

entertain any suit where *both* the parties are not units of the federation. If any suit is brought either against the State or the Government of India by a private citizen, that will *not lie* within the original jurisdiction of the Supreme Court but will be brought in the ordinary courts under the ordinary law.

Again, one class of disputes, though a federal nature, is excluded from this original jurisdiction of the Supreme Court, namely, a dispute arising out of any treaty, agreement, covenant, engagement; "*sanad*" or other similar instrument which, having been entered into or executed before the commencement of this Constitution continues in operation after such commencement or which provides that the said jurisdiction shall not extend to such a dispute.¹⁶ But these disputes may be referred by the President to the Supreme Court for its *advisory* opinion.

It may be noted that until 1962, no suit in the original jurisdiction had been decided by the Supreme Court. It seems that the disputes, if any, between the Union and the units or between the units *inter se* had so far been settled by negotiation or agreement rather than by adjudication. The first suit, brought by the State of West Bengal against the Union of India in 1961, to declare the unconstitutionality of the Coal Bearing Areas (Acquisition and Development) Act, 1957, was dismissed by the Supreme Court.¹⁷

Besides these, the Supreme Court has original jurisdiction in transfer of cases as provided under Constitution of India and the laws which are as under:

(a) Article 139A(1) of the Constitution of India, 1950 provides that where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more high courts or before two or more high courts, and the Supreme Court is satisfied, on its own motion, or on an application made by the Attorney-General for India or by a party to any such case, that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the high court or the high courts and dispose of all the cases itself.

(b) Article 139A(2) of the Constitution of India, 1950 provides that the Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any high court to any other high court.

(c) Section 25 of the Code of Civil Procedure, 1908 provides that Supreme Court may transfer any suit, appeal or other proceedings from a high court or other civil court in one State to a high court or other civil court in any other State.

(d) Section 406 of the Code of Criminal Procedure, 1973 provides that Supreme Court may transfer any particular case or appeal from one high court to another high court or from a criminal court subordinate to one high court to another criminal court of equal or superior jurisdiction, subordinate to another high court.

In this context, it should be further noted that there are certain provisions in the Constitution which exclude from the original jurisdiction of the Supreme Court certain disputes, the determination of which is vested in other tribunals:

(i) Disputes specified in the proviso to Articles 131 and 363(1).

(ii) Complaints as to interference with inter-State water supplies, referred to the statutory tribunal mentioned in Article 262, if Parliament so legislates.

Since Parliament has enacted the Inter-State Water Disputes Act (33 of 1956), Article 262 has now to be read with section 11 of that Act.

(iii) Matters referred to the Finance Commission [Article 280].

(iv) Adjustment of certain expenses as between the Union and the States under Articles 257(4), 258(3).