Motilal vs State Through Smt. Sagarwati on 19 December, 1951

Equivalent citations: AIR1952ALL963, AIR 1952 ALLAHABAD 963

JUDGMENT

Agarwala, J.

1. Srimati Bari Dulaiya filed a complaint before the Panchayati Adalat of Rupadhamna alleging that Moti Lal applicant stole away a cow from her house after having sold the same to her.

2. The applicant's defence was that he did not steal the cow and was not guilty of theft.

3. The complainant examined two witnesses, Noni Dulaiya, an old lady living in the neighbourhood, and one Chattrasal, a person whose name appeared in the panel of Panches of Panchayati Adalat, Rupadhamna. The applicant examined one Ram Sarup and Rajpat. Rajpat admitted that a receipt was written after the cow had been sold. The receipt was scribed by one Sri Nathu Ram Yadav, one of the Panches constituting the Bench of the Panchayati Adalat trying the case. He was also examined by the Panchayati Adalat. He corroborated the statement of the complainant. The Panches including the witness Sri Nathu Ram Yadav, convicted the applicant under Section 379, I. P. C. and sentenced him to a fine of Rs. 45/-. In their judgment the Panches relied not only upon the statements of the prosecution witnesses, but also upon the statement of Sri Nathu Ram Yadav Panch.

4. Against this order the applicant filed an application in revision in the court of the Sub-Divisional Magistrate. Before the Sub-Divisional Magistrate it was urged that Sri Chattrasal could not legally sit as a Panch and decide the case when he was a prosecution witness. The Sub-Divisional Magistrate observed that Chattrasal was not a member of the Bench which decided the case. He, therefore, dismissed the revision.

5. The applicant has now applied to this Court under Article 227 of the Constitution. He has filed an affidavit stating that by a mistake of the counsel, instead of Nathu Ram Yadav, the name of Chattrasal was mentioned before the Sub-Divisional Magistrate as one of the Panches who decided the case and who was also a witness in the case. As from the judgment of the Panchayati Adalat itself, it appears that Nathu Ram Yadav was both a witness and a Panch who decided the case, we allowed the applicant to raise this point for the first time in this Court. The question raised before us is whether under the Panchayat Raj Act a person can both be a witness and a judge in deciding the case and whether the decision of the Panchayati Adalat is not void on that ground.

6. On behalf of the opposite party three contentions have been raised. First, it has been urged that this Court has no jurisdiction to interfere with a judicial order of a subordinate tribunal under

Article 227. The contention is that the High Court has only administrative power of superintendence under Article 227. Secondly, it is urged that even if this Court has power of judicial superintendence, that power is barred by virtue of Section 85 (5) of the Panchayat Raj Act. Thirdly, it is contended that the Panchayat Raj Act provides its own special procedure under which it is permissible for a Panch to be both a witness and a judge.

7. So far as the second contention is concerned, it can be disposed of very easily.

8. Clauses (1) to (4) of Section 85, Panchayat Raj Act lay down circumstances in which a Sub-Divisional Magistrate, in the case of a criminal case, a Munsif, in the case of a civil case, and the Sub-Divisional Officer, in the case of a revenue matter, may interfere with the proceedings or order or decree of the Panchayati Adalat. Clause (5) of that section provides:

> "except as aforesaid, a decree or order passed by a Panchayati Adalat in any suit, case or proceeding under this Act shall be final and shall not be open to appeal or revision in any court."

This provision bars an appeal or revision from the decision of a Panchayati Adalat except as is provided in the Act itself. It is, therefore, effective to bar a revision under Section 435, Criminal P. C. But is it effective against the provisions of the Constitution?

9. Assuming that either under Article 227 or under Article 226 of the Constitution this Court has jurisdiction to interfere with judicial orders of courts or tribunals situated within the territories in relation to which it exercises jurisdiction, the provisions of Section 85 (5) cannot take away that jurisdiction. The Constitution is the fundamental law of the land. No law which is contrary to the provisions of the Constitution can be valid except in so far as the Constitution itself provides for the appropriate authority to make such law.

The U. P. Panchayat Raj Act is an Act of the U. P. Legislature passed in the year 1947, that is, before the Constitution came into force. This was a law which was in force when the Constitution took effect. It continued to be in force by virtue of the provisions of the Constitution contained in Article 372(1) under which the existing laws were to continue in force even after the promulgation of the Constitution "subject to the other provisions of the Constitution." These other provisions are contained in Arts. 226 and 227 and, therefore, Section 85 (5), Panchayat Raj Act does not debar the High Court from interfering with the order of the Panchayati Adalat in appropriate cases.

10. The question then is whether Article 227 confers upon this Court power to interfere with judicial orders of inferior tribunals.

11. Clause (2) of Article 227 refers to, what may be called, the administrative power of the Court, such as to call for returns from inferior courts, to make and issue general rules, and proscribe forms for regulating the practice and procedure of such courts. Clause (2) is, however, without prejudice to the generality of the provisions in Clause (1). Clause (1) empowers the High Court to exercise "superintendence" over all courts and tribunals throughout the territories in relation to which it

exercises jurisdiction. It is, therefore, obvious that this power of superintendence is not confined to the specific power given under Clause (2). What is this general power of superintendence? The Superior Courts in England, specially the Court of the King's Bench, used to exercise and do exercise even now power of superintendence over inferior courts. In the exercise of this power they interfere with the proceedings of inferior courts by the issue of writs of certiorari, or prohibition. 12. The writ of certiorari was intended to bring into the High Court the decision of the inferior tribunal in order that the High Court may be satisfied whether the decision is within the jurisdiction of the inferior tribunal or not. Writ of prohibition was issued to prevent an inferior court from exercising a jurisdiction which it did not possess: The King v. Electricity Commissioners, (1924) 1 K. B. 171 and The King v. Minister of Health, (1929) 1 K. B. 619. The power of superintendence was, however, never exercised to correct more errors of law or errors of fact not involving errors of jurisdiction of the subordinate Courts and not involving some errors apparent on the face of the record, which may arise from some defect or informality in the proceedings.

13. In Ryots of Garabandho v. Zamindar of Parlakimedi, 17 Ind. App. 129 (P. C.), Viscount Simon, L. C. observed that the remedy under the writ of certiorari "is derived from the superintending authority which the Sovereign's superior Courts, and in particular the Court of King's Bench, possess and exercise over inferior jurisdictions. The principle has been transplanted to other parts of the King's dominions and operates, within certain limits, in British India."

The power of superintendence by means of the issue of writs of certiorari and prohibition was exercised by the Supreme Courts established by Parliament in Calcutta, Madras and Bombay.

There was no such power of superintendence conferred upon the superior Courts established by the East India Company, namely Saclar Dewany Adalats and Sadar Nizamat Adalats. By the Indian High Courts Act of 1861, 24 and 25 Vic. c. 104, the Supreme Courts at Calcutta, Madras and Bombay and the Sadar Dewany Adalats and Sadar Nizamat Adalats were to be superseded by the High Courts to be established under Letters Patent. Section 9 of the Act transferred to the new High Courts the power already exercised by such superior Courts. Section 15 then conferred upon them the power of superintendence "over all Courts which may be subject to its appellate jurisdiction." While this Act was in force the question as to the extent of the jurisdiction conferred on the High Courts under the power or superintendence came for decision before the various High Courts in India.

14. In Tej Ram v. Harsukh, 1 ALL. 101, a Full Bench of four Judges had a Case in which the lower appellate Court had set aside a sale in execution of a decree upon a ground not provided by law, and the auction purchaser applied to the High Court under Section 15 of the Act of 1861.

In refusing to interfere this Court observed:

> "Whether we consider the ordinary significance of the term namely, 'superintendence' or construe it in connection with the context, it appears to us to confer on the High Court no revisional power, no power to interfere with or set aside the judicial proceedings of a Subordinate Court, but that it confers on the High Court administrative authority and not judicial powers; as we construe the term, it would

> be competent to the High Court in the exercise of its power of superintendence to direct a subordinate Court to do its duty or to abstain from taking action in matters of which it has not cognizance, hut the High Court is not competent in the exercise of this authority to interfere and set right the orders of a Subordinate Court on the ground that the order of the Subordinate Court has proceeded on an error of law or an error of fact."

It will be observed that when their Lordships stated that the Court is competent under the power of superintendence "to direct a Subordinate Court to do its duty or to abstain from taking action in matters of which it has not cognizance"

> they had in mind to a limited extent the power exercised by the High Court in England under the writs of certiorari and prohibition, and when they said that this Court cannot "set right the orders of a Subordinate Court on the ground that the order of the Subordinate Court has proceeded on an error of law or an error of fact"

they were merely stating the recognised limits of the exercise of jurisdiction under the writs of certiorari and prohibition. But in saying that this Court has no power to interfere with or set aside the judicial proceedings of a subordinate Court and that the power of superintendence confers on the High Court administrative authority only they contradicted themselves.

The matter was, therefore, again considered in a subsequent case by the Full Court of five Judges in Muhammad Suleman v. Fatima, 9 ALL. 104 (F. B.). Sir John Edge, C. J., was of opinion that under Section 15 of the Charter Act "it is competent to the High Court, in the exercise of its power of superintendence, to direct a subordinate Court to do its duty or to abstain from taking action in matters of which it has no cognizance and that this power is not limited to cases in which a subordinate Court declines to hear or determine a suit or application within its jurisdiction."

His Lordship also observed that the words "administrative authority" or "judicial powers'-found in the Full Bench decision in Tej Ram v. Harsukh (ubi supra) may lead to future difficulty and should not be used. Oldfield and Brodhurst JJ. concurred with the opinion of the Chief Justice. Straight and Tyrrell, JJ., were of opinion that the power of superintendence included powers of judicial or quasi-judicial character, and that the revisional powers of this Court conferred under Section 622, Civil P. C., (equivalent to Section 115 of the present Code) may be accepted as indicating the extent to which the Court should ordinarily interfere with the findings of the subordinate tribunals. The views of the other High Courts were more pronounced and definite and Were to the effect that the power of superintendence included the power of judicial interference in matters of jurisdiction.

15. In the Calcutta High Court, it was held:

> (a) that the Court may interfere under Section 15, High Courts Act to direct the exercise of a power or jurisdiction disclaimed by the lower Court
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> --Govind Coomar v. Kisto Coomar, 7 W. R. 520;

(b) that it may interfere to set aside an order made by the lower Court without jurisdiction Joy Ram v. Bulwant Singh, 5 W. R. Misc. 3; (c) that it should not interfere merely on the ground that an order made by a Court having jurisdiction is erroneous--Petition of Pearee Lal Sahoo, 7 W. R. 130. See also Manmatha v. Emperor, 37 Cal. W. N. 201 and Sholapur Municipality v. Tuljaram, A. I. R. 1931 Bom. 582.

16. The High Courts Act of 1861 was repealed by the Government of India Act, 1915. Section 107 of the Act was, however, similar in terms to Section 15 of the Act of 1861. In Mukund Lal v. Gaya Prasad, A.I. R. 1935 ALL. 599, a Full Bench of this Court, referring to Muhammad Suleman Khan's case (9 ALL. 104 F. B.) observed that it was conceded in that case that the power conferred on High Courts under Section 15 of the Act of 1861 was not confined to administrative superintendence only, but included powers of a judicial or quasi-judicial character, but that the High Court could not interfere with or set right the orders of subordinate Courts on the ground that the orders of the subordinate Courts had proceeded on an error of law or an error of fact.

17. The Government of India Act of 1935 repealed the Government of India Act of 1915, and Section 224 of the former Act replaced Section 107 of the latter Act. Sub-section (2) of Section 224 expressly took away the judicial power of superintendence of the High Courts. It provided that nothing under this section shall be construed as giving a High Court any jurisdiction to question any judgment of the inferior Court which is not otherwise subject to appeal or revision."

18. Beaumont C. J. in Balkrishna v. Emperor, A. I. R. 1933 Bom. 1 (S.B.), observed that depriving the High Court of this power of judicial superintendence was an "unfortunate thing."

19. Under the present Constitution, in Article 227 there is not to be found any provision corresponding to Section 224(2), Government of India Act, 1935. It has, therefore, been held by all the High Courts in India before whom this question has arisen that the High Courts have now judicial powers of superintendence: vide Abdul Rahim v. Abdul Jab-bar, 54 Cal. W. N. 445; Narendra Nath v. Binode Behari, A. I. R. 1951 cal. 138; Sabitri Motor Service Ltd. v. Asansol Bus Association, A. I. R. 1951 Cal. 255 (S. B.); Bimala Prosad v. State of West Bengal, A. I. R. 1951 Cal. 258 (S. B.); Shridhar Atmaram v. Collector of Nagpur, A. I. R. 1951 Nag. 90; Israil Khan v. The State, A. I. R. 1951 Assam 106; Ratilal Fulbhai v. Chuni Lal M. Vyas, A. I. R. 1951 sau. 15; Mohamad Abdul Raoof v. State of Hyderabad, A. I. R. 1951 Hyd. 50 and Piare Lal v. Wazir Chand, A. I. R. 1951 Punj 108.

20. In this Court as well a Bench has taken the same view though without reference to the previous Full Bench decisions of this Court: vide Sukhdeo v. Brij Bhushan, 1951 ALL. L. J. 305 at p. 317.

21. The discussion, however, whether Article 227 confers on the High Court judicial power similar to the power of issuing a writ of certiorari or prohibition is academic because that power has been expressly conferred upon the High Court by Article 226.

That Article empowers the High Court, "throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government within those territories, directions, orders or writs, including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose."

The words "any person or authority" include Courts and tribunals whether under the appellate jurisdiction of the High Court or not.

22. This brings us to the last point in the case. Section 49 (3), Panchayat Raj Act provides that:

> "No Panch or Sarpanch shall take part in any case, suit or proceeding to which he or any near relation, employer, employee or partner in business of his is a party or in which any of them may be personally interested."

The words "any of them" in the last clause of Section 49 (3) refer to Panch or Sarpanch only and do not refer to near relation, employer, employee or partner in business. So far as the rule about a Panch or Sarpanch not taking part in a case when any of them is "personally interested" is concerned, it is identical with the rule laid down in Section 556, Criminal P. C.

23. It is one of the fundamental principles of the exercise of judicial functions by Courts that they should be impartial and fair, or, in other words, that they should not have any prejudice against any one of the parties. Thus, it is that no judge can try a case in which he is himself interested. Nemo debet esse Judex in propria causa. The principle embodied in this maxim does not rest upon any suspicion as to the honesty of the Judge or his capacity for the purposes of adjudication, but, in the words of Mahmood J.:

> "It rests upon a thing higher than the technicalities of law. It rests upon the philosophy that says that human beings are after all human beings, and, with all honour due to the honesty and integrity of Judges, they are not to hear cases in which they are themselves concerned."

Queen Empress v. Pohpi, 13 All. 171 F. B.

24. Lush J. in Serjeant v. Dale, (1877) 2 Q. B. 558 at p. 567, stated the law as follows:

> "The law does not measure the amount of interest which a judge possesses. If he has any legal interest in the decision of the question one way he is disqualified, no matter how small the interest may be. The law, in laying down this strict rule, has regard not so much perhaps to the motives which might be supposed to bias the judge as to the susceptibilities of the litigant parties. One important object, at all events, is to clear away everything which might engender suspicion and distrust of the tribunal, and so to promote the feeling of confidence in the administration of justice which is so essential to social order and security."

25. In Frome United Breweries Co. Ltd. v. Bath Justices, (1926) A. C. 586 at p. 590, Viscount Cave L. C. enunciated the rule in the following words:

> "My Lords, if there is one principle which forms an integral part of the English law, it is that every member of a body engaged in a judicial proceeding must be able to act judicially; and it has been held over and over again that, if a member of such a body is subject to a bias (whether financial or other) in favour of or against either party to the dispute or is in such a position that bias must be assumed, he ought not to take part in the decision or even to sit upon the tribunal. This rule has been asserted, not only in the case of Courts of justice and other judicial tribounals, but in the case of authorities which, though in no sense to be called Courts, have to act as judges of the rights of others."

26. The words "personally interested" are not confined to pecuniary interest. They include any position in which bias must be assumed, e. g., When the judge has personal knowledge of the material facts of the case.

The danger of a Judge importing his own knowledge in the decision of a case was pointed out by the Privy Council in Hurpurshad v. Sheo Dyal, 3 Ind. App. 259 (P. c.), at p. 286 where their Lordships observed:

> "It ought to be known, and their Lordships wish it to be distinctly understood, that a judge cannot, without giving evidence as a witness, import into a case his own knowledge of particular facts. If the means of knowledge of the Judicial Commissioner of the facts spoken to by him in his judgment, as depending upon his own knowledge, were capable of being tested, it would probably turn out that it depended upon mere rumour or hearsay, and that his evidence as to those facts would not have been admissible if he had been examined as a witness."

27. When a judge examines himself as a witness in the case it is humanly difficult for him to disbelieve his own testimony and he will normally be prejudiced against the party against whom his evidence is given and cannot inspire confidence in his impartiality. This view has been taken in a number of cases in India: vide Empress v. Donnelly, 2 Cal. 405, Girish Chunder Ghose v. Queen-Empress, 20 Cal. 857; Hari Kishore v. Abdul Baki-Miah, 21 cal. 920; Queen-Empress v. Manickem, 19 Mad. 263; Mangni Lal v. Emperor, A. I. R. 1918 Pat. 373, In re Venkadari Thipayya, A.I.R. 1947 Mad. 118 and Acchar Singh v. Dasondha Singh, A. I. R. 1947 Lah. 238.

The last mentioned case was under the Punjab Panchayat Act, 11 of 1939, in which Section 55 was in similar terms to Section 556, Criminal P. C. It was observed :

> "Although the Punjab Panchayat Act has constituted a separate tribunal for certain kinds of offences, the fact remains that the tribunal cannot appropriate to itself the role of an adjudicator and a witness. Hence where the Panches have seen the accused beating the complainant and have rescued him, and the complainant files a

> complaint against the accused, the Panches cannot try it themselves."

28. It is true that the original common law rule was that it was no exception against a person giving evidence for or against a prisoner, that he is one of the judges who are to try him: vide Pleas of the Crown by Serjeant Hawkins, Book 1, chap. 46, Section 17. See also Bacon's Abridgement, Evidence D2. In course of time, however, the duty of the judge giving evidence in a cause, was well defined. Taylor states the rule thus :

> "A Judge before whom a cause is tried must conceal any fact relating to it which is within his own knowledge, unless he be first sworn; and consequently, if he be the sole judge, it seems that he cannot depose as a witness, though if he be sitting with others he may then be sworn and give evidence. In this last case, the proper course appears to be that the judge, who has thus become a witness, should leave the bench, and take no further judicial part in the trial, because he can hardly be deemed capable of impartially deciding on the admissibility of his own testimony, or of weighing it against that of another."

(vide Taylor on Evidence, 10th Edu. Vol. II, para 1379).

29. In the present case, Nathu Ram Yadav did not leave the bench after giving evidence but signed the judgment of the Court. This was wholly illegal.

30. It was urged on behalf of the opposite party that Section 83, Panchayat Raj Act, provides a special procedure for the Panchayati Adalat and that under that procedure a Panch may decide on his personal knowledge and may be a witness in the case before the Panchayati Adalat of which he is a member.

31. Section 83 runs as follows :

> "The Panchayati Adalat shall receive such evidence in a suit, case or proceeding as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue. It shall be the duty of the Panchayati Adalat to ascertain the facts of every suit, case or proceeding before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as to it may seem just and legal. It may make local investigation in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1898, the Indian Evidence Act, 1872 and the Indian Limitation Act, 1908, shall not apply to any suit, case or proceeding in a Panchayati Adalat except as provided in this Act or as may be prescribed."

Though under this section, the Panchayati Adalat has very wide powers in respect of the evidence upon which it shall act, and, the procedure it shall follow in deciding a case, it cannot override the express provision of Section 49 (3). If the Legislature had intended that a Panch can decide upon his

own personal knowledge or can take part in the proceedings of a Panchayati Adalat after he has appeared as a witness before it, it would not have used in Section 49 (3) the expression "personal knowledge" as that expression had acquired a definite meaning under Section 556, Criminal P. C. When using a certain expression which has already received judicial interpretation, the Legislature must be deemed to have used it in the same sense.

32. On behalf of the opposite party it was, however, pointed out that the applicant had himself invited Nathu Ram Yadav to give evidence and had acquiesced in the procedure. The consent of the applicant, in my opinion, cannot override the provisions of the statute contained in Section 49 (3). It is well settled that jurisdiction cannot be conferred on a Court by the consent of a party when the Court has no jurisdiction under the law to try the case.

33. I would, therefore, allow this application and set aside the order passed by the Panchayati Adalat. There shall be no retrial of the case as the applicant has already undergone sufficient harassment and the offence is a petty one.

Sapru, J.

34. I wish to make my position, in regard to the correct interpretation of the powers that we enjoy under Article 227 of the Constitution of India, clear. But before doing so, it is desirable to give the background of this case. The applicant was convicted by the Panchayati Adalat, Bupadhamna, district Jhansi, on 16-12-1949, for an offence under Section 379, Penal Code, and sentenced to pay a fine of Rs. 45. He went in revision to the Sub-divisional Magistrate but his application was rejected on 22-7-1950. He has now come to this Court under Article 227 of the Constitution of India.

35. The grievance of the applicant is that, after the defence evidence was over, one Shri Nathu Ram Yadav, who was one of the Panches, appeared for the complainant, corroborated his statement and thereafter participated in the deliberations of the Adalat and signed the judgment resulting in the conviction of the applicant by the Adalat. Reliance is placed by the Panches in their judgment not only on the statements of the prosecution witnesses but also on that of Shri Nathu Ram Yadav. It is urged that on account of an unfortunate mistake by counsel for the applicant, the fact that Nathu Ram Yadav had participated as a Panch was not brought to the attention of the learned Sub-Divisional Magistrate and that is how he came to dismiss the revision filed by him (the applicant) on 22-7-1950.

What was done was to urge before the Sub-Divisional Magistrate that one Chhattrasal who was a Panch had sat on the bench and that he could not legally sit on it as he had appeared as a prosecution witness. The learned Sub-Divisional Magistrate had no difficulty in rejecting that plea as unfounded as Chhattrasal had not appeared as a witness for the complainant, or for the matter of that for any party in the case. I have no doubt, after going through the judgment of the Panchayati Adalat, that the statement of the applicant that Nathu Ram Yadav was both a witness and a Panch is correct. No doubt it was, in my opinion, incumbent on the counsel for the applicant to bring to the notice of the Sub-Divisional Magistrate the fact that Nathu Ram Yadav had figured as a witness and to urge that that fact vitiated the trial before the Panchayati Adalat.

This unfortunately was not done. The impression was given to the learned Magistrate that the objection was to Chhattrasal and not to Nathu Ram Yadav. From a perusal of the record there is no doubt, however, that this was due to an error on the part of the counsel appearing for the applicant. In these circumstances, I think that the interests of justice require that we should allow the question of the validity of the entire Panchayati Adalat proceedings to be raised before us for the first time in this Court.

36. The first point which needs to be considered is whether the power of judicial superintendence, assuming that on a correct interpretation of Article 227 we possess any such power, is or is not barred by Section 85 (5), U. P. Panchayat Raj Act. Sub-section (5) of that section lays down that :

> "except as aforesaid, a decree or order passed by a Panchayati Adalat in any suit, case or proceeding under this Act shall be final and shall not be open to appeal or revision in any Court."

37. Now it has been held by a Full Bench of this Court in the case of Asiatic Engineering Co. v. Achhru Ram, A. I. R. 1951 ALL. 746 that no act of the legislature can override or cancel or affect any power given to this Court or to any authority by the Constitution itself. The Constitution is, to use the language of Marshal C. J., "the paramount law of the land and any provision in any enactment or law which is inconsistent with it is void and must be disregarded."

38. It is quite clear from what I have quoted above that the U. P. Panchayat Raj Act cannot affect any power which has been conferred on this Court under Article 227 or under Article 226 or any other provision of the Constitution. I, therefore, hold that the U. P. Panchayat Raj Act cannot affect our powers of superintendence, assuming that on a proper interpretation of it that that power includes a power of judicial superintendence.

39. I come now to the question of the correct interpretation of the powers that we enjoy under Article 227 of the Constitution. Article 227(1) concedes to this Court 'superintendence' over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction. In other words, under this sub-Article the superintending power of this Court is co-extensive with the territorial limits of its jurisdiction. Further the sub-Article covers all Courts and tribunals, regardless of the fact whether they are subject to the appellate jurisdiction or not of this Court. Sub-article (2) of Article 227 specifies the particular powers which, without prejudice to the generality of the provisions of Sub-article (1) of Article 227, a High Court may exercise. Under these powers, the High Court can (a) call for returns from inferior Courts; (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such Courts; and (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such Courts.

40. The preceding Article of the Constitution, viz. Article 226, empowers a High Court throughout the territories in which it exercises jurisdiction, to issue to any person or authority including, in appropriate cases, any Government within its territories, directions, orders or writs including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari, or any of them for the enforcement of any of the rights conferred by part in and for any other purpose.

41. It will be observed that the power, which has been conferred on the High Courts to issue certain writs, orders or directions, is of a most extensive nature, for the words "any person or any authority" would include all Courts and tribunals situated within its territorial jurisdiction, including any Court or tribunal constituted by or under any law relating to the Armed Forces. It may be mentioned that under Article 227(4) this Court has no power of superintendence over any Court or tribunal constituted by, or under any law relating to the armed Forces.

42. In these circumstances, two questions which, in my opinion, arise are : (1) Do Articles 226 and 227 overlap? and (2) Is the power of superinendence under Article 227 of a more limited or different character than that which we enjoy under Article 226?

43. In considering these questions, it is necessary to refer to the previous history of Article 227. It is well known that the East India Company obtained from the Emperor of Delhi the grant of the Dowani of the then provinces of Bengal, Bihar and Orissa in 1765. Subsequent to that grant, the administration of the civil and revenue justice in the territory, comprised in these provinces, was taken over by the said Company and provincial Courts were established in 1772. British officers used to decide cases in these Courts with the help of Qazis, Maulvis, Muftis and Pandits and appeals used to lie from them to the Sadar Dewani Adalat.

Previous to the establishment of these Courts, the East India Company had established a Mayor's Court in 1726 which used to administer English law. This Mayor's Court was superseded by the Supreme Court which was constituted as a Court of Record in 1773. "Subjection to the English Crown", says Mr. Herbert Cowell in his 'History and Constitution of the Courts and Legislative Authorities in India', Edn. 6, page. 40, "was made the ground of liability to the jurisdiction of the Court." But "there was not", adds Mr. Cowell, "as Sir Charles Grey pointed out either in the statute or in the Charter, any declaration who are and who are not subjects, nor whether any of the territorial acquisitions amounted to an acquisition of the territory itself, or to anything more than powers to be exercised within the territories of the Mogul, nor whether even Calcutta itself was so much within the allegiance that persons born there would be natural-born subjects of the British Crown."

It would appear that the jurisdiction given, to the Court was "first, over all persons whatsoever during their residence in any British territory, possession, or factory, within Bengal, Behar or Orissa; secondly, over all natural-born subjects or others having indefeasible character of subjects of the British Crown; and over persons in their service within Bengal, Behar or Orissa, whether the place in which they might be were a British territory, possession or factory or a place belonging to some Indian prince but under the protection of the Company. The intention was to have secured to the Crown a supremacy in the whole administration of justice, but the provisions made were inadequate to the attainment of the object, and have been defeated." (vide Appendix 5 to 3rd Report of Select Committee of the House of Commons, 1831, page 1234, quoted by Herbert Cowell in his 'History and Constitution of the Courts and Legislative Authorities in India' at p. 41).

44. The Company derived its power from the British Crown and the Charter granted by William. III in 1698 became, as Mr. Cowell points out at p. 11 of his book referred to above, "the foundation of

the United Company which was subsequently called the East India Company". In 1858, the British Parliament passed the Government of India Act 1858 (21 & 22 vict. chap. 106). This ended the authority of the East India Company and the period of direct rule started. It may be mentioned that for the first time a Code of Civil Procedure was enacted in 1859. No revisional powers on Courts were conferred by that Code.

Section 4 provided that:

> "The judgments of the civil Courts shall not be subject-to revision, otherwise than by those Courts under the rules contained in this Act, applicable to reviews of judgments, and by the constituted Courts of appellate jurisdiction."

45. On 6-8-1861, the British Parliament passed the High Courts Act (24 & 25 vict. chap. 104). It is popularly known as the Charter Act and by virtue of it High Courts with Letters Patent were established in 1862. The Courts then in existence, viz. the Sadar Dewani Adalat, Nizamat Adalat and the Supreme Courts at Calcutta, Bombay and Madras were superseded.

46. In March 1868, Letters Patent were issued establishing the High Court in the North-Western Provinces of Bengal Presidency. This subsequently came to be called the Allahabad High Court.

47. It would appear that the Courts above referred to did not possess any statutory power of revisions over inferior Courts. By Section 9, Charter Act, the High Courts which had been established under it were invested with jurisdiction possessed by the abolished Courts and the powers and authority exercised by them were transferred to them. Section 15, Charter Act, enacted that each of tho three High Courts established under the Act was to have superintendence over all Courts which were subject to its appellate jurisdiction. Each of them was further given the power to call for returns and direct the transfer of any suit or appeal from one Court to another.

48. The Government of India Act, 1913 repealed the Charter Act and Section 106 of that Act established them as Courts of Record, giving them authority and power in accordance with their Letters Patent. Further, they were vested with all the powers and authority which they possessed at the commencement of that Act. By Section 107, Government of India Act of 1915 each of the High Courts was given superintendence over all Courts subject to its appellate jurisdiction. This position continued till the Government of India Act of 1935. Section 224 of the Act passed in 1935 made, however, a change in Section 107, Government of India Act of 1915 by providing that while every High Court would have superintendence over all Courts for the time being subject to its appellate jurisdiction, it would have no jurisdiction to question any judgment of any inferior Court which was not otherwise subject to appeal or revision. This was the position when Arts. 226 and 227 came to be enacted by the Constituent Assembly.

49. I am indebted for the history of the Courts stated above to the judgments of G. N. Das J., in the case of Jalmabi Prosad v. Basudeb Paul, A. I. R. 1950 Cal. 536 and Desai J. in the case of Sukhdeo v. Brij Bhushan, 1951 ALL. L. J. 305 at pages 311 and 312 and to Mr. Cowell's 'History and Constitution of the Courts and Legislative Authorities in India'.

50. I do not think it necessary to trace the history of the superintending or visitorial jurisdiction which has been exercised from ancient times by the King's Bench, and the Court of Chancery in Britain. It is well known, as pointed out by West J. in Shiva Nathaji v. Joma Kashinath, 7 Bom. 341 (F. B.) on pages 344 to 350, that the powers of the former Court have been executed through the writs of Certiorari, Mandamus and Prohibition. Whether our Court ever inherited the powers of the Courts of King's Bench is not a question directly before us and nothing need be said about it.

51. The position after the enactment of the Constitution is that the High Courts have a power of superintendence not only over all Courts subject to their appellate jurisdiction, but also over all Courts and tribunals throughout the territories in relation to which they exercise their jurisdiction. Article 227 comes immediately after Article 226. The latter Article confers power on High Courts to issue to any person or authority, including, in appropriate cases, any Government throughout the territories in relation to which it exercises jurisdiction, orders in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari or any of them for the enforcement of any of the rights conferred by part in of the Constitution and for any other purpose.

52. I may point out that in the Full Bench case of Asiatic Engineering Co. v. Achhru Ram, (A. I. R. 1951 ALL. 746) (ubi supra) the learned Judges who decided that case, after stating briefly the principles on which Certiorari, Prohibition and Mandamus are granted by English Courts, observed that it was desirable to keep in mind the historical background of the various writs in coming to the conclusion whether a writ, order or direction should or should not issue.

They further went on to observe that it was essential to remember :

> "That a circumstance which differentiates the Indian legal system from the British legal system, and to which Courts must attach importance, is the existence of special provisions for revisional jurisdiction in the procedural Codes of this country."
>
> "We think", the Bench further observed, "that the principle governing writs of Certiorari and prohibition should be that Courts should refuse, normally speaking, to entertain applications for writs, directions or orders for Certiorari or prohibition, where the ordinary remedy of approaching this Court by an application in revision is available to the party concerned."

53. I have referred briefly to the history of the power of superintendence which has been conceded to us, as it must be assumed that the Constituent Assembly was familiar with it. It must further be taken for granted that it was fully aware of the various interpretations which had been placed upon this power of superintendence by the various High Courts in this country.

54. The simple question which I shall now proceed to consider is whether Article 227 confers upon this Court a power to interfere with judicial orders of inferior tribunals and, if so, to what extent. In coming to a conclusion on this point, we have to start with the fact that the power of superintendence, at all events, over courts subject to its appellate jurisdiction existed in our Court without the limitations which had been imposed upon it by the Act of 1935 prior to the passing of

the Government of India Act of 1935 and was the subject-matter of consideration by three Full Benches of this Court. Reference has been made by my brother Agarwala to these Full Benches. I feel, however, that he has not attached sufficient importance to vital differences between the point of view of the Full Benches of our Court and that of the other Courts referred to by him.

55. Now I think we are, in interpreting this power, bound by what was held to be included and not to be included by the Full Bench decisions of our Courts. It is, therefore, necessary to invite attention to them prominently.

56. The first case in which the meaning of the word 'superintendence' came to be considered is that of Tej Ram v. Harsukh, 1 ALL. 101 (F. B.). In this case which arose out of an application to the High Court "by the purchasers at a sale of an immovable property in the execution of a decree for the cancelment, as being contrary to law, of the order of the lower Court setting aside the sale", a Full Bench of four Judges held that the word 'superintendence' did not confer on the High Court any revisional power or power to interfere with or set aside judicial proceedings of subordinate Courts. They went on to observe that the word 'superintendence' "appears to us to 'confer on the High Court' no revisional power, no power to 'interfere with or set aside the judicial proceedings of a Subordinate Court, but that it confers on the High Court administrative authority and not judicial powers."

It was laid down that in the exercise of this power of superintendence it was competent for the High Court to direct the subordinate Court to do its duty or to abstain from taking action in matters upon which it has no cognizance, but the High Court was not competent in the exercise of this authority to interfere and set right the orders of the subordinate Court which had proceeded on an error of law or an error of fact. It was further added by the Full Bench that in the reported decisions of some other High Courts, Judges had claimed in virtue of the power of superintendence given to them by the statute to exercise larger powers than the Full Bench believed had been conferred by the provisions of that law, but the practice of this Court had accorded with the views expressed by them and on the construction put an the statute they were not at liberty to disturb it.

In other words, it was clearly laid down in this case that the power of superintendence did not confer on the High Court any revisional power or power to interfere with or set aside the judicial proceedings of subordinate Courts. In essence, the power of issuing Certiorari or Prohibition is a revisional or correctional power and it is clear from this case that the Full Bench of this Court was not prepared to place the very wide interpretation which had found favour with other Courts.

57. The above mentioned case was further considered in the Full Bench case of Muhammad Suleman v. Fatima, 9 ALL. 104 (FB). Edge C. J., approved of the views of the learned Judges who decided the case of Tej Ram v. Harsukh (1 ALL. 101 F.B.) (ubi supra) and observed that it was "competent to the Hight Court, in the exorcise of its power of superintendence, to direct a subordinate Court to do its duty or to abstain from taking action in matters of which it has no cognizance; but the High Court is not competent, in the exercise of this authority, to interfere with and set right the orders of a subordinate Court on the ground that the order of the subordinate Court has proceeded on an error of law or an error of fact."

58. He explained that in saying that the High Court had power to direct a subordinate Judge to do his duty, he did not limit the power to cases in which the Subordinate Judge declined to hear or determine a suit or application within his jurisdiction. He further explained that his preference was for not using the words 'administrative authority' or 'judicial powers' found in the Full Bench judgment in Tej Ram v. Harsukh, (1 ALL. 101 F.B.) (ubi supra), or 'judicial superintendence' in the question before the Court, as without giving exhaustive definitions of the words, which he might fail to do, he might, by using them, lead to future difficulty.

Oldfield J. agreed with Edge C. J., Brodhurst J. concurred with the learned Chief Justice. Straight and Tyrell JJ. did not find it possible to agree with the majority of their colleagues and held that the word 'superintendence' contemplated and included powers of a judicial or a quasi-Judicial character, apart from those conferred on the Court by Section 622, Civil P. C. They went on to add:

> "Though this was so the last mentioned provision may properly be accepted as indicating the extent to which the Court should ordinarily interfere with the findings of such subordinate tribunals as are invested with exclusive jurisdiction to try and determine all questions of law and fact arising in suits within their exclusive cognizance and in which their decisions are declared by law to be final."

59. These two Full Bench cases were further considered by a Full Bench of this Court in Mukand Lal v. Gaya Prasad, A.I.R. 1935 ALL. 599. In this case the applicant came to the High Court with the prayer that a certain witness, who was being examined in the Court below, should be allowed to be cross-examined and the two Suits tried together. Sulaiman C. J., who delivered the judgment of the Bench deciding the case, made the observations quoted below after a review of the previous Full Bench authorities of this Court:

> "In view of these authorities, it is quite clear that it is impossible to interfere with the refusal of the Court below to allow certain questions to be put to the witness on the ground that the Court has erred in law in disallowing such questions. There are, no doubt, some cases arising under Act 18 of 1879 (Legal Practitioners' Act) arising out of cases in which certain persons had been included in lists of touts maintained by District Judges and prevented from coming within the precincts of the court-compound, e.g., In the matter of Madho Ram, 21 All. 181 and in Kashi Nath v. Emperor, A.I.R. 1924 All. 69, but these were not really judicial cases adjudicating upon the rights of two contending parties but were orders of an administrative character which the District Judge had passed. The High Court considered that the case came within the purview of Section 15, Charter Act, or Section 107, Government of India Act.
>
> Our attention has also been drawn to the case of Sant Lal v. Kedar Nath, A.I.R. 1935 All. 519, in which the power conferred on the High Court under Section 107, Government of India Act, was invoked. In that case the Honorary Munsif had omitted to carry out the order of the High Court directing him to decide certain objections and proceed in accordance with law. The Munsif, in spite of the order, did not decide

> the objections and did not proceed in accordance with law. The learned Judge felt some difficulty in applying Section 115, Civil P.C., as the matter was still pending before the Munsif, but interfered Under Section 107, Government of India Act. That case was of a peculiar nature, and it is not necessary to consider in this case whether it was rightly decided, particularly as the learned Judge was bound to follow the previous Division Bench ruling.
>
> In view of the decisions of the Full Benches of this Court and the practice which has prevailed so far, it is impossible for us to interfere under Section 107, Government of India Act."

60. I have quoted at length from the judgment of Sulaiman C. J., in order to indicate that he was not prepared to differ from the views which had been taken in the previous Full Bench decisions reported in Tej Ram v. Harsukh (1 ALL. 101 F.B.) (ubi supra) and Muhammad Suleman Khan v. Fatima (9 ALL. 104 F.B.) (ubi supra). Prom a comparison of the Full Bench cases of our Court with those of the Calcutta and Bombay High Courts it is clear that the interpretation which was given to the word 'superintendence' by this Court was much more limited than that which had found favour with the Calcutta and Bombay High Courts.

61. Article 227 has no doubt widened the powers of this Court inasmuch as its power of superintendence now extends not only over all Courts situate within its appellate jurisdiction but also over all Courts and tribunals (except any Court or tribunal constituted by or under any law relating to the Armed Forces) situate within its jurisdiction. Notwithstanding the fact that this Article has been the subject-matter of case law in other Courts and has been interpreted by them in a wide sense, the position, as I see it, is that the interpretation given to the word 'superintendence' by the Full Benches of our Court referred to above stands and cannot be set aside except by a larger Bench of this Court or by the Supreme Court. According to the interpretation given by this Court to the word 'superintendence' the scope of Article 227 would seem to be of a more limited character than that of Article 226.

62. I can well understand why after conferring such wide powers under Article 226 emphasis is laid in Article 227 by the Constituent Assembly on the administrative powers which this Court should possess and the limited judicial powers which should accompany it. While Article 226 concedes to this Court vast powers of what might be called judicial review, or control by the issue of writs, directions or orders, the main objective of Article 227 would, more broadly, seem to be to secure administrative supervision not easily exercisable by writs, directions or orders, over all Courts or tribunals (excepting Army tribunals) within its jurisdiction.

Articles 226 and 227 are thus supplementary to each other. The emphasis under Article 227 is on administrative control and the limited judicial powers contemplated by it are intended for and merely ancillary to such administrative control. Thus Arts. 226 and 227 are not intended, as far as I can see, for identical situations. Their purpose, though complementary, is somewhat different and it is by remembering this that overlapping can be avoided. In any event, the basic difference between the point of view of this Court and that of other Courts has not, in my humble opinion, been given

full weight by my brother Agarwala nor by Desai J. in the judgment that he delivered in the Bench case of Sukhdeo v. Brij Bhushan (1951 ALL. L. J. 305) (ubi supra).

63. Personally I am inclined to the view that the position taken by Edge C. J. that the power of superintendence cannot merely be described as an administrative power is correct, for in addition to the administrative powers specifically enumerated a power partaking of a limited judicial character has been added. That power essentially, in my opinion, is meant only to see whether a Court or tribunal has acted within its bounds or not and is ancillary to the administrative powers conferred by the Article. It may be that, as hinted by my brother Agarwala, in view of the wider powers that we are enjoying under Article 226 the question of the exact limits of the power of superintendence under Article 227 has assumed a somewhat academic interest. Nevertheless, it strikes me that this Court is bound by its Full Bench decisions, unless either the Supreme Court or a larger Bench reverses them.

I would have preferred the matter of a proper interpretation of Article 227 to be referred to a larger Bench but I think that, in this particular case, it is unnecessary to do so, as even under Article 226, on the facts established in this case, I would have unhesitatingly interfered with the order of the Panchayati Adalat.

64. I shall now proceed to give my reasons for holding that the procedure adopted by the Panchayati Adalat was contrary to the principles of natural justice. The U. P. Panchayat Raj Act represents an effort to establish and develop local self-government in the country side and to make better provision for the administration and development of the rural areas of the Uttar Pradesh State. The Village Panchayat is an old institution with the history of which all students of India social and economic institutions are familiar. "Among the phenomena", says the writer on Local and Municipal Government in the Imperial Gazetteer of India, volume IV, 1907 edition, at p. 278, "which India presents to the student of social institutions none are more interesting and important than its village communities. The constitution and form of these have not been exempt from the general laws of progress and decay, but the characteristic features of Indian village life have been handed down with extra-ordinary pertinacity from a distant past. This persistence has riveted the attention, and impressed itself on the imagination, of many observers of the Indian social structure."

The writer thereafter quotes the famous remarks of Sir Charles (afterwards Lord) Metcalfe in 1830 on village communities which are quoted with approval by Mr. Elphinstone in his monumental work on the History of India. I would beg leave to quote the concluding portion of the remarks of Sir Charles Metcalfe which will be found at p. 63 of Elphinstone's History of India:

> "This union of the village communities, each one forming a separate little state in itself, has, I conceive, contributed more than any other cause to the preservation of the people of India, through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness, and to the enjoyment of a great portion of freedom and independence."

65. In describing the procedure relating to the law of evidence in ancient times, Mr. Elphinstone makes the following observations at p. 30:

> "The law of evidence in many particulars resembles that of England: persons having a pecuniary interest in the cause, infamous persons, menial servants, familiar friends, with other disqualified on slighter grounds, are in the first instance excluded from giving testimony;"

Mr. Elphinstone remarks that one of the rules for procedure required is that the witnesses must be examined standing in the middle of the Court room and in the presence of the parties. I have quoted from Mr. Elphinstone just to indicate that even under the old system of procedure, the concept of natural justice was not very different from that which appeals to our modem minds. This concept is the basic foundation of the jurisprudence that Indian Courts have been administering almost from the time this country came under the influence of British jurisprudence. 66. Now one of the fundamental principles which underlies the system of jurisprudence which we have to administer is that the Judge must he free from certain obvious and crude forms of in- terest in the case which he has the responsibility of deciding. It is thus a principle of natural justice that a man must not be a judge in his own cause. He must not be an accuser and a judge. My brother Agarwala has quoted a large number of authorities on the point that a person who appears as a witness in a case cannot act as a judge in that Case.

It is not necessary to quote many authorities for such ft simple proposition as this but I may be permitted to supplement what he has said by referring to the following observations of Charles J. in Reg. v. London County Council: Re. The Empire Theatre; (1894) 71 L. t. 638.

> "Now one of those principles which must guide a person in a judicial position is that he must not be both accuser and judge. If there is on a tribunal anybody who is an accuser, and who, although he is accuser, acts also as judge, his presence on that tribunal is fatal to its jurisdiction, and it is of no importance that had he been absent the decision would have been the same. The mere presence of a person who is accuser and Judge vitiates the decision of the tribunal. That was the principle on which. Reg. v. The London County Council, ((1892) 1 Q. B. 190), was decided."

This was a case in which one of the members of the London County Council, who had previous to the application which the applicant had made to the committee of the London County Council for granting a music and dancing license, attended a meeting of that Council. He had been invited to it and at it the question of the renewal of the license and the evidence that was to be adduced had been discussed.

67. In the case of The Queen v. London County Council, (1892) 1 Q. B. 190, the principle was affirmed by A. L. Smith J. who delivered the judgment of the Court, that the presence of an interested justice at any judicial hearing would vitiate the proceedings even though the interested justice had taken no part in the actual decision. 68. In the case of Bex v. Lancashire Justices, (1906) 94 L. J. 481, two justices had sat on the bench who were obviously not competent to take part in the

proceedings on either side of the Chair- man and even though they had taken no part in the decision, Lord Alverstone C. J. held that :

> "It is extremely important that persons should not even appear to form part of a Court, or be in a position in which they could be supposed to have any influence, where they are interested in a case."

69. In the case of Frome United Breiveries Co. Ltd. v. Bath Justices, (1926) A. C. 586, it would appear that three of the justices who sat and voted as members of the compensation authority were parties to a resolution of the licensing justices authorising solicitors to appear on their behalf, when the instructions to pass the license were given and the fourth justice had been present at a meeting when the decision to refuse the license was taken.

On these facts, the King's Bench Division granted a rule nisi for the writ of certiorari removing the proceedings of the compensation authority from that Court. In appeal before the House of Lords, Viscount Cave L. C. made certain observations to which reference has been made by my brother Agarwala. Lord Sumner, who was one of the other Law Lords in that case observed at page 615 as follows :

> "That, in the circumstances of the case, there existed in the justices, whose conduct is impugned, such a likelihood of bias as the parties interested in the renewal could not justly be called upon to risk."

70. In the case of Cooper v. Wilson, (1937) 2 K. B. 309 at p. 844, Lord Justice Scot observed that:

> "The risk that a respondent may influence the Court is so abhorrent to English notions of justice that the possibility of it or even the appearance o such a possibility is sufficient to deprive the decision of all judicial force, and to render it a nullity."

71. In the case referred to above, a solicitor engaged in private business had acted as clerk to the justices. A lady had consulted his firm branch office in regard to the preparation of a deed of separation. The branch office was being conducted by a managing clerk, the solicitor himself taking no part in it. The solicitor, however, as has been pointed out before, acted as clerk to a bench when it made the order in favour of the lady. On these facts the view taken by the Court was that the question, was not whether the clerk was in fact biased, but whether it could reasonably be said that there was a likelihood of his prejudicing the issue.

72. I have referred to these authorities in order to indicate that participation of a person who has an interest in a case which a judicial or quasi-judicial body is called upon to decide vitiates a trial according to British concepts of justice. Though the panchayat is not hound by the Code of Criminal Procedure or the Evidence Act, excepting to the extent provided for by the Act and the Rules made thereunder, the principle of natural justice, which has been referred to above, applies to Panchayati Adalats in the same way as it applies to other judicial or quasi-judicial tribunals or Courts.

73. Now what is the fact which has been established in this case beyond any controversy? The fact, which from a perusal of the record I find clearly established, is that a person who participated as a panch in the proceedings had himself I examined as a witness in this case for the complainant. Can it be said, in these circumstances, that his participation could not or did not influence his colleagues. It must he remembered that one of the principles that lies embedded in our judicial system is that justice must not only be done but must seem to be done. It follows that if there is a likelihood of bias on the part of any member of the tribunal, the proceedings of the whole body will be vitiated. I am clear in my mind that, for the reasons given above, the participation of Nathu Ram Yadav vitiated, the Panchayati Adalat proceedings. I have, therefore, come to the conclusion that there is no alternative but to quash the order passed by the Panchayati Adalat.

74. I, therefore, set aside the order and direct that, no further proceedings need be taken in the case as the matter is a petty one, the applicant has been put to much inconvenience and has had to bear heavy expenses.

75. Order of the Court.--We, therefore, set aside the order and direct that no further proceedings need be taken in the case as the matter is a petty one and the applicant has been put to much inconvenience and has had to bear heavy expenses.