

Gian Singh vs. State of Himachal Pradesh and others

CMPMO No.77 of 2018

27.10.2025 Present: Mr. G.C. Gupta, Senior Advocate with Ms. Meera Devi, Advocate, for the petitioner.

Mr. Raj Kumar Negi, Additional Advocate General, for respondents No.1 to 4/State.

Mr. Sunil Mohan Goel, Senior Advocate with Mr. Abhishek Mohan Goel, Advocate, for respondent No.5.

The meaning of the expression “tribunal” came up for consideration in ***Columbia Sportswear Co. v. DIT, (2012) 11 SCC 224, at page 230.*** Therein the expression “tribunals” in Article 227 of the Constitution was explained in the following terms:

9. The meaning of the expression “tribunal” in Article 136 and the expression “tribunals” in Article 227 of the Constitution has been explained by Hidayatullah, J., in *Harinagar Sugar Mills Ltd. v. Shyam Sunder Jhunhunwala* AIR 1961 SC 1669 in para 32, relevant portion of which is quoted hereinbelow: (AIR p. 1680)

“32. With the growth of civilisation and the problems of modern life, a large number of administrative tribunals have come into existence. These tribunals have the authority of law to pronounce upon valuable rights; they act in a judicial manner and even on evidence on oath, but they are not part of the ordinary courts of civil judicature. They share the exercise of the judicial power of the State, but they are brought into existence to implement some administrative policy or to determine controversies arising out of some administrative law. They are very similar to courts, but are not courts. When the Constitution speaks of ‘courts’ in Articles 136, 227 or 228 or in Articles 233 to 237 or in the Lists, it contemplates courts of civil judicature but not tribunals other than such courts. This is the reason for using both the expressions in Articles 136 and 227.

By ‘courts’ is meant courts of civil judicature and by ‘tribunals’, those bodies of men who are appointed to decide controversies arising under certain special laws. Among the powers of the State

is included the power to decide such controversies. This is undoubtedly one of the attributes of the State, and is aptly called the judicial power of the State. In the exercise of this power, a clear division is thus noticeable. Broadly speaking, certain special matters go before tribunals, and the residue goes before the ordinary courts of civil judicature. Their procedures may differ, but the functions are not essentially different. What distinguishes them has never been successfully established."

10. Thus, the test for determining whether a body is a tribunal or not is to find out whether it is vested with the judicial power of the State by any law to pronounce upon rights or liabilities arising out of some special law and this test has been reiterated by this Court in *Jaswant Sugar Mills Ltd. v. Lakshmi Chand* AIR 1963 SC 677, *Associated Cement Companies Ltd. v. P.N. Sharma* AIR 1965 SC 1595 and in the recent decision of the Constitution Bench in *Union of India v. Madras Bar Assn* (2010) 11 SCC 1.

*"All tribunals are not courts, though all courts are tribunals". The word "courts" is used to designate those tribunals which are set up in an organised State for the Administration of Justice. By Administration of Justice is meant the exercise of judicial power of the State to maintain and uphold rights and to punish "wrongs". Whenever there is an infringement of a right or an injury, the courts are there to restore the vinculum juris, which is disturbed. (See *Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651, at page 706).*

The present petition is maintainable. At the request of learned Senior Counsel appearing on behalf of the petitioner, list on 03.12.2025.

October 27, 2025 (KS)

(Bipin C. Negi)
Judge