

Topic: Power Of Governor Under Article 167

Name of the Case: J.P. Bansal v. State of Rajasthan, AIR 2003 SC 1405

Bench: Justice Shivraj V. Patil and Justice Arijit Pasayat

Fact of the Case: The appellant was appointed as judicial member of the tribunal issued by Finance Department of the Government of Rajasthan. He prays for issuing a writ of mandamus to the State of Rajasthan to pay compensation on cessation of functioning as Chairman of the abolished Rajasthan Taxation and Tribunal having been turned down by the learned single judge and the division bench of Rajasthan High Court the appeal was referred to Supreme Court.

Judgment: The Supreme Court observed that the Constitution requires that action must be taken by the authority concerned in the name of the Governor. It is not till this formality is observed that the action can be regarded as that of the State. Constitutionally speaking the Council of Minister or advisor and as the head of state, the Governor is to act with the aid and advice of Council of Ministers. Therefore, till the advice is a given by the Governor, the council of minister does not get legalized into the action of the state.
