

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P (PIL)No. 5742 of 2013

Adiwashi Buddhijvi Manch,
Ranchi & Ors. Petitioners

Versus

The State of Jharkhand & Ors. Respondents

CORAM : HON'BLE MR. JUSTICE H. C. MISHRA
HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr.
For the Respondents : Mr. Atanu Banerjee, Sr.SC III
Mr. Sharad Kaushal, A.C to AAG.

20/07.05.2019 This matter is fixed as Part Heard case today, and when this matter was taken up, it was pointed out by the learned counsel for the State that one Civil Review No.15 of 2018 is pending on the same issue, upon being permitted by the Hon'ble Supreme Court of India, by order dated 12.03.2018, passed in Special Leave Petition (Civil) No.4199 of 2018.

Though the issue involved in this matter, was not decided by the Division Bench, out of which, the Civil Review arises, but the Hon'ble Supreme Court of India permitted to file the review petition, noting down as follows :-

“Learned counsel for the petitioner argues that the petitioner has obtained information under the provisions of Right to Information Act, 2005, from the Government of India, which is provided vide letter dated 30.01.2018 (Annexure P3 at page 109). As per that information, the Parliament has not passed any Act in the nature of Municipalities Extension to Scheduled Area Act, i.e., extending the provisions of Article 243 ZC, of the Constitution to the Scheduled Municipal Areas. On that basis, it is sought to be argued that the State Legislature should not extend the Jharkhand Municipal Act to the area in question which is Scheduled Area. From the Judgment of the High Court, we find that such an issue was not raised and that is why, there was no reason for the High Court to deal with the same.

It is submitted that since it is pure question of law touching upon the interpretation that is to be given to the aforesaid provision of the Constitution, the petitioner should be permitted to raise the same. We are of the opinion that, in the first instance, the petitioner should approach the High Court by filing a review petition. If the review petition is filed within four weeks, the same shall not be dismissed on the ground of limitation but shall be decided on merits.”

In the present writ application, the same question of law is involved, whether in view of the provisions of Article 243 ZC of the Constitution of India, the State Legislature is empowered to enact any law with respect to the Scheduled Areas.

As the same question of law is to be decided by a Coordinate Bench of this Court, in Civil Review No.15 of 2018, it would be appropriate that both these matters should be decided by the same Bench, in order to avoid any multiplicity of decisions, particularly contradictory decisions.

We accordingly, release this matter.

Let the matter be placed before the Hon'ble the Chief Justice in the administrative side for assigning the matter to the same Bench, hearing Civil Review No.15 of 2018.

(H. C. Mishra, J.)

(Sanjay Kumar Dwivedi, J.)

B.S/-