

State Of Maharashtra And Ors. vs Man Singh Suraj Singh Pandvi And Ors. on 22 January, 1976

Equivalent citations: AIR1977SC2121, (1977)4SCC605B, 1976(8)UJ222(SC), AIR 1977 SUPREME COURT 2121, U J (SC) 222 1977 4 SCC 605 (4), 1977 4 SCC 605 (4)

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Bench: R.S. Sarkaria, S. Murtaza Fazal Ali

JUDGMENT

R.S. Sarkaria, J.

1. After having a peep into the case with the aid of the Counsel on both sides, we are satisfied that an important question relating to the interpretation of Para 5 of Schedule Fifth of the Constitution is involved in this case. The question is whether the non-obstante clause "Notwithstanding anything in this Constitution" para 5 covers the provisions in Part III of the Constitution, also. There is a conflict of judicial opinion on this point. A decision of the Andhra Pradesh High Court in Seepuri Nagabaushanam and Ors. v. Secretary to Govt. Panchayat Raj Government of Andhra Pradesh, Hyderabad has taken the view that this clause is wide enough to encompass the provisions of Part III of the Constitution. A Contrary view has been taken in the judgment under appeal by the Bombay High Court. It is submitted by Counsel that there is some inconsistency in the point between the decisions of this Court in State of Bihar. v. Rameshwar Pratap Narain Singh and Ors. (2) and Maharana Shri Jayavantsingji Ranmalstnghji etc. B. The State of Gujarat which requires to be resolved by a larger Bench. The Bombay High Court has chosen to follow the decision of this Court in Maharana Shri Jayvanti Singji Ranmalsinghji etc. v. The State of Gujarat (Supra), let the matter be therefore, placed before the Hon'ble Chief Justice for directions.