

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Civil Case No.138 of 2021{Arising out of order dated 10-12-2020 passed in W.P.(Cr.)No.540/2020}Order reserved on: 19-3-2021Order delivered on: 7-6-2021

1. State of Chhattisgarh, Through the Principal Secretary, Government of Chhattisgarh, Department of Law & Legislative Affairs, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur (C.G.)

(Respondent No.1)

2. Station Incharge, Police Station AJK, Korba, District Korba (C.G.)

(Respondent No.2)

---- Applicants

Versus

Ram Swarup Rajwade, S/o Pawan Kumar Rajwade, Aged about 25 years, Village Kankimudipara, Police Station Uрга, District Korba (C.G.)

(Writ Applicant)

---- Respondent

 For Applicants/State: Mr. Sunil Otvani, Additional Advocate General.
 For Non-applicant: Ms. Aditi Singhvi, Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalC.A.V. Order

1. This case was reserved for orders on 19-3-2021, but before the order could be delivered, lock-down was clamped down by the competent authority with effect from 14-4-2021, consequently, this Court also remained closed and during the continuance of lock-down followed by closure of courts, summer vacation of this Court commenced with effect from 10-5-2021, therefore, this

order is being pronounced today i.e. 7-6-2021 after reopening of the court after summer vacation.

2. Two applicants herein namely, State of Chhattisgarh through the Principal Secretary, Law & Legislative Affairs and the Station House Officer, Police Station AJAK, Korba seek modification of the order passed by this Court in W.P.(Cr.)No.540/2020, decided on 10-12-2020 in the matter of **Ram Swarup Rajwade v. State of Chhattisgarh and another**¹.
3. The applicants have sought modification principally on the ground that by the notification dated 12-9-2014 (Annexure A-2) the State of Chhattisgarh has notified the Special Court specified under Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC-ST Act of 1989') as 'the Special Court' under Section 28 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the POCSO Act') for trial of offences under the provisions of the POCSO Act, therefore, the order dated 10-12-2020 be modified and the notification dated 12-9-2014 be also incorporated in the order dated 10-12-2020 passed by this Court. In other words, the stand of the State Government – Applicants would be that the order of this Court would govern only the parties to lis, that is Ram Swarup Rajwade v. State of Chhattisgarh and another, and as far as other cases on the point involved, the notification dated 12-9-2014 would hold the field.

¹ 2021 Cri.L.J. 1787 : AIR 2021 OnLine Chhattisgarh 133

4. Mr. Sunil Otwani, learned Additional Advocate General appearing on behalf of the applicants / State, would submit singular contention that since the State Government by notification dated 12-9-2014 vide Annexure A-2 notified the special court under the SC-ST Act, 1989 for trial of offences under the POCSO Act committed against children belonging to SC / ST category and the notification dated 12-9-2014 could not be brought to the notice of this Court at the time of hearing of the writ petition and passing of the order dated 10-12-2020, therefore, notification dated 12-9-2014 be incorporated / mentioned in the operative paragraph of the order dated 10-12-2020 passed in W.P.(Cr.) No.540/2020 for the sake of convenience and the MCC be allowed partly.
5. Ms. Aditi Singhvi, learned counsel appearing on behalf of the non-applicant, would submit that the law declared by the highest authority of the State i.e. this Court is binding on all the authorities or tribunals under its superintendence and the State cannot ignore it, as it has not been challenged in the higher forum and the State is bound by the order and the order passed by this Court in the writ petition is binding. She would further submit that the effect of the order of the High Court in the writ petition cannot be diluted on the garb of modification of the order passed in the said writ petition. She would bring to the notice of the Court the decision of the Supreme Court in the matter of Alarming Rise in the Number of Reported Child Rape Incidents.

In Re² in which the Supreme Court has directed that if there are more than 100 cases under the POCSO Act in a district of the country, an exclusive / Designated Special Court will be set up, which will try no other offence except those under the POCSO Act. She would also cite the further decision of the Supreme Court in the matter of Alarming Rise in the Number of Reported Child Rape Incidents, In Re³ in which the Supreme Court taking into account the affidavit filed by the State Government has clearly declined the State of Chhattisgarh to permit the exclusive POCSO Courts to take up other matters. She would also cite another decision of the Supreme Court in the matter of East India Commercial Co., Ltd., Calcutta and another v. Collector of Customs, Calcutta⁴ to buttress her submission that the law declared by the High Court in the State is binding on the authorities or tribunals under its superintendence and they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. She would also submit that any proceeding contrary to the law laid down by the court would be invalid and the proceedings themselves would be without jurisdiction. Lastly, she would submit that since the decision rendered by this Court deciding the issue has a precedential value, as, in principle, it has already been decided by this Court that if the accused is charged for the offence punishable under the SC-ST Act of 1989 and the POSCO Act simultaneously in one series of incident at the same trial, then, in that situation, the

2 (2020) 7 SCC 87

3 (2020) 7 SCC 112

4 AIR 1962 SC 1893

designated 'Special Court' constituted and notified under the POCSO Act will have exclusive jurisdiction to try the offence(s) under both the Acts, as such, no case is made out for modifying the order dated 10-12-2020 and the application for modification deserves to be dismissed.

6. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the record with utmost circumspection.
7. This Court in the above-stated writ petition, formulated following question for consideration in paragraph 1 of the order dated 10-12-2020 which states as under: -

“If an accused has been charged for offence punishable under the penal provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC-ST Act of 1989') and simultaneously also charged under the penal provisions of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the POCSO Act') at the same trial, whether, in that situation, the special court constituted under the SC-ST Act of 1989 or the special court constituted under the POCSO Act would have jurisdiction to try the offences punishable under both the Acts?”

Thereafter, after hearing counsel for the parties and upon perusal of record, this Court answered the question so posed for consideration in paragraph 45 as under: -

“If the accused is charged for the offences punishable under the SC-ST Act of 1989 and the POCSO Act, simultaneously, in one series of incident, at the same trial, then, in that situation, the designated 'Special Court' constituted and notified under the POCSO Act will have exclusive jurisdiction to try the offence(s) under both the Acts.”

8. In sum and substance, this Court in principle, held that if the accused is charged for offence punishable under the SC-ST Act of 1989 and also under the POCSO Act simultaneously in one series of incident at the same trial, then, in that situation, the Special Court constituted and notified under the POCSO Act will have exclusive jurisdiction to try the offence(s) under both the Acts and consequently, issued the consequential direction for transfer of case from the Court of Special Judge (Atrocities), Korba to the file of Special Court (POCSO), Korba (constituted / notified under the POCSO Act) for hearing and disposal in accordance with law.
9. A careful perusal of the order passed by this Court on 10-12-2020 (Ram Swarup Rajwade v. State of Chhattisgarh and another), which is sought to be modified by the applicant State on the strength of notification dated 12-9-2014, would show that this Court has clearly held that an accused who is simultaneously charged with the offences punishable under the SC-ST Act of 1989 and the POSCO Act in one series of incident, at the same trial, should be tried under both the Legislations exclusively in the designated Special Court constituted and notified under the POSCO Act. The said conclusion was reached by this Court after a detailed examination of the relevant provisions of the SC-ST Act of 1989 and the POSCO Act also in the light of the provisions contained in the Code of Criminal Procedure, 1973. This exercise included a review of judicial precedents not only from the Hon'ble Supreme Court regarding similar issues under

the enactments that are *pari materia* with the SC-ST Act of 1989 and the POSCO Act, but also from the other High Courts that had an occasion to deal with the same question of law answered by this Court by order dated 10-12-2020. As such, the order passed by this Court dated 10-12-2020 is a “declaration of law” / enunciation of law qua the Court which has the exclusive jurisdiction to try an accused who is simultaneously charged with the offences punishable under the SC-ST Act of 1989 and the POSCO Act in one series of incident, at the same trial. Therefore, the order of this Court dated 10-12-2020 making declaration qua the “appropriate court” is in fact “judgment in rem” rendered by the writ / constitutional court in exercise of jurisdiction under Article 226 of the Constitution of India, which is binding on all executive / judicial authorities within the State including the State of Chhattisgarh, despite the existence of notification dated 12-9-2014 (if any) issued by the State Government.

10. Their Lordships of the Supreme Court in the matter of **Satrucharla Vijaya Rama Raju v. Nimmaka Jaya Raju and others**⁵ followed in the matter of **Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties and others**⁶, described the judgment in rem as under: -

“10. ... A judgment in rem is defined in English law as “an adjudication pronounced (as its name indeed denotes) by the status, some particular subject-matter by a tribunal having competent authority for that purpose”. ...”

⁵ (2006) 1 SCC 212

⁶ AIR 2020 SC 4047

11. The Supreme Court in the matter of Dr Subramanian Swamy v. State of Tamil Nadu and others⁷ clearly held that the decision of High Court making declaration of status of Dikshitaras is a judgment in rem. It was observed by their Lordships as under: -

“49. The declaration that “Dikshitaras are religious denomination or section thereof” is in fact a declaration of their status and making such declaration is in fact a judgment in rem.”

12. The Constitution Bench of the Supreme Court in the matter of Ambika Prasad Mishra v. State of U.P. and others⁸ has held that every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent. It was pertinently observed by their Lordships as under: -

“6. It is wise to remember that fatal flaws silenced by earlier rulings cannot survive after death because a decision does not lose its authority “merely because it was badly argued, inadequately considered and fallaciously reasoned”. ...”

13. The above-stated principle of law qua the binding effect of judgment was followed by the Supreme Court in the matter of State of Gujarat and another v. Justice R.A. Mehta (Retired) and others⁹. It was observed as under: -

“Binding effect of the judgment

61. There can be no dispute with respect to the settled legal proposition that a judgment of this Court is binding, particularly when the same is that of a coordinate Bench or of a larger Bench. It is also correct to state that even if a particular issue has not been agitated earlier or a particular argument was advanced but was not considered the said judgment

7 (2014) 5 SCC 75

8 (1980) 3 SCC 719

9 (2013) 3 SCC 1

does not lose its binding effect, provided that the point with reference to which an argument is subsequently advanced has actually been decided. The decision therefore, would not lose its authority “merely because it was badly argued, inadequately considered or fallaciously reasoned”. The case must be considered taking note of the ratio decidendi of the same i.e. the general reasons or the general grounds upon which the decision of the court is based, or on the test or abstract from the specific peculiarities of the particular case which finally gives rise to the decision. (Vide *Somawanti v. State of Punjab*¹⁰, *Ballabhadras Mathurdas Lakhani v. Municipal Committee, Malkapur*¹¹, *Ambika Prasad Mishra v. State of U.P.*⁵, SCC p. 723, para 6 and *Director of Settlements v. M.R. Apparao*¹².)”

14. Similarly, in the matter of **State of Uttar Pradesh and others v. Arvind Kumar Srivastava and others**¹³ it was held by their Lordships of the Supreme Court that declaration of law can be treated as judgment in rem and its benefit is available to all similarly situated persons irrespective of whether they had approached court or not. It was observed as under: -

“22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under.

22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule

10 AIR 1963 SC 151

11 (1970) 2 SCC 267 : AIR 1970 SC 1002

12 (2002) 4 SCC 638 : AIR 2002 SC 1598

13 (2015) 1 SCC 347

would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see *K.C. Sharma v. Union of India*¹⁴). On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

15. The principle of law laid down in Arvind Kumar Srivastava's case (supra) was followed with approval subsequently by the Supreme

Court in the matter of Shoeline v. Commissioner of Service Tax and others¹⁵.

16. Likewise, the Supreme Court in the matter of Anil Ratan Sarkar and others v. State of W.B. and others¹⁶ has clearly held that administrative instructions/circulars/orders cannot infiltrate on to an arena covered by judicial orders. It was observed by their Lordships as under: -

“Administrative ipse dixit cannot infiltrate on to an arena which stands covered by judicial orders.”

17. Reverting to the facts of the case in the light of the above-stated legal analysis and after noticing the principle of law laid down by their Lordships of the Supreme Court qua the binding effect of declaration of law, it is quite vivid that this Court by its order dated 10-12-2020 clearly reasoned and declared that “POCSO Court” constituted and notified under the POCSO Act would be the “appropriate court” which has the jurisdiction to exclusively try an accused, who is simultaneously charged with offences punishable under both the Acts namely the SC-ST Act of 1989 and the POCSO Act, in one series of incident at the same trial. Such declaration of law is in fact “judgment in rem” binding to all and consequently, the applicant – State Government cannot now say and contend that it will only bind the case in hand that is Ram Swarup Rajwade v. State of Chhattisgarh and another, which was subject matter of W.P.(Cr.)No.540/2020, decided on

15 (2017) 16 SCC 104

16 (2001) 5 SCC 327

10-12-2020, and other cases will be governed by its notification dated 12-9-2014.

18. Even otherwise, it is well settled that the law declared by the High Court is binding to all the executive and judicial authorities within the State. Article 141 of the Constitution of India provides that law declared by the Supreme Court shall be binding on all courts within the territory of India. As such, whenever a law is laid down by the Supreme Court, it is binding on all the authorities whether executive or judicial in the entire country. Article 141 of the Constitution of India further provides that all the authorities, civil or judicial shall act in aid of the Supreme Court. The supremacy of law laid down by the Supreme Court with the binding effects admits no exception. The judgments of the Supreme Court are decisional between litigants but declaratory for the nation. (See Ganga Sugar Co. Ltd. v. State of U.P. and others¹⁷.)

19. Though there is no specific provision in the Constitution corresponding to Article 141 of the Constitution of India making the decision / law declared by the High Court binding on all the subordinate courts and the tribunals – the State, however, it is implicit in the power of superintendence to High Courts vested in Article 227 of the Constitution of India and by judicial pronouncement of their Lordships of the Supreme Court. In East India Commercial Co., Ltd. (supra), their Lordships of the Supreme Court have in uncertain terms held that the law declared by the highest court in the State is binding on

authorities or tribunals under its superintendence, and they cannot ignore it and the launching of proceedings contrary to the law laid down by the High Court would be invalid and the proceedings themselves would be without jurisdiction. It was observed as under: -

“(29) As we have already noticed in the earlier stage of the judgment, the notice issued by the respondent charges the appellants thus:

"One of the conditions of the special licence was that the goods would be utilized for consumption as raw material or accessories in the factory of the licence-holder and no part thereof would be sold to other parties, but in contravention of that condition the appellants sold a part of the goods imported to a third party; and as the goods had been caused to be issued by fraudulent misrepresentation, they were liable to be confiscated under Section 167(8) of the Sea Customs Act."

[Section 167\(8\)](#) of the Sea Customs Act can be invoked only if an order issued under [Section 3](#) of the Act was infringed during the course of the import or export. The Division Bench of the High Court held that a contravention of a condition imposed by a licence issued under the Act is not an offence under [Section 5](#) of the Act. This raises the question whether an administrative tribunal can ignore the law declared by the highest court in the State and initiate proceedings in direct violation of the law so declared. Under [Article 215](#), every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Under [Article 226](#), it has a plenary power to issue orders or writs for the enforcement of the fundamental rights and for any other purpose to any person or authority, including in appropriate cases any Government, within its territorial jurisdiction. Under [Article 227](#) it has jurisdiction over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It would be anomalous to suggest that a tribunal over which the High Court has superintendence can ignore the law declared by that court and start proceedings in direct violation of it. If a tribunal can do so, all the subordinate courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court

binding on subordinate courts. It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working: otherwise, there would be confusion in the administration of law and respect for law would irretrievably suffer. We, therefore, hold that the law declared by the highest court in the State is binding on authorities or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. If that be so, the notice issued by the authority signifying the launching of proceedings contrary to the law laid down by the High Court would be invalid and the proceedings themselves would be without jurisdiction.”

20. The principle of law laid down by their Lordships of the Supreme Court in East India Commercial Co., Ltd. (supra) was followed with approval in the matter Shri Baradakanta Mishra Ex-Commissioner of Endowments v. Shri Bhimsen Dixit¹⁸. In that case, Shri Baradakanta Mishra, the appellant therein, was a member of the Superior Judicial Service of the State of Orissa being judicial officer and also worked earlier as officiating District Judge. He was, at the relevant point of time, functioning as Commissioner of Hindu Religious Endowments, Orissa created under the Orissa Hindu Religious Endowments Act and he did not follow the previous decision of the High Court. He was found guilty of contempt by the High Court and when in the appeal preferred by him against the order holding him guilty of contempt, while dismissing the appeal, their Lordships of the Supreme Court have held that under Article 227 of the Constitution of India, the High Court is vested with the power of superintendence over the courts and tribunals in the State. It was further held that

acting as a quasi-judicial authority under the Orissa Hindu Religious Endowments Act, the appellant – judicial officer was subject to the superintendence of the High Court and accordingly, the decisions of the High Court were binding on him, he could not get away from them by adducing factually wrong and illegitimate reasons. Their Lordships pertinently observed as under:-

“15. The conduct of the appellant in not following the previous decision of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. His conduct is therefore comprehended by the principles underlying the law of Contempt. The analogy of the inferior court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of Contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly the deliberate and mala fide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law.

16. Our view that a deliberate and a mala fide conduct of not following the binding precedent of the High Court is contumacious does not unduly enlarge the domain of the contempt. It would not stifle a bona fide act of distinguishing the binding precedent, even though it may turn out to be mistaken.”

21. Similarly, in the matter of Bishnu Ram Borah and another v.

Parag Saikia and others¹⁹, the Supreme Court deprecated the

action of the Board of Revenue in refusing to carry out the

directions of the High Court and relying upon its earlier decision in the matter of Bhopal Sugar Industries Ltd. v. Income-tax Officer, Bhopal²⁰, clearly held that refusal on the part of the Board of Revenue to follow the direction given by the High Court, was in effect a denial of justice and is furthermore destructive of one of the basic principles in the administration of justice. It was observed by their Lordships as under: -

“11. It is regrettable that the Board of Revenue failed to realize that like any other subordinate tribunal, it was subject to the writ jurisdiction of the High Court under Article 226 of the Constitution. Just as the judgments and orders of the Supreme Court have to be faithfully obeyed and carried out throughout the territory of India under Article 142 of the Constitution, so should be the judgments and orders of the High Court by all inferior courts and tribunals subject to their supervisory jurisdiction within the State under Articles 226 and 227 of the Constitution. We cannot but deprecate the action of the Board of Revenue in refusing to carry out the directions of the High Court. In *Bhopal Sugar Industries Limited v. Income-tax Officer, Bhopal*²¹, the Income-tax Officer had virtually refused to carry out the clear and unambiguous directions with a superior tribunal like the Income-tax Appellate Tribunal had given to him by its final order in exercise of its appellate powers in respect of an order of assessment made by him. The Court held that such refusal was in effect a denial of justice and is furthermore destructive of one of the basic principles in the administration of justice based as it is in this country on the hierarchy of courts. The facts of the present case are more or less similar and we would have allowed the matter to rest at that but unfortunately the judgment of the High Court directing the issue of a writ of mandamus for the grant of a liquor licence to respondents 1 and 2 cannot be sustained.”

22. Similarly, the Allahabad High Court in the matter of Ramlalan v.

State of U.P.²¹, clearly held that if a law has been laid down by

the High Court of the State, it is binding and ought to be complied

20 AIR 1961 SC 182

21 2012(111) AIC 372

by all the authorities concerned, whether it is executive or judicial and further it has been reiterated by the Allahabad High Court in the matter of Smt. Shanu Sharma v. State of U.P. and others²².

23. Reverting to the facts of the case, it is quite vivid that enunciation of law by this Court in Ram Swarup Rajwade (supra) holding that the special court constituted and notified under the provisions of the POCSO Act will have the exclusive jurisdiction to try an accused who is simultaneously charged with the offences punishable under the provisions of the SC-ST Act of 1989 and the offences punishable under the provisions of the POCSO Act in one series of incident at the same trial, is a “declaration of law” by this Court under Article 226 of the Constitution of India and is in fact would have the effect of “judgment in rem” and “judgment of the court was not judgment in personam” confining its applicability to the parties to the lis. Therefore, the contention of the State Government that the order dated 10-12-2020 will only be applicable to the parties to writ petition (Ram Swarup Rajwade v. State of Chhattisgarh and another) and other cases will be governed by the notification dated 12-9-2014, deserves to be rejected for the above-stated reasons including that administrative notification cannot infiltrate on to an area covered by judicial order as held by their Lordships of the Supreme Court in Anil Ratan Sarkar (supra).

24. The law declared by the High Court is binding on all authorities and courts by virtue of Article 227 of the Constitution of India as

held by the Supreme Court in East India Commercial Co., Ltd. (supra). In Shri Baradakanta Mishra Ex-Commissioner of Endowment (supra), while dismissing the petition filed by Shri Mishra, a judicial officer, who was acting at relevant time as Commissioner, Hindu Religious Endowments, Orissa, who was found guilty for not following the decision of High Court, it was held that it is calculated to create confusion in the administration of law and it will undermine the respect for law laid down by the High Court and impair the constitutional authority of the High Court and it is likely to subvert the rule of law and engender harassing uncertainty and confusion in the administration of justice. In Bhopal Sugar Industries Ltd. (supra), their Lordships of the Supreme Court have held that refusal by the Board of Revenue to follow the direction given by the High Court would result in denial of justice and it would be destructive of basic principles in the administration of justice.

25. In my considered opinion, the law laid down by their Lordships of the Supreme Court in the above-stated judgments namely East India Commercial Co., Ltd. (supra), Shri Baradakanta Mishra Ex-Commissioner of Endowment (supra) and Bhopal Sugar Industries Ltd. (supra) squarely apply to the facts of the present case and the principle of law enunciated by this Court by order dated 10-12-2020 would be effect of the judgment in rem and binds all the judicial and executive authorities of the State including State. The modification prayed for would not only create confusion and chaos in the administration of law, but it

would erode the respect for law laid down by this Court (High Court) and diminish the constitutional authority of this Court (High Court) and would also have the effect of lowering the majesty, which the High Court commands.

26. As a fallout and consequence of the above-stated legal analysis, I am unable to accede to the request of the State Government to modify the order dated 10-12-2020 confining its applicability to the parties before the writ Court for the reasons ascribed herein-above and as such, the application for modification deserves to be and is hereby accordingly, rejected being merit-less and substance-less as well. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma