

Đ>ITEM No.1H
(For Judgment)

Court No.3

SECTION XIIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. OF 2009 @ SLP(C.)No. 6942/2005

Sakti Appellant (s)

VERSUS

State of A.P. & Ors. Respondent (s)

Date :24/04/2009 This Petition was called on for judgment today.

For Appellant (s) Mr. S.M.Garg,Adv.

For Respondent(s) Mr. T.V.George,Adv.

Hon'ble Dr. Justice Arijit Pasayat pronounced
Judgment of the Bench comprising His Lordship and Hon'ble
Mr. Justice Asok Kumar Ganguly.

Leave granted.

We direct the State Government to take immediate
steps for appointment in terms of Section 21(2) of the Central
Act as early as practicable preferably within six months from
today.

The appeal is disposed of in terms of the signed
judgment.

(Suman Wadhwa)
Court Master

(Shashi Bala Vij)
Court Master

Signed Reportable judgment is placed on the file.

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2805 OF 2009
(Arising out of S.L.P. (C) No.6942 of 2005)

Sakti ..Appellant

Versus

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Andhra Pradesh High Court dismissing the writ petition filed by the appellant. Prayer in the writ petition was as follows:

(1) to appoint an Officer, inspiring confidence in accordance with Section 21 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Central Act') for initiating prosecution for contravention of the provisions of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for ensuring safety to the S.Ts residing in Jeelugumilli, Buttaryagudem, Polavaram, T. Narasapuram and Gopalapuram Mandals of West Godavari District.

(2) to provide adequate legal aid to the persons subjected to atrocities, to enable them to avail justice and consequently declare that the peaceful agitation and awakening campaign of the petitioner organization and followed by S.Ts. for restoration of lands belonging to S.Ts in the furtherance of the prevention of atrocities under S.C. & S.T. (Prevention of Atrocities) Act, 1989.

3. The High Court held that the provisions of the A.P. State Commission for Scheduled Castes and Scheduled Tribes Act, 2003 (Act No.9 of 2003) (hereinafter referred to as the 'State Act') and the notification issued thereunder on 7.11.2003 constituting a Commission is to discharge such functions as are envisaged under Section 12 of the Act which are comprehensively enough. Therefore, it was observed that the appellant can approach the Commission for redressal of its grievances.

4. Stand of the learned counsel for the appellant in essence is that the State and the Central Act operate in different fields and, therefore, one cannot be a substitute for the other. Learned counsel for the respondent submitted that some amount of overlapping is there and, therefore, there cannot be any doubt about the adequacy.

5. In the State Act Section 12 reads as follows:

"12. Functions of the Commission :- The Commission shall perform the following functions, namely:-

xxx

xxx

xxx

(b) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards.

6. So far as Central Act is concerned, Section 21 reads as follows:

"21. Duty of Government to ensure effective implementation of the Act - (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measure may include, -

(i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;

(ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation, of such measures;

(vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1)

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section."

7. A bare perusal of the two provisions i.e. Section 12 of the State Act and Section 21 of the Central Act leaves no manner of doubt that they operate in two different fields. So far as Section 21 of the Central Act is concerned, it is the duty of the State Government to take such measure as may be necessary for effective implementation of the Act and that includes the appointment of the officers in initiating or exercising for supervision over prosecutions for the contravention of the provisions of the Act.

8. Section 12(b) of the State Act relates to investigation and monitoring of all matters relating to safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards.

9. Above being the position, we direct the State Government to take immediate steps for appointment in terms of Section 21(2) of the Central Act as early as practicable preferably within six months from today.

10. The appeal is accordingly disposed of.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
April 24, 2009