation could have been repealed. The operative portion of the said order reads as under:-

“It is rather regrettable that despite many adjournments prayed for on behalf of the State counsels, nothing tangible has emerged in the affidavits. We are back to square one with regard to the dispute.



One thing, however, is undisputed that any decision, which is required to be taken for abolition of the Choukidari System for collection of any tax thereto can only be done by a decision of the Legislature for which appropriate law have to be brought into effect. Executive decisions cannot partake the nature of such a decision, which is required to be taken by the Legislature.

Annexure-1 is quashed.

Writ application is allowed.”

6. It is a matter of record that vide Bihar Repeal of Laws (which are no longer needed or relevant) Act, 2016 (hereinafter referred to as ‘the impugned Legislation’) both the Acts (Village Chaukidari Act, 1870 as also Bengal Village Chaukidari Act, 1871) stand repealed.

7. It is in this backdrop, that the petitioner now lays challenge to the impugned Legislation, on the premise, that it is a case of a judicial over-reach, interfering with the independence of Judiciary, inasmuch as an attempt is made to set at naught the judicial pronouncements rendered by this Court (supra) and render nugatory the rights crystallized in favour of the petitioner(s)/Chaukidar(s).

8. Though not argued, but from the questions of law framed in Paragraph 2 of the petition, it appears that the challenge is also on the ground that the impugned Legislation has also caused economic hardship and deprived certain persons of their right to employment.



9. Having heard learned counsel for the parties, we proceed to decide the questions as under.

10. It is not the petitioner's case that the impugned Legislation is violative of Article 13 of the Constitution. In fact, it is in the spirit of Article 372 of the Constitution. Also lack of legislative competence is not a ground for challenge.

11. We, therefore, proceed to examine as to whether the impugned Legislation violates any one of the provisions of Part III of the Constitution of India or not.

12. The appointment and dismissal of the Chaukidars and their duties are governed under Section(s) 35 and 39 of the 1870 Act. The emoluments payable to them is regulated by virtue of Section 13 thereof.

13. It is a settled position of law that there is no fundamental right of employment in a Government service. Such employment has to be by virtue of a Statute, obviously considering the constitutional mandate and more specifically Part III and Part XIV thereof.

14. The Preamble of the impugned Legislation itself clarifies that the Acts listed in the Appendix thereof, (the Act of 1870 and the Act of 1871), stand repealed as a result of enactment of a new legislation, i.e. Panchayat Raj Act, 2006 (referred to as 'the Panchayat Raj Act') being uniformly applied within the State of Bihar.



15. Undisputedly, this subsequent legislation, i.e. the Panchayat Raj Act, covers the field and all issues including appointment of officers and collection of revenue at the grass root level. There is nothing on record to even prima facie, establish that post enactment of the Panchayat Raj Act, petitioners have lost their jobs. Equally at no point of time, prior to the filing of the instant writ petition, so instituted on 30th March, 2018, did the petitioners contend of having lost their employment by virtue of the impugned Legislation so notified on 16th August, 2016. In fact, all along they were claiming parity in the pay scale, equivalent to the Chaukidars appointed under a different Statute applicable in an area termed as 'Chotanagpur Division'. At the cost of repetition it be only observed that there is no proof or assertion of any specific incident or a case, of any one of the members of petitioner Association, having lost employment by virtue of the impugned Legislation. It being a different matter that the Chaukidars and/or their survivors/successors in interest, may not be entitled to certain other benefits under the Repealed Act(s). Hence the impugned Legislation cannot be said to be violative of Articles 16 or 19 of the Constitution of India.

16. On the main contention of the legislative action being an act of judicial over-reach, on first brush, the submission appeared to be attractive, but only on a deeper scrutiny, one finds it not to be so. At no point of time, did this Court, in any one of the judicial proceedings, i.e. CWJC No.4943 of 1983(supra); CWJC No.7339 of 1981(supra); CWJC



No.1989 of 2015(supra); and CWJC No. 19318 of 2013 (supra), determined the rights of the parties or dealt with the validity of the provisions of the Act of 1870 and the Act of 1871 or held the petitioner(s) entitled to any benefits thereunder. Only the manner in which the State Government decided the issue was interfered with and matter remanded for reconsideration. All issues were left open, to be considered and decided on merits by the State Government. The writ petitions were treated as mere representations, leaving it to the State Government to take an appropriate decision. The petitioners' claim of parity in emoluments set up in the year 1983 was never adjudicated. Even impliedly, rights of parties cannot be said to have been acknowledged, determined or crystallized.

17. Significantly, petitioners are not claiming any benefits under the repealed Acts by virtue of the saving clause contained in the impugned Legislation.

18. In fact, when the petitioners initiated proceedings for contempt being MJC No.03 of 2017 titled as Bihar Rajya Chaukidari Tahsildar Sangh Vs. The State of Bihar & ors. for violation of the judgement dated 05.07.2016 passed in CWJC No.1989 of 2015 and CWJC No. 19318 of 2013 (supra), this Court disposed it of on 24th January, 2018 by passing the following order:-



“The Bihar Chowkidari Act has been repealed. Notification in this regard has been annexed as Annexure-B to the show cause filed.

In view of the same, this contempt application stands disposed of. If such repeal Act is vulnerable and can be assailed, this Court will not come in the way, but in yet another proceeding.”

Principles governing legislative competence in overturning judgements rendered by Court.

19. The Constitution Bench of Hon’ble the Apex Court in *State of Tamilnadu Versus State of Kerala and another*, (2014) 12 SCC 696, in extenso has dealt with the issue of the scope and power of the Legislature in overturning and setting aside the judgement, retrospectively or prospectively, by bringing in a legislation. The Court culled out the following principles:- 1. Even without express provision of the separation of powers, the doctrine of separation of powers is an entrenched principle in the Constitution of India. The doctrine of separation of powers informs the Indian constitutional structure and it is an essential constituent of rule of law. In other words, the doctrine of separation of power though not expressly engrafted in the Constitution, its sweep, operation and visibility are apparent from the scheme of Indian Constitution. Constitution has made demarcation, without drawing formal lines between the three organs—legislature, executive and judiciary. In that sense, even in the absence of express provision for separation of powers, the separation of



powers between the legislature, executive and judiciary is not different from the Constitutions of the countries which contain express provision for separation of powers. **2.** Independence of courts from the executive and legislature is fundamental to the rule of law and one of the basic tenets of Indian Constitution. Separation of judicial power is a significant constitutional principle under the Constitution of India. **3.** Separation of powers between three organs—the legislature, executive and judiciary—is also nothing but a consequence of principles of equality enshrined in Article 14 of the Constitution of India. Accordingly, breach of separation of judicial power may amount to negation of equality under Article 14. Stated thus, a legislation can be invalidated on the basis of breach of the separation of powers since such breach is negation of equality under Article 14 of the Constitution. **4.** The superior judiciary (High Courts and Supreme Court) is empowered by the Constitution to declare a law made by the legislature (Parliament and State Legislatures) void if it is found to have transgressed the constitutional limitations or if it infringed the rights enshrined in Part III of the Constitution. **5.** The doctrine of separation of powers applies to the final judgments of the courts. The legislature cannot declare any decision of a court of law to be void or of no effect. It can, however, pass an amending Act to remedy the defects pointed out by a court of law or on coming to know of it aliunde. In other words, a court's decision must always bind unless the conditions on which it is based are so fundamentally altered that the decision could not have been given in



the altered circumstances. 6. If the legislature has the power over the subject-matter and competence to make a validating law, it can at any time make such a validating law and make it retrospective. The validity of a validating law, therefore, depends upon whether the legislature possesses the competence which it claims over the subject-matter and whether in making the validation law it removes the defect which the courts had found in the existing law. 7. The law enacted by the legislature may apparently seem to be within its competence but yet in substance if it is shown as an attempt to interfere with the judicial process, such law may be invalidated being in breach of doctrine of separation of powers. In such situation, the legal effect of the law on a judgment or a judicial proceeding must be examined closely, having regard to legislative prescription or direction. The questions to be asked are:

(i) Does the legislative prescription or legislative direction interfere with the judicial functions?

(ii) Is the legislation targeted at the decided case or whether impugned law requires its application to a case already finally decided?

(iii) What are the terms of law; the issues with which it deals and the nature of the judgment that has attained finality?

If the answer to Questions (i) and (ii) is in the affirmative and the consideration of aspects noted in Question (iii) sufficiently establishes that the impugned law interferes with the judicial functions, the Court may declare the law unconstitutional.



20. Even subsequently, in *State of Karnataka and others Versus Karnataka Pawn Brokers Association and others*, (2018) 6 SCC 363, Hon'ble the Apex Court observed that the Legislature has the power to enact the validating laws including the power to amend laws with retrospective effect, which can be done to remove the causes of invalidity. When such a law is passed, the Legislature basically corrects the errors pointed out in a judicial pronouncement. Resultantly, it amends the law, by removing the mistakes committed in the earlier legislation, the effect of which is to remove the basis and foundation of the judgment. If this is done, the same does not amount to statutory overruling. But, the Legislature cannot set at naught the judgments which have been pronounced by amending the law not for the purpose of making corrections or removing anomalies but to bring in new provisions which did not exist earlier. The Legislature may have the power to remove the basis or foundation of the judicial pronouncement but the Legislature cannot overturn or set aside the judgment, that too retrospectively by introducing a new provision. The Legislature is bound by the mandamus issued by the court. A judicial pronouncement is always binding unless the very fundamentals on which it is based are altered and the decision could not have been given in the altered circumstances. The Legislature cannot, by way of introducing an amendment, overturn a judicial pronouncement and declare it to be wrong or a nullity. What the



Legislature can do is to amend the provisions of the statute to remove the basis of the judgment.

21. Applying the aforesaid principles, it cannot be said that the Courts' decisions were rendered to be nugatory by virtue of the impugned Legislation. As already discussed, a new legislation dealing with all the issues was enacted. This umbrella legislation is within spirit of the constitution and its mandate of bringing in agrarian reforms.

22. In *Civil Writ Jurisdiction Case No.4543 of 2020 titled as Ashok Kumar Singh Vs. The Union of India & Ors.* decided on 3rd March, 2020, this Court has extensively dealt with the grounds on which a challenge to a Statute can be made.

Criteria for Declaring a Legislation Ultra Vires the Constitution- (Part III)

23. What really is the meaning of "equality before law", what are the grounds on which a legislation, primary or delegated, can be assailed; what are the constraints of the Court in holding the same to be ultra vires and what is the approach which the Court must adopt in examining its constitutional validity is what we examine.

24. In *Ram Krishna Dalmia v Justice SR Tendolkar & Ors*, 1959 SCR 279, the Apex Court culled out the following principles: (a) that a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a



class by himself; (b) that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles; (c) that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds; (d) that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest; (e) that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation; and (f) that while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.

25. What is “arbitrary” also stands explained by the Apex Court in *Mrs. Maneka Gandhi v. Union of India & another*, (1978) 1 SCC 248, to mean, it to be implicit in that it is unequal both according to political



logic and constitutional law, have violative of Article 14 of the Constitution of India.

26. Article 14 of the Constitution of India permits classification, however, the said classification has to be based on an intelligible differentia and that intelligible differentia ought to have some nexus with the object to be achieved.

Manifest Arbitrariness

27. What is manifest arbitrariness stands reiterated by the Apex Court in *Nikesh Tarachand Shah Versus Union of India and another*, (2018) 11 SCC 1 (two-judge Bench) in paras 21, 22 and 23 as follows:

21. At this stage, it is important to advert to the tests for the violation of Article 14, both in its discriminatory aspect and its “manifestly arbitrary” aspect. It is settled by a catena of cases that Article 14 permits classification, provided such classification bears a rational relation to the object sought to be achieved. In an early judgment of this Court, *State of Bombay v. F.N. Balsara* [*State of Bombay v. F.N. Balsara*, 1951 SCR 682 : AIR 1951 SC 318 : (1951) 52 Cri LJ 1361], Fazl Ali, J. summarised the law as follows: (SCR p. 708 : AIR p. 326, para 19)

“(1) The presumption is always in favour of the constitutionality of an enactment, since it must be assumed that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience and its discriminations are based on adequate grounds.

(2) The presumption may be rebutted in certain cases by showing that on the face of the statute, there is no classification at all and no difference peculiar to any individual or class and not applicable to any other individual or class, and yet the law hits only a particular individual or class.



(3) The principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position, and the varying needs of different classes of persons often require separate treatment.

(4) The principle does not take away from the State the power of classifying persons for legitimate purposes.

(5) Every classification is in some degree likely to produce some inequality, and mere production of inequality is not enough.

(6) If a law deals equally with members of a well-defined class, it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons.

(7) While reasonable classification is permissible, such classification must be based upon some real and substantial distinction bearing a reasonable and just relation to the object sought to be attained, and the classification cannot be made arbitrarily and without any substantial basis.”

Proposition 7 is important for the present purpose. Also, it is well settled that Article 14 condemns discrimination not only by substantive law, but also by procedural law. (See *Budhan Choudhry v. State of Bihar* [*Budhan Choudhry v. State of Bihar*, (1955) 1 SCR 1045 : AIR 1955 SC 191 : 1955 Cri LJ 374], SCR at p. 1049 : AIR p. 193, para 5).

23. Insofar as “manifest arbitrariness” is concerned, it is important to advert to the majority judgment of this Court in *Shayara Bano v. Union of India* [*Shayara Bano v. Union of India*, (2017) 9 SCC 1 : (2017) 4 SCC (Civ) 277] . The majority, in an exhaustive review of case law under Article 14, which dealt with legislation being struck down on the ground that it is manifestly arbitrary, has observed: (SCC pp. 91-92 & 99, paras 87 & 101)

“87. The thread of reasonableness runs through the entire fundamental rights chapter. What is manifestly arbitrary is obviously unreasonable and being contrary to



the rule of law, would violate Article 14. Further, there is an apparent contradiction in the three-Judge Bench decision in *McDowell [State of A.P. v. McDowell & Co., (1996) 3 SCC 709]* when it is said that a constitutional challenge can succeed on the ground that a law is “disproportionate, excessive or unreasonable”, yet such challenge would fail on the very ground of the law being “unreasonable, unnecessary or unwarranted”. The arbitrariness doctrine when applied to legislation obviously would not involve the latter challenge but would only involve a law being disproportionate, excessive or otherwise being manifestly unreasonable. All the aforesaid grounds, therefore, do not seek to differentiate between State action in its various forms, all of which are interdicted if they fall foul of the fundamental rights guaranteed to persons and citizens in Part III of the Constitution.

101. It will be noticed that a Constitution Bench of this Court in *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India [Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641 : 1985 SCC (Tax) 121]* stated that it was settled law that subordinate legislation can be challenged on any of the grounds available for challenge against plenary legislation. This being the case, there is no rational distinction between the two types of legislation when it comes to this ground of challenge under Article 14. The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14.”



(Emphasis supplied)

28. The same principle stands reiterated by the Apex Court in *Joseph Shine Versus Union of India*, (2019) 3 SCC 39; *Reliance Infrastructure Limited Versus State of Maharashtra and others*, (2019) 3 SCC 352; and *Indian Hotel and Restaurant Association (Ahar) and another Versus State of Maharashtra and others*, (2019) 3 SCC 429.

29. The Apex Court in *Swiss Ribbons Private Limited and another Versus Union of India and others*, (2019) 4 SCC 17, in paragraph 37 further reiterated that:

“37. The tests for violation of Article 14 of the Constitution of India, when legislation is challenged as being violative of the principle of equality, have been settled by this Court time and again. Since equality is only among equals, no discrimination results if the Court can be shown that there is an intelligible differentia which separates two kinds of creditors so long as there is some rational relation between the creditors so differentiated, with the object sought to be achieved by the legislation. This aspect of Article 14 has been laid down in judgments too numerous to cite, from the very inception.”

30. The principles stands reiterated by the Apex Court in *Pioneer Urban Land and Infrastructure Limited and another Versus Union of India & others*, (2019) 8 SCC 416; *Kerala State Beverages (M and M) Corporation Limited Versus P.P. Suresh and others*, (2019) 9 SCC 710; and *Municipal Council, Neemuch Versus Mahadeo Real Estate and others*, (2019) 10 SCC 738.



31. In view of the aforesaid discussion, to our mind, the impugned Legislation cannot be said to be arbitrary or ultra vires the Constitution. The repealed Acts have outlived their utility and purpose. A specific legislation comprehensively dealing with all the issues now stands enacted and notified, totally sync with time, within the democratic spirit and scheme of things under the Indian Constitution.

32. One finds the impugned Legislation to be totally consistent with the Constitutional mandate. There is no legal flaw, including that of arbitrariness much less manifest arbitrariness. Certainly, it is not repugnant to Article 13 or Part III of the Constitution of India. It also cannot be said that the impugned legislation falls foul of the mandate laid down by the Apex Court in *Ram Krishna Dalmia* (supra); *Mrs. Menaka Gandhi* (supra) *Nikesh Tarachand Shah* (supra); and other judicial pronouncements discussed supra.

Question Nos. (i) & (ii)

33. In view of the principles enunciated by the Constitution Bench of the Apex Court in *State of Tamilnadu* (supra) and another decision in *State of Karnataka and others* (supra), it cannot be said that the impugned Legislation was enacted with an endeavour of setting at naught the judicial pronouncements rendered by this Court, amounting to an act of judicial overreach, interfering with the independence of judiciary. The questions are answered accordingly.



Question No.(iiii)

34. In view of the law laid down by Hon’ble the Apex Court in *Ram Krishna Dalmia* (supra); and *Nikesh Tarachand Shah* (supra), it cannot be said that the impugned Legislation is ultra vires the Constitution. The question is answered accordingly.

35. For all the aforesaid reasons, the writ petition stands dismissed and the questions of law answered accordingly. No order as to costs.

(Sanjay Karol, C.J.)

S. Kumar, J. I agree.

(S. Kumar, J.)

Sunil

AFR/NAFR	AFR
CAV DATE	05.03.2020
UPLOADING DATE	28.04.2020
TRANSMISSION DATE	

