

Gujarat Steel Tubes Ltd. vs Gujarat Steel Tubes Majdoor Sabha on 13 December, 1978

**Equivalent citations: AIR1979SC1914, (1979)4SCC804, 1979(11)UJ166(SC),
AIR 1979 SUPREME COURT 1914, 1979 (4) SCC 804**

Author: V.R. Krishna Iyer

Bench: V.R. Krishna Iyer, D.A. Desai, A.D. Koshal

JUDGMENT

V.R. Krishna Iyer, J.

1. These appeals have come up by certificate to this Court issued by the High Court under Articles 132(1) and 133(1) of the Constitution. As the case was opened, counsel for the appellant, Shri A.K. Sen, raised a preliminary point that these appeals had to be referred to a Constitution Bench as they attracted Article 145 of the Constitution. In fact, he developed his contention, supported by many submissions. He argued that Article 227 and its interpretation came in a substantial way, with special reference to the concept of "tribunal". He urged that once a certificate under Article 132 had been issued, the appeal had necessarily to go before a Constitution Bench, on a fair construction of Article 145(3). He also put forward the plea that Article 226, as amended by the 42nd Amendment to the Constitution, led to the same result. Indeed, the arguments spread over a wide ground.

2. This plea for a reference to a Constitution Bench based on the provisions of Article 145(3) was resisted by Shri Tarkunde and Shri Garg appearing for the respondents. Various rulings were cited on both sides and it was also supported by a certain alternative put forward by Shri Tarkunde that even assuming that Article 227 and its interpretation did raise a substantial question (he refuted that plea but assumed it for argument asks), Article 226 clearly applies and no question about the interpretation of the Constitution vis-a-vis that article could possibly arise.

3. Having had the bonafit of extensive arguments we have reflected over the pros and cone and have arrived at a conclusion that this is a case which does not compel us to resort to the provisions of Article 145(3) and that the appeal can be proceeded with by a Bench other than a Constitution Bench. It is not necessary at this stage to elaborately assign reasons for our conclusion. All that we need say is that having reached the decision that Article 145(3) is not necessarily attracted, the appeals will proceed on the merits.

4. Since there is no time to finish the case right now on the merits although Shri A.K Sen started submissions on the merits, we are adjourning the case as a part-heard one to a later date when this

Bench assembles as per the directions of Hon'ble the Chief Justice. Post this case after Christmas holidays.