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ITEM NO.39

COURT NO.4

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.1 of 2008

STATE OF HARYANA Plaintiff(s)
VERSUS
STATE OF PUNJAB & ORS. Defendant(s)
(With appln. for interim Relief and office report)

WITH ORIGINAL SUIT NO.2/2007

Date: 06/08/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE MR. JUSTICE RANJAN GOGOI

For Plaintiff(s) Mr. Vinod A.Bobde,Sr.Adv.
in OS.No.1/08 Mr. K.K. Lahiri, Adv.
Mr. Ejaz Maqbool,Adv.
Ms. Sakshi Banga,Adv.
Mr. Shivendra Dwivedi, Adv.
Ms.Kamna Sagar, Adv.

State of Haryana Mr.Manjit Singh, AAG, Haryana, Adv.
Ms. Vivekta Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.

For Defendant(s) Mr. Mohan Jain,ASG
For UOI Mr. A. Mariarputham, Sr.Adv.
Ms. Rashmi Malhotra, Adv.
Mr. D.K. Thakur, Adv.
Mr. Prabhat Kumar, Adv.
Mr. Zaid Ali, Adv.
Mr. D.S. Mahara, Adv.
Ms.Sushma Suri, Adv.
Mr. SWA Qadri, Av.
Mr. Shailder Saini, Adv.
Mr. S.S. Rawat, Adv.
Mr. B.K. Prasad,Adv.
Mrs Anil Katiyar,Adv.

For State of Punjab Mr. Rupinder Singh Suri,Sr.Adv.
& for plaintiff in Mr. Mohan V. Katarki,Adv.
OS.No.2/07 Mr. Jagjit Singh Chhabra ,Adv.
Mr. Vinay K. Shailendra.Adv.
Mr. Gopal Jain,Adv.
Mr. Vinay K. Shailendra, Adv.

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State of Rajasthan Dr. Manish Singhvi,AAG
Mr. Irshad Ahmad, Adv.
Mr. Anjani KUmar Dubey, Adv.
Mr. R.Gopalakrishnan,Adv.

U.T. Chandigarh Mr. T.S. Doabia, Sr.Adv.
Mr. Manpreet Singh Doabia, Adv.
Mr. Sudarshn Singh Rawat, Adv.

State of J & K Mr. Sunil Fernandes, Adv.
Ms.Vernika Tomar, Adv.
Mr. Shashank K. Lal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The following issues have been framed in both the Suits:
ISSUES FRAMED IN SUIT NO.1/2008:

(1) Whether Sections 78 and 79 of the Punjab Re-organisation Act, 1966 is ultra vires the Constitution either on the ground of lack of legislative competence on the part of the Parliament or on the ground that the same is inconsistent with Articles 3 & 4 of the Constitution?

(2) Whether the suit filed by the State of Haryana is maintainable in view of Section 11 of the Inter-State River Water Dispute Act, 1966 read with Article 262(2) of the Constitution of India?

(3) Whether the Government of India is under a mandatory obligation to take over the physical possession of the irrigation headworks, at Ropar, Harike and Ferozpur and place the same under the physical control of Bhakra Beas Management Board for the administration, maintenance and operation of the said irrigation headworks, and whether there is a corresponding legal obligation on the part of the

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State of Punjab to deliver possession of the above-mentioned irrigation headworks to the Government of India?

(4) Whether the State of Haryana has an enforceable legal right under the provisions of the P.R. Act, 1966 to such of the reliefs claimed in the Suit?

(5) Whether the directions contemplated under Section 79(8) of the Punjab Re-organisation Act take within their sweep a direction to deliver the physical possession of the irrigation headworks mention in Section 79(1)?

(6) Whether the irrigation headworks in dispute statutorily vest in the State of Punjab under Section 48 of the Act, and, therefore, impermissible in law to compel the State of Punjab to part with the possession of the said irrigation headworks?

(7) Whether the State of Haryana has any locus to file the instant suit given the fact that it receives no water from the Headworks of Ropar, Harike, Ferozpur and has suffered no prejudice in this regard?

ISSUES FRAMED IN SUIT NO.2/2007

1. Whether Sections 78 and 79 of the Punjab Reorganization Act, 1966 are ultra vires the Constitution of India?

2. If so, whether the State of Punjab is entitled to a consequential declaratory decree declaring the provisions of Sections 78 and 79 ultra vires, and all acts, deeds and things done

pursuant to the said provisions or in consequence thereof, non-est and void ab initio? ...4/-

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3. Whether the provisions of Order XXXII, Rules 1 and 2 of the Supreme Court Rules, 1966 are ultra vires of the Constitution of India and the State of Punjab entitled to a consequential declaratory decree?

4. Whether Punjab's Suit is barred by Article 262 of the Constitution of India read with Section 11 of the Inter State River Waters Disputes Act, 1956 because Punjab claims a legal right to regulate the waters of the rivers Ravi, Beas and Sutlej in its territory and consequently, whether the Suit is liable to be rejected at the threshold?

5. Whether Punjab's Suit is barred by the provisions of Order XXIII, Rule 6(b) read with Order XXXII, Rule 2 of the Supreme Court Rules, 1966 and consequently, whether the Suit is liable to be rejected at the threshold?

6. Whether the decision of this Hon'ble court in its judgment dated June 4, 2004 in the case of State of Haryana v. State of Punjab as reported inter-alia in (2004) 12 SCC 673 at pgs. 703-704, paras 72-77 operates as res judicata and those questions cannot be re-agitated in a fresh suit under Article 131 of the Constitution of India?

7. Whether it is legally impermissible for the State of Punjab to challenge the very statute under Articles 3 and 4 of the Constitution of India to

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which it owes its existence as an unit of the federation of India and consequently, the Suit is liable to be rejected on this ground as well?

8. Whether the Punjab Reorganization Act, 1966 which created the present States of Punjab and Haryana being an Act of Parliament under Articles 3 and 4 of the Constitution of India which confer plenary power to reorganize States and is paramount and unfettered by Article 246 and the three Lists in the VIIth Schedule of the Constitution of India and is ex-facie a competent piece of legislation in its entirety?

Eight weeks' time is granted for filing affidavit for examination-in-chief to both the parties.

Put up on 29th October, 2012.

[Usha Bhardwaj]
Court Master

[Savita Sainani]
Court Master