

Mr. Sidharth Das, Adv.
Ms. Tatini Basu, Adv.

Mr. Gaurav Agrawal, Adv.
Mr. Shankar Narayanan, Adv.

Mr. Jatinder Kumar Sethi, Adv.
Ms. Indra Sawhney, Adv.

Mr. Anil Kumar Mishra-I, Adv.

For Respondent(s)

Mr. M.C. Dhingra, Adv.

Mr. H.N. Salve, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv.
Mr. Sandeep Singhi, Adv.
Mr. Nakul Mohta, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Gurusharan, Adv.
Ms. Shikha Sarin, Adv.
Mr. E.C. Agrawala, Adv.

Mr. Altaf Ahmed, Sr. Adv.
Mr. Bhargava V. Desai, Adv.
Mr. Shreyas Mehrotra, Adv.

Ms. Rashmi Singh, Adv.
Mr. Rohit Sihalikar, Adv.
Mr. T. Mahipal, Adv.

Ms. Hemantika Wahi, Adv.
Ms. Jesal, Adv.
Mr. Kabir Hathi, Adv.

-3-

Mr. Mohan Jain, ASG
Mr. D.K. Thakur, Adv.
Ms. Ritu Bhardwaj, Adv.
Mr. Surya Kant, Adv.
Ms. Purnima Jauhari, Adv.
Mr. B.K. Jauhari, Adv.
Ms. Sushma Suri, Adv.

Mr. Pankaj Bhatia, Adv.
Mr. Garvesh Kalra, Adv.

Mr. Sanjay R. Hegde, Adv.
Mr. S. Nitin, Adv.
Mr. KMD Muhilon, Adv.
Mr. Anil Kr. Mishra-I, Adv.

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

All the cases before this Court stand closed as per signed order.

[Neeta] [Usha Sharma]
Sr. P.A. Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO(s). 4 OF 2009

HOTEL JANPATH EMPLOYEES P.F.TRUST

.... Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

.... Respondent(s)

WITH
W.P(C) NO. 5 of 2009
WITH
T.C.(C) NO. 52 of 2010
WITH
T.C.(C) NO. 54 of 2010
WITH
T.C.(C) NO. 53 of 2010
WITH
T.C.(C) NO. 56 of 2010
WITH
T.C.(C) NO. 51 of 2010
WITH
T.C.(C) NO. 55 of 2010
WITH
T.C.(C) NO. 57 of 2010
WITH
T.C.(C) NO. 50 of 2010
WITH
T.C.(C) NO. 25 of 2011
WITH
T.C.(C) NO. 26 of 2011
WITH
T.C.(C) NO. 3 of 2012
WITH
W.P(C) NO. 287 of 2012
WITH
W.P(C) NO. 959 of 2013

O R D E R

In these cases the petitioners have questioned the legislative competence of the State legislatures to enact the impugned 'Sardar Sarovar Narmada Nigam Limited' (Conferment of Power to Redeem Bonds) Act, 2008 ('Act' 12 of 2008). While according to petitioners the subject is covered by Entry 46 of the List I of Seventh Schedule to the Constitution of India, according to learned counsel for the State, the subject is covered by Entry 43 of List II of the Seventh Schedule. While some of the writ petitions have been

-2-

filed under Article 32 of the Constitution of India, other writ petitions have been filed before different High Courts, namely, Gujarat High Court, Bombay High Court and Karnataka High Court under Article 226 of the Constitution of India which were also transferred to this Court for hearing alongwith writ petitions filed under Article 32 of the Constitution of India.

On hearing the parties, we find that the main question relates to legislative competence of the State legislature to enact to Act in question. Prima facie as it appears that no question relating to petitioner's right under Part III of the Constitution of India is involved, we are of the view that the parties should pursue their case under Article 226 of the Constitution of India before one High Court i.e. Gujarat High Court. Learned counsel for the parties also agree to pursue their remedy under Article 226 of the Constitution of India before the Gujarat High Court. We, accordingly, allow the concerned petitioners to convert their petitions under Article 32 of the Constitution of India, as petitions filed under Article 226 of the Constitution of India and transfer the writ petitions and all other writ petitions(now listed as transfer case) to

Gujarat High Court for decision on merit.

Parties are given liberty to file additional affidavit / counter affidavit or amended petition taking additional grounds to challenge the validity of the law before the Gujarat High Court.

The Gujarat High Court is expected to decide the writ petitions expeditiously. All the cases before this Court stand closed.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(S.A. BOBDE)

NEW DELHI;
DECEMBER 10, 2013
ITEM NO.2

COURT NO.12

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO(s). 4 OF 2009

HOTEL JANPATH EMPLOYEES P.F.TRUST

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay and office report)

W.P(C) NO. 5 of 2009

(With appln(s) for stay and office report)

T.C.(C) NO. 52 of 2010

(For Prel. Hearing)

T.C.(C) NO. 54 of 2010 (For Prel. Hearing)

T.C.(C) NO. 53 of 2010 (For Prel. Hearing)

(With appln(s) for impleadment as party respondent)

T.C.(C) NO. 56 of 2010 (For Prel. Hearing)

T.C.(C) NO. 51 of 2010 (For Prel. Hearing)

T.C.(C) NO. 55 of 2010 (For Prel. Hearing)

(With appln(s) for permission to file additional documents)

T.C.(C) NO. 57 of 2010 (For Prel. Hearing)

(With appln(s) for permission to file additional documents)

T.C.(C) NO. 50 of 2010 (For Prel. Hearing)

(With appln(s) for impleadment as party respondent)

T.C.(C) NO. 25 of 2011 (For Prel. Hearing)

T.C.(C) NO. 26 of 2011 (For Prel. Hearing)

T.C.(C) NO. 3 of 2012 (For Prel. Hearing)

W.P(C) NO. 287 of 2012

(With appln(s) for ex-parte stay and office report)

W.P(C) NO. 959 of 2013

(With office report)

Date: 10/12/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Annam D.N. Rao, Adv.

Mr. R.S. Hegde, Adv.

Mr. Chandra Prakash, Adv.

Mr. Rajeev Singh, Adv.

Mr. B.H. Marlapalle, Sr. Adv.

Mr. Yikrant Yadav, Adv.

Mr. Rajesh Sehgal, Adv.
Mr. M.C. Dhingra, Adv.

-2-

Mr. Prabhjit Jauhar, Adv.
Ms. Anumpa Kula, Adv.
Mr. S.S. Jauhar, Adv.
Mr. Annam D.N. Rao, Adv.
Ms. Neelam Jain, Adv.
Ms. Vaishali R., Adv.
Ms. Mansha Monga, Adv.
Mr. Sudipto Sircar, Adv.

Mr. Sidharth Das, Adv.
Ms. Tatini Basu, Adv.

Mr. Gaurav Agrawal, Adv.
Mr. Shankar Narayanan, Adv.

Mr. Jatinder Kumar Sethi, Adv.
Ms. Indra Sawhney, Adv.

Mr. Anil Kumar Mishra-I, Adv.

For Respondent(s)

Mr. M.C. Dhingra, Adv.

Mr. H.N. Salve, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv.
Mr. Sandeep Singhi, Adv.
Mr. Nakul Mohta, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Gurusharan, Adv.
Ms. Shikha Sarin, Adv.
Mr. E.C. Agrawala, Adv.

Mr. Altaf Ahmed, Sr. Adv.
Mr. Bhargava V. Desai, Adv.
Mr. Shreyas Mehrotra, Adv.

Ms. Rashmi Singh, Adv.
Mr. Rohit Sihalikar, Adv.
Mr. T. Mahipal, Adv.

Ms. Hemantika Wahi, Adv.
Ms. Jesal, Adv.
Mr. Kabir Hathi, Adv.

Mr. Mohan Jain, ASG
Mr. D.K. Thakur, Adv.
Ms. Ritu Bhardwaj, Adv.
Mr. Surya Kant, Adv.
Ms. Purnima Jauhari, Adv.
Mr. B.K. Jauhari, Adv.
Ms. Sushma Suri, Adv.

-3-

Mr. Pankaj Bhatia, Adv.
Mr. Garvesh Kalra, Adv.

Mr. Sanjay R. Hegde, Adv.
Mr. S. Nitin, Adv.
Mr. KMD Muhilon, Adv.
Mr. Anil Kr. Mishra-I, Adv.

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

In these cases the petitioners have question of legislative competence of the legislature of the State of Gujarat to enact the impugned 'Sardar Sarovar Narmada Nigam Limited' (Conferment of Power to Redeem Bonds) Act, 2008 ('Act' 12 of 2008).

While according to petitioners the issues fall in Entry 46 of the List I of Seventh Schedule to the Constitution of India, according to learned counsel for the States, the issues fall in Entry 43 of List II of the Seventh Schedule. Some of the writ petitions even directly filed before this Court under Article 32 of the Constitution of India, some of the cases which have filed before Gujarat High Court, Bombay High Court and in Karnataka High Court under Article 226 of the Constitution of India they were also transferred to this Court for hearing alongwith writ petitions filed under Article 32 of the Constitution of India.

On hearing the parties, we find that the main question relates to legislative competence of the State to enact to Act in question. Prima facie no direct question relating to petitioner's right under Part III of the Constitution of India is involved. We are of the view that the parties should pursue their case under Article 226 of the Constitution of India before one High Court i.e.

-4-

Gujarat High Court. Learned counsel for the parties also agreed to pursue their remedy under Article 226 of the Constitution of India before the Gujarat High Court. We, accordingly, allow the concerned petitioners to convert their petitions under Article 32 of the Constitution of India, as petitions filed under Article 226 of the Constitution of India and transfer the writ petitions and all other writ petitions(now listed as transfer case) to Gujarat High Court for decision on merit.

Parties are given liberty to file additional affidavit / counter affidavit or amended petition taking additional grounds to challenge the validity of the law before the High Court.

Gujarat High Court is expected to decide the writ petitions expeditiously. All the cases before this Court stand closed.

[Neeta]
Sr. P.A.

[Usha Sharma]
Court Master