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ITEM NO.9

COURT NO.11

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

ORIGINAL SUIT NO.4/2004

STATE OF MAHARASHTRA

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(With appln(s) for permission to file additional documents and office report)

Date: 13/12/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) Mr. Harish N. Salve, Sr. Adv.
Mr. K. Parasaran, Sr. Adv.
Mr. Vinod A. Bobde, Sr. Adv.
Ms. Kamna Sagar, Adv.
Mr. M.V. Chavan, Adv.
Mr. P.R. Tiwari, Adv.
Ms. Aparajita Singh, Adv.
Mr. Shivaji M. Jadhav, Adv.
Mr. Brij Kishor Sah, Adv.

For Respondent(s) Mr. F.S. Nariman, Sr. Adv.
Mr. V.N. Raghupathy, Adv.
Mr. S.C. Sharma, Adv.

Mr. A.S. Chandio, ASG
Mr. S. Wasim A. Qadri, Adv.
Mr. Zaid Ali, Adv.
Mr. B.K. Prasad, Adv.
Ms. Sushma Suri, Adv.

UPON hearing counsel the Court made the following
O R D E R

Parties have agreed on draft issues and the issues are settled as follows:-

"Preliminary Issues:

1. Whether the Suit, Challenging the provisions of the States Reorganization Act, 1956 and Bombay Reorganization Act, 1960 under Articles 14 and 29 of the Constitution, is not maintainable in view of Article 3 of the Constitution of India?

2. Whether the Plaintiff State has any legal right to maintain the suit as framed or at all under Article 131 of the Constitution of India, in particular after 48 years of the enactment of the States Reorganization Act, 1956?

3. (i) Whether the State of Maharashtra can not file a suit on behalf of the residents of the Defendant No.2 State?

3(ii) Whether the Plaintiff's suit is also bad for non-joinder of necessary and proper parties, viz., the States of Gujarat and Andhra Pradesh, who were the States involved in the Bombay Reorganization Act and States Reorganization Act?

4. Whether this Hon'ble Court has no jurisdiction to hear and decide any of the disputes raised in the suit?

MAIN ISSUES:-

1. Whether Section 7(1)(b) and (c), Section 8(1)(b) of the States Reorganization Act 1956 and Section 3(1) of the Bombay Reorganization Act 1960 are violative of Article 14 of the Constitution being arbitrary, unreasonable and discriminatory and liable to be declared null and void?

2. Whether Section 7(1)(b) and (c), Section 8(1)(a)(i) and 8(1)(b) of the States Reorganization Act 1956 and Section 3(1) of the Bombay Reorganization Act 1960 in so far as they exclude the Marathi speaking majority areas listed in Exhibit-'K' to the Plaint are unconstitutional being contrary to the well established principles of reorganization consistently adopted by the Parliament while reorganizing states?

3. Whether linguistic and cultural homogeneity and the wishes of the people have been the fundamental principles in the formation of the States?

4. Whether the State of Bombay and Defendant No.2 were reorganized on linguistic basis by the States Reorganization Act 1956?

5. Whether the Plaintiff was reorganized on linguistic basis by the Bombay Reorganization Act, 1960?

6. Whether the 865 villages claimed by the Plaintiff are linguistically and culturally homogenous and geographically contiguous to the Plaintiff State?

7. Whether village is the most rational and scientific unit for the demarcation and readjustment of boundaries of States?

8. Whether the transfer of the 865 villages is administratively inconvenient resulting in hardship and oppression of Marathi speaking people of the area and thereby vitiating the transfer of these 865 villages to Defendant No.2 State?

9. Whether the recommendation to transfer the disputed areas by the State Reorganization Commission to the Defendant No.2 State was arbitrary and unreasonable?

10. Whether the States Reorganization Commission deviated from the principles set by itself by shifting the onus of proving a linguistic majority from Defendant No.2 to the Plaintiff in the case of the areas which were already a part of the Plaintiff State?

11. Whether the States Reorganization Commission deviated from the principle set for itself by transferring areas to Defendant No.2 State on the basis of linguistic homogeneity much below the figure of 70%?

12. Whether the Zonal Council has the power and the jurisdiction to decide a boundary dispute between two States under Section 21 of the States Reorganization Act 1956?

13. Whether the plaintiff has been constantly agitating its cause of action before Defendant No.1 and other fora available to it?

14. Whether the right of the residents of Defendant No.2 State who speak Marathi are violated having regard to the provisions of Articles 14, 16, 19, 21, 29, 30, 345 and 350?

15. Whether there was unanimous agreement regarding State Boundaries finally passed in the Parliament and if so, can it be re-opened at the instance of one of the States of the Union?

16. Whether the Report of the Mahajan Commission has not become final and it would not be binding on the Plaintiff State?

17. Whether this Hon'ble Court is empowered to grant the relief involving constitutionality of the impugned provisions of the States Reorganization Act 1956 and the Bombay Reorganization Act 1960 having regard to the doctrine of separation of powers?

18. Whether the suit is not maintainable on the ground that impugned provisions do not violate the fundamental principle of reorganization of State in India?

19. Whether the disputed areas should have been included in the State of Bombay by the Act of 1956 and thereafter in the Plaintiff State by the Act of 1960?

20. Whether the Plaintiff State is entitled to any of the reliefs prayed for?

21. What order or decree?"

Reply, if any, be filed on or before 4.2.2013.
List on 4.2.2013.

| (NARENDRA PRASAD)
| COURT MASTER

| | (RENUKA SADANA)
| | COURT MASTER

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