T. Sudhakar Prasad vs Govt. Of A.P. & Ors on 13 December, 2000

Author: R.C. Lahoti

Bench: R.C.Lahoti

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           CASE NO.:
Appeal (civil) 5089 1998
Appeal (civil)  5090    1998


PETITIONER:
T.  SUDHAKAR PRASAD

        Vs.

RESPONDENT:
GOVT.  OF A.P.  & ORS.

DATE OF JUDGMENT:       13/12/2000

BENCH:
K.G.Balakrishnaa, R.C.Lahoti



JUDGMENT:
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L.....I.....T.....T.....T.....T.....T.....T..J J U D G M E N T R.C. Lahoti, J.

Administrative Tribunals set up under the provisions of Administrative Tribunals Act, 1985, do they or do they not have power to punish for their contempt? Whether after the decision of this court in L. Chandra Kumar Vs. Union of India & Ors., (1997) 3 SCC 261, Section 17 of the Administrative Tribunals Act, 1985 (hereinafter, the Act for short) does not survive and has been rendered unconstitutional or otiose? These questions of far-reaching implications to the administration of justice through tribunals arise for consideration in these appeals.

A cursory view of factual backdrop. An application (Contempt Application No.562/1996 in O.A. No.35574/1991) invoking the contempt jurisdiction of Andhra Pradesh Administrative Tribunal under Section 17 of the Act and seeking initiation of proceedings against the Principal Secretary, Irrigation and CAD Department was filed complaining of willful disobedience by the latter of an order passed by the Tribunal in favour of the applicant. The Tribunal initiated the proceedings. The State of A.P. and the Principal Secretary filed a writ petition (CWP No.34841/1997) in the High Court of Andhra Pradesh laying challenge to the jurisdiction of the Tribunal to take cognizance of the contempt case. In another matter an application (Contempt Case No. 1054/1998) invoking

contempt jurisdiction of the High Court, without approaching the Tribunal under section 17 of the Act, and complaining of willful disobedience of an order passed by the Andhra Pradesh Administrative Tribunal was filed before the High Court. In both the matters, question arose whether such proceedings were appropriately maintainable before the High Court or the Administrative Tribunal. The issue has been disposed of by a Division Bench of Andhra Pradesh High Court holding as under:- (1) that in view of the decision rendered by the Supreme Court in L. CHANDRA KUMAR V. UNION@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ OF INDIA & ORS. (supra), Section 17 of the Administrative Tribunals Act, 1985, no more survives;

(2) that consequently, the Administrative Tribunals set-up under the Administrative Tribunals Act, 1985 cannot exercise the contempt jurisdiction under Section 17 of the said Act, as the same had become non est under law;

(3) the contempt proceedings in Contempt Application No. 562 of 1996 on the file of the Andhra Pradesh Administrative Tribunal are set aside as being devoid of jurisdiction. But, this will not prelude the respondents 1 to 6 in Writ Petition No. 34841 of 1997 from approaching this Court for punishing the contempt of A.P. Administrative Tribunal relating to the decision rendered in O.A. No.35574 of 1991 by following the procedure as applicable to the contempt of subordinate courts provided under the provisions of the Contempt of Courts Act, 1971 and the rules made thereunder by the Andhra Pradesh High Court; and (4) that similarly, the petitioner in CC No.1054 of 1998 has to approach this court only by following the procedure as applicable to the contempt of subordinate courts provided under the provisions of Contempt of Courts Act, 1971 and the rules made thereunder by the Andhra Pradesh High Court and not directly.

Accordingly, the High Court has directed the contempt application pending before it to be dealt with by following the procedure applicable to contempt of subordinate courts and the contempt application filed in the Tribunal has been directed to be dismissed as one before forum without jurisdiction with liberty to the applicant to initiate the proceedings afresh by following the procedure as stated by the High Court. These appeals have been filed feeling aggrieved by the judgment of the High Court taking the view as aforesaid.

A perusal of the judgment of the High Court shows that the Division Bench has traced the history of the establishment of Administrative Tribunal by referring to the relevant provisions of Constitution (Forty-second Amendment) Act, 1976, the Administrative Tribunals Act, and exploring the nature of contempt jurisdiction exercised by the superior courts for punishing the contempt of the courts and Tribunals subordinate to the High Courts. The High Court has extracted and reproduced extensively from the Constitution Bench judgment of this court in Supreme Court Bar Association Vs. Union of India, (1998) 4 SCC 409 and also analysed in its own way the decision of this court in L. Chandra Kumar (supra) and therefrom drawn the following deductions (vide para 14 of the impugned judgment), which will be useful to reproduce so as to appreciate the reasoning of the High Court :- 14. As such, it is clear that in the State, the High Court is the only superior court and the superior Court of Record. The High Court is the custodian of the dignity and majesty of law in the State, concerning not only itself but also all courts subordinate to it. Subordinate courts/Tribunals have not been empowered to punish contempt of themselves. They have to report to the High Court in the

prescribed form and then the High Court will exercise the said power. It is well settled that when a statute specifically provides for the exercise of a power by named authority, the ambit and location of that power is to be sought only as prescribed by the said statute and not otherwise. The submission of the learned Amicus Curiae that without contempt power, the Administrative Tribunals would become ineffective, cannot be considered, as the power of court/Tribunal over a cause has no relevance to and does not determine its power to deal with a contempt of itself. A reading of Section 30 would make the things very clear that what is independently conferred upon the Tribunal is to deal with exfacie curiae contempt under Section 228 of Indian Penal Code, which power also is vested in the other subordinate courts/tribunals, to the exclusion of High Court in view of provision to Section 10 of Contempt of Courts Act, 1971. As such, the legislative intent is clear that only against offences committed against the public servants in discharge of their judicial functions, the Administrative Tribunals Act makes an independent provision analogous to that of the other subordinate courts/tribunals. That, Administrative Tribunals are subordinate to High Court, admits of no doubt, as such Tribunals exercise the judicial power of the State and are amenable to the Jurisdiction of judicial review and judicial superintendence of the High Courts under Articles 226 and 227 of the Constitution. The tribunal cannot be said to have the contempt power sui generis. The status of the Administrative Tribunal is on par with any other subordinate court like district Courts and other Tribunals amenable to the jurisdiction of the High Courts, with only exception that the Administrative Tribunals are conferred with power of judicial review of legislative action also, because of the verdict in CHANDRA KUMARs case (supra). But, such conferment of power by the Supreme Court in CHANDRA KUMARs case enabling the Administrative Tribunal to exercise the power of judicial review of legislative action cannot elevate the status of the Administrative Tribunal to that of High Court. Further, if the contempt power is exercised by the Administrative Tribunal, them under Section 19 of the Contempt of Courts Act, 1971, the matter is directly appealable to the Supreme Court as of right and the decision on thereon by the apex court becomes final. It is incomprehensible that when the Supreme Court has ruled in CHANDRA KUMARs case that no judgment rendered by the Administrative Tribunals in service matter can be directly appealable the Supreme Court under Article 136 of the Constitution, that the contempt jurisdiction still vests in the Administrative Tribunals, as in that event, the dicta laid down by the Supreme Court will be violated, as against the exercise of contempt power by the Administrative Tribunal, the matters have to go directly to the Supreme Court by way of appeal and that too, as of right. The contempt power cannot be exercised by the Administrative Tribunal concurrently with the High Court, as there is no such scheme either constitutional under Article 215 or statutory under Contempt of Court Act, 1971. We cannot also accede to the contention that the contempt power can be exercised by the Administrative Tribunal subject to judicial review of the said exercise by the Court under Article 226 of the Constitution, for the same reason that if the contempt power is exercised by the Administrative Tribunal, this courts jurisdiction is barred, as there is a right of appeal to the Supreme Court under Section 19 of the Contempt of Courts Act, 1971 and the power which is intended for exercise, as of right, by the Supreme Court of India can never be usurped by the High Court under the guise of exercising the jurisdiction under the Article 226/227 of the Constitution of India.

[emphasis supplied] We will shortly revert back to testing the correctness of the reasoning adopted and the conclusions drawn by the High Court. We proceed to deal with the relevant constitutional

and statutory provisions. Constitution (Forty-second Amendment) Act, 1976 introduced Part XIV-A - Tribunals engrafting Articles 323A and 323B into the body of the Constitution. We are not concerned with Article 323B dealing with tribunals for other matters. We are concerned with administrative tribunals dealt in Article 323A which is reproduced as under :- 323A. Administrative Tribunals. - (1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect of recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

(2) A law made under clause (1) may, -

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment.

(f) repeal or amend any order made by the President under clause (3) of article 371D;

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

[emphasis supplied] In pursuance of Article 323A of the Constitution the Parliament enacted the Administrative Tribunals Act, 1985 to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation or society owned or controlled by the Government. On

coming into force of the Act and constitution of the Central Administrative Tribunal all the jurisdiction, powers and authority exercisable immediately before that day by all courts, which would include the High Courts (except the Supreme Court) in relation to the matters specified in Section 14(1) of the Act came to be conferred on the Tribunal. Section 17 gives the Tribunal power to punish for contempt which reads as under :

> 17. Power to punish for contempt. - A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that :
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> (a) the references therein to a High Court shall be construed as including a reference to such Tribunal;
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> (b) the references to the Advocate- General in Section 15 of the said Act shall be construed.

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney- General or the Solicitor-General or the Additional Solicitor- General; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.

[emphasis supplied] Section 22 provides that a Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of the Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixiing of places and times of its enquiry and deciding whether to sit in public or in private. Sub-section (2) empowers the Tribunal to decide the application before it on a perusal of documents and written representations and after hearing such oral arguments as may be advanced. Sub-section (3) confers on the Tribunal specified powers of a Civil Court under the Code of Civil Procedure in respect of specified matters. Section 27 provides that the order of a Tribunal finally disposing of an application or an appeal shall not be called in question in any court including a High Court. On a Tribunal being functional, Section 28 excludes the jurisdiction of all courts, including High Court, but not the Supreme Court, Industrial Tribunal, Labour Court or other Authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law from exercising any jurisdiction, power or authority in relation to matters falling within the jurisdiction of the Tribunal.

Articles 129 and 215 of the Constitution of India declare Supreme Court and every High Court to be a Court of Record having all the powers of such a court including the power to punish for contempt of itself. These articles do not confer any new jurisdiction or status on the Supreme Court and the High Courts. They merely recognise a pre-existing situation that the Supreme Court and the High Courts are courts of record and by virtue of being courts of record have inherent jurisdiction to

punish for contempt of themselves. Such inherent power to punish for contempt is summary. It is not governed or limited by any rules of procedure excepting the principles of natural justice. The jurisdiction contemplated by Articles 129 and 215 is inalienable. It cannot be taken away or whittled down by any legislative enactment subordinate to the Constitution. The provisions of the Contempt of Courts Act, 1971 are in addition to and not in derogation of Articles 129 and 215 of the Constitution. The provisions of Contempt of Courts Act, 1971 cannot be used for limiting or regulating the exercise of jurisdiction contemplated by the said two Articles.

In Supreme Court Bar Association Vs. Union of India & Anr.- (1998) 4 SCC 409, the plenary power and contempt jurisdiction of the Supreme Court came up for the consideration of this Court and in that context Articles 129, 142, 144 and 215 of the Constitution were noticed. This Court held that courts of record enjoy power to punish for contempt as a part of their inherent jurisdiction; the existence and availability of such power being essential to enable the courts to administer justice according to law in a regular, orderly and effective manner and to uphold the majesty of law and prevent interference in the due administration of justice (para 12). No act of Parliament can take away that inherent jurisdiction of the Court of Record to punish for contempt and Parliaments power of legislation on the subject cannot be so exercised as to stultify the status and dignity of the Supreme Court and/or the High Courts though such a legislation may serve as a guide for their determination of the nature of punishment which a Court of Record may impose in the case of established contempt. Power to investigate and punish for contempt of itself vesting in Supreme Court flows from Articles 129 and 142 (2) of the Constitution independent of Section 15 of the Contempt of Courts Act, 1971 (para 21). Section 12 of the Contempt of Courts Act, 1971 provides for the punishment which shall ordinarily be imposed by the High Court in the case of an established contempt. This section does not deal with the powers of the Supreme Court to try or punish a contemnor in committing contempt of the Supreme Court or the courts subordinate to it (paras 28, 29,37). Though the inherent power of the High Court under Article 215 has not been impinged upon by the provisions of the Contempt of Courts Act, the Act does provide for the nature and types of punishments which the High Court may award. The High Court cannot create or assume power to inflict a new type of punishment other than the one recognised and accepted by Section 12 of the Contempt of Courts Act, 1971.

In L. Chandra Kumar Vs. Union of India & Ors. -

(1997) 3 SCC 261 the matter had come up before the seven-Judges Bench of this Court consequent upon a reference made by a Division Bench of this Court which doubted the correctness of a five-Judges Constitution Bench of this Court in S.P. Sampath Kumar Vs. Union of India - (1987) 1 SCC 124 and felt the need of the same being comprehensively reconsidered. This Court framed three broad issues for its consideration and proceeded to consider the constitutional validity of Articles 323A, 323B and several provisions of the Administrative Tribunals Act, 1985. We need not extensively reproduce several conclusions arrived at by the Constitution Bench (excepting where necessary); it would suffice to briefly summarise the conclusions of the Constitution Bench insofar as necessary for our purpose. The Constitution Bench held that the jurisdiction conferred upon the High Courts and the Supreme Court under Articles 226 and 32 of the Constitution respectively is a part of the inviolable basic structure of our Constitution. The power of judicial review over

legislative action vesting in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution are an integral and essential feature of such basic structure and therefore their power to test the constitutional validity of legislations can never be ousted or excluded (paras 73, 78). The power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution and a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation is equally to be avoided (para 79). Though the subordinate judiciary or tribunal created under ordinary legislations cannot exercise the power of judicial review of legislative action to the exclusion of the High Courts and the Supreme Court, there is no constitutional prohibition against their performing a supplemental - as opposed to a substitutional - role in this respect. Clause (3) of Article 32 itself contemplates that Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2), without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2).

The Constitution Bench further held that if the power of the Supreme Court under Article 32 of the Constitution described time and again as the heart and soul of the Constitution, can be additionally conferred upon any other Court, there is no reason why the same situation would not subsist in respect of the jurisdiction conferred upon the High Courts under Article 226 of the Constitution. So long as the jurisdiction of the High Courts under Articles 226/227 and that of the Supreme Court under Article 32 is retained, there is no reason why the power to test the validity of the legislations against the provisions of the Constitution cannot be conferred upon Administrative Tribunals or Tribunals under Articles 323A and 323B (para

89). The basic structure theory of the Constitution prohibits the jurisdiction of the High Courts under Articles 226 in respect of the power of judicial review being wholly excluded but the same can certainly be additionally conferred on courts and tribunals. The Constitution Bench specifically overruled the plea that the Tribunals should not be allowed to adjudicate upon matters where the vires of legislations is questioned because that would defeat the very purpose of constituting the tribunals. To allay the fears sought to be projected before the Constitution Bench, this Court held that the decisions of the Tribunal will be subject to the jurisdiction of the High Courts under Articles 226/227 of the Constitution before a Division bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls as this would serve dual purpose :

> (i) the power of the High Courts under Articles 226/227 of the Constitution to judicially review the legislative action would be saved, and (ii) it will be ensured that frivolous claims were filtered through the process of adjudication in the Tribunal, and additionally the High Court will have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matter (para 91). The Constitution Bench emphasised the necessity of ensuring that the High Courts are able to exercise judicial superintendence over the decisions of the Tribunals under Article 227 of the Constitution and held (vide para 91) :-

> Having regard to both the aforestated contentions, we hold that all decisions of Tribunals, whether created pursuant to Article 323- A or Article 323-B of the Constitution, will be subject to the High Courts writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls.
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> The power of Supreme Court under Article 136 of the Constitution to hear appeals by special leave against the orders of the Tribunals on matters specified in Section 14(1) of the Act having been specifically saved by Section 28 thereof, the Constitution Bench consistently with the view taken by it laid down the methodology to be adopted.

No appeal from the decision of a Tribunal will directly lie before the Supreme Court under Article 136 of the Constitution; instead, the aggrieved party will be entitled to move the High Court under Articles 226/227 of the Constitution and from the Division Bench decision of the High Court the aggrieved party can move the Supreme Court under Article 136 of the Constitution. Thus, the Constitution Bench succeeded in preserving intact the inalienable jurisdiction of the High Courts under Articles 226/227 of the Constitution and also effectuating the appellate jurisdiction of the Supreme Court under Article 136 of the Constitution over the decisions of the Tribunal subject to their being filtered through and in that process being subject to test by the High Courts in their judicial review jurisdiction.

The jurisdictional powers of the Tribunal were summarised by the Constitution Bench as under (vide para@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ

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1. The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Courts and the Supreme Court which have, under our constitutional set-up, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. In such cases alone, the High Court concerned may be approached directly.

2. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. The Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted; meaning thereby that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which

creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned.

The Constitution Bench concluded as under :-

> We hold that clause (2) (a)(d) of Article 323-A and clause (3)(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the exclusion of jurisdiction clauses in all other legislations enacted under the aegis of Articles 323- A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constituiton is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.

The Constitution Bench invoked the doctrine of prospective overruling and made its directions to come into effect prospectively, i.e., from the date of its judgment.

It is thus clear that the Constitution Bench has not declared the provisions of Article 323-A (2)(b) or Article 323-B(3)(d) or Section 17 of the Act ultra vires the Constitution. The High Court has, in its judgment under appeal, noted with emphasis the Tribunal having been compared to like courts of first instance and then proceeded to hold that the status of Administrative Tribunals having been held to be equivalent to court or tribunals subordinate to High Court the jurisdiction to hear their own contempt was lost by the Administrative Tribunals and the only course available to them was either to make a reference to High Court or to file a complaint under Section 193, 219 and 228 of IPC as provided by Section 30 of the Act. The High Court has proceeded on the reasoning that the Tribunal having been held to be subordinate to the High Court for the purpose of Articles 226/227 of the Constitution and its decisions having been subjected to judicial review jurisdiction of the High Court under Articles 226/227 of the Constitution the right to file an appeal to the Supreme Court against an order passed by the Tribunal punishing for contempt under Section 17 of the Act was defeated and on these twin grounds Section 17 of the Act became unworkable and unconstitutional. We do not find any basis for such conclusion or inference being drawn from the judgments of this

Court in the cases of Supreme Court Bar Association (supra) or L. Chandra Kumar (supra) or any other decision of this Court. The Constitution Bench has in so many words said that the jurisdiction conferred on the High Courts under Articles 226/227 could not be taken away by conferring the same on any court or Tribunal and jurisdiction hitherto exercised by the High Court now legislatively conferred on Tribunals to the exclusion of High Court on specified matters, did not amount to assigning tribunals a status of substitute for the High Court but such jurisdiction was capable of being conferred additionally or supplementally on any Court or Tribunal which is not a concept strange to the scheme of the Constitution more so in view of Articles 323-A and 323-B. Clause (2)(b) of Article 323-A specifically empowers the Parliament to enact a law specifying the jurisdiction and powers, including the power to punish for contempt, being conferred on administrative tribunals constituted under Article 323-A. Section 17 of the Act derives its legislative sanctity therefrom. The power of the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdiction power and authority to hear and decide the matters covered by sub-section (1) of Section 14 of the Act having been conferred on the administrative tribunals the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for contempt of itself in the matters now falling within the jurisdiction of tribunals if those matters would have continued to be heard by the High court has now been conferred on the administrative tribunals under Section 17 of the Act. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971. The need for enacting Section 17 arose, firstly, to avoid doubts, and secondly, because the Tribunals are not courts of record. While holding the proceedings under Section 17 of the Act the tribunal remains a tribunal and so would be amenable to jurisdiction of High Court under Article 226/227 of the Constitution subject to the well-established rules of self- restraint governing the discretion of the High Court to interfere with the pending proceedings and upset the interim or interlocutory orders of the tribunals. However any order or decision of tribunal punishing for contempt shall be appealable only to the Supreme Court within 60 days from the date of the order appealed against in view of the specific provision contained in Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. Section 17 of Administrative Tribunals Act is a piece of legislation by reference. The provisions of Contempt of Courts Act are not as if lifted and incorporated in the text of Administrative Tribunals Act (as is in the case of legislation by incorporation); they remain there where they are yet while reading the provisions of Contempt of Courts Act in the context of Tribunals, the same will be so read as to read the word Tribunal in place of the word High Court wherever it occurs, subject to the modifications set out in Section 17 of the Administrative Tribunals Act. Section 19 of the Contempt of Courts Act, 1971 provides for appeals. In its text also by virtue of Section 17 of the Administrative Tribunals Act, 1985 the word High Court shall be read as Tribunal. Here, by way of abundant caution, we make it clear that the concept of intra-tribunal appeals i.e. appeal from an order or decision of a member of a Tribunal sitting singly to a bench of not less than two members of the Tribunal is alien to the Administrative Tribunals Act, 1985. The question of any order made under the provisions of the Contempt of Courts Act, 1971 by a member of the Tribunal sitting singly, if the rules of business framed by the Tribunal or the appropriate government permit such hearing, being subjected to an appeal before a Bench of two or more members of Tribunal therefore does not arise. Any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the Supreme Court only. The Supreme

Court in the case of L. Chandra Kumar has nowhere said that orders of tribunal holding the contemnor guilty and punishing for contempt shall also be subject to judicial scrutiny of High Court under Article 226/227 of the Constitution in spite of remedy of statutory appeal provided by Section 19 of the Contempt of Courts Act being available. The distinction between orders passed by Administrative Tribunal on matters covered by Section 14 (1) of Administrative Tribunals Act and orders punishing for contempt under section 19 of the Contempt of Courts Act read with Section 17 of Administrative Tribunals Act, is this : as against the former there is no remedy of appeal statutorily provided, but as against the later statutory remedy of appeal is provided by Section 19 of Contempt of Courts Act itself.

Subordination of Tribunals and courts functioning within the territorial jurisdiction of a High Court can be either judicial or administrative or both. The power of superintendence exercised by the High Court under Article 227 of the Constitution is judicial superintendence and not administrative superintendence, such as one which vests in the High Court under Article 235 of the Constitution over subordinate courts. Vide para 96 of L. Chandra Kumars case, the Constitution Bench did not agree with the suggestion that the tribunals be made subject to the supervisory jurisdiction of the High Courts within whose territorial jurisdiction they fall, as our constitutional scheme does not require that all adjudicatory bodies which fall within the territorial jurisdiction of any High Court should be subject to its supervisory jurisdiction. Obviously, the supervisory jurisdiction referred to by the Constitution Bench in para 96 of the judgment is the supervision of the administrative functioning of the tribunals as is spelt out by discussion made in paras 96 and 97 of the judgment.

Jurisdiction should not be confused with status and subordination. The Parliament was motivated to create new adjudicatory fora to provide new, cheap and fast-track adjudicatory systems and permitting them to function by tearing of the conventional shackles of strict rule of pleadings, strict rule of evidence, tardy trials, three/four-tier appeals, endless revisions and reviews __ creating hurdles in fast flow of stream of justice. The administrative tribunals as established under Article 323-A and the Administrative Tribunal Act 1985 are an alternative institutional mechanism or authority, designed to be not less effective than the High Court, consistently with the amended constitutional scheme but at the same time not to negate judicial review jurisdiction of constitutional courts. Transfer of jurisdiction in specified matters from the High Court to the administrative tribunal equates the tribunal with the High Court in so far as the exercise of judicial authority over the specified matters is concerned. That, however, does not assign the administrative tribunals a status equivalent to that of the High Court nor does that mean that for the purpose of judicial review or judicial superintendence they cannot be subordinate to High Court. It has to be remembered that what has been conferred on the administrative tribunal is not only jurisdiction of the High Court but also of the subordinate courts as to specified matters. High Courts are creatures of Constitution and their judges hold constitutional office having been appointed under the Constitution. The Tribunals are creatures of statute and their members are statutorily appointed and hold statutory office. In State of Orissa Vs. Bhagaban Sarangi, (1995) 1 SCC 399, it was held that administrative tribunal is nonetheless a tribunal and so it is bound by the decision of the High Court of the state and cannot side-track or bypass it. Certain observations made in the case of T.N. Seshan, Chief Election Commr. of India Vs. Union of India, (1995) 4 SCC 611, may usefully be referred to. It was held that merely because some of the service conditions of the Chief Election Commissioner are

akin to those of the Supreme Court judges, that does not confer the status of a Supreme Court judge on the C.E.C.. This court observed ___ Of late it is found that even personnel belonging to other fora claim equation as High Court or Supreme Court Judges merely because certain jurisdictions earlier exercised by those Courts are transferred to them not realising the distinction between constitutional and statutory functionaries. We are therefore clearly of the opinion that there is no anathema in the tribunal exercising jurisdiction of High Court and in that sense being supplemental or additional to the High Court but at the same time not enjoying status equivalent to High Court and also being subject to judicial review and judicial superintendence of the High Court.

Incidentally we may refer to a 3-judges bench decision of this Court in Krishnan & Anr. Vs. Krishnaveni and Anr.

- (1997) 4 SCC 241. Section 397 of Code of Criminal Procedure 1973 confers concurrent revisional jurisdiction on High Court and Sessions Judge. The two fora are alternative to each other. Once an order of subordinate Court is subjected to revision before Sessions Judge, a second revision before High Court does not lie. Still, this Court held, the exercise of inherent power and power of superintendence vesting in High Court under Sections 482 and 483 read with 401 of the Code was not excluded. The power of the High Court of continuous supervisory jurisdiction is of paramount importance to examine the correctness, legality or propriety of any finding, sentence or order, recorded or passed as also regularity of proceedings of all inferior criminal courts. Such jurisdiction shall however be exercised in cases of grave miscarriage of justice, abuse of the process of the courts, the required statutory procedure not complied with, failure of justice or order passed or sentence imposed by the Magistrate requiring correction lest grave miscarriage of justice should ensue.

Section 30 of the Act was also referred to by the High Court to support its conclusions. Section 30 is merely declaratory of the proceedings before a tribunal being judicial proceedings within the meaning of Sections 193, 219 and 228 of the Penal Code. By no stretch of reasoning, Section 30 could have been held as impinging upon the power conferred on the tribunal by Section 17 of the Act and to hold further that in case of contempt of its lawful authority the only remedy available to tribunal was to have recourse to Section 30 to the exclusion of power to punish for contempt conferred by Section 17.

Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of judicial system as also of the courts and tribunals entrusted with the task of administering delivery of justice. Power of contempt has often been invoked, as a step in that direction, for enforcing compliance of orders of courts and punishing for lapses in the matter of compliance. The majesty of judicial institution is to be ensured so that it may not be lowered and the functional utility of the constitutional edifice is preserved from being rendered ineffective. The proceedings for contempt of court cannot be used merely for executing the decree of the court. However, with a view to preserving the flow of the stream of justice in its unsullied form and in unstinted purity willful defiance with the mandate of the court is treated to be contemptuous. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent affect on avoidance. Viewed from this angle the validity of Section 17 of the Act is protected not only by sub-clause

(b) of Clause (2) of Article 323-A but also by sub-clause

(g) thereof.

For the foregoing reasons the appeals are allowed. The judgment of the High Court is set aside. CWP No.34841 of 1998 filed in the High Court of Andhra Pradesh laying challenge to the jurisdiction of the Tribunal to deal with its own contempt is directed to be dismissed. The Tribunal shall now proceed ahead with the proceedings pending before it as per law. Contempt Case No.1054/1998 filed before the High Court invoking its contempt jurisdiction is directed to be transferred to the Tribunal for being dealt with under Section 17 of the Administrative Tribunals Act, 1985. Complete record of the proceedings shall be transmitted by the High Court to the Tribunal. The appeals stand disposed of accordingly. No order as to the costs.

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