

Supreme Court of India

State Of Uttar Pradesh vs Banaras Electricity Light And ... on 9 July, 1996

Bench: Kuldeep Singh, M.M. Punchhi, N.P. Singh, M.K. Mukherjee, S. Saghir Ahmad

CASE NO. :

Appeal (civil) 552-53 of 1975

PETITIONER:

State of Uttar Pradesh

RESPONDENT:

Banaras Electricity Light and Power Company and Others

DATE OF JUDGMENT: 09/07/1996

BENCH:

KULDIP SINGH & M.M. PUNCHHI & N.P. SINGH & M.K. MUKHERJEE & S. SAGHIR AHMAD

JUDGMENT:

JUDGMENT 2001 (9) SCC 203 With Civil Appeal No. 1366 of 1975 The Order of the Court was as follows :

The question before the High Court was whether Section 3 of the U.P. Electricity (Temporary Powers of Control) Act, 1947, was repugnant to Sections 57 and 57-A of the Electricity (Supply) Act, 1948, as amended by the Amending Act 101 of 1956 and Section 22-B of the Indian Electricity Act, 1910, as amended by Central Act 32 of 1959. The High Court answered the question in the affirmative on the following reasoning :

"The two legislations are, in our view, 'in respect of the same matter' within the meaning of Article 254(2) of the Constitution. The two legislations provided a different approach and a different kind of a solution to the problem of fixing fair prices. Even though they do not, strictly speaking, collide with each other in the sense that one asks for something to be done, which the other may prohibit, yet they being in respect of the same matter, both cannot remain in operation (see State of Orissa v. M.A. Tulloch & Co. One will have to fall, under Article 254(2) of the Constitution. Since the Parliament Act of 1956 was not an earlier law in relation to the Temporary Act of 1947, it will prevail, and the offending provisions of the 1947 Act will stand repealed. In view of the repugnancy, clause (aa) of Section 3(2) and the overlapping part of Section 3(1) of the Temporary Act of 1947 must be deemed repealed by implication. The various orders passed by the State Government under that provision were without the authority of law."

We see no ground to interfere with the reasoning and the conclusions reached by the High Court. The appeals are dismissed. Consequently CA No. 1368 of 1975 is also dismissed. No costs.