

rank or, whose pay or allowances or any of whose conditions of service were altered to his disadvantages could prefer an appeal before the prescribed authority ..... declaring Section 4 as inapplicable to minority institutions.

In *Indulal Hiralal v. S.S. Salgondkar*<sup>4</sup>, the question arose with regard to the disciplinary control which a minority institution can exercise over its employees. In this case the management had taken sanctions against certain teachers of their Schools, for they had violated the conditions of service. In the latter of appointment the stipulation was regarding wearing of Khadi clothes, but these teachers had not been wearing Khadi dress in School. They were called upon to explain for their failure to observe the condition of service. According to the management the conduct of the teacher was in breach of the conditions on which their appointments were made and amounted to gross insubordinate. The teachers were served with

show-cause notice. After a formal enquiry the management terminated their service.

The School being an aided School the teachers approached the Director of Education, who by a separate order set aside the termination of teachers.

The management of the School filed a writ petition before the Bombay High Court and contended that their instituting being a minority institution the Government could not interfere in the internal affairs of the institutions because the minorities had a right to administer the institutions.

Relying on the decision of the Supreme Court in *All Saints High Schools v. Government of Andhra Pradesh* the Bombay High Court held that the Government had no right to interfere with the autonomy of the minority institution and therefore the order of the Director of Education setting aside the termination of teachers was unconstitutional.

## ARTICLE ON LAW OF CARRIAGE OF GOODS CARRIAGE ACT, 1865<sup>5</sup>

By

—M.S. KRISHNA MOHAN,

M.A., P.G.P.M., LL.B., LL.M.,

Principal,

J.B. Law College,

(JBIET Campus) (V) Venkapalli,

(ML) Moinabad, R.R. District

The Carriage Act, 1865 has been governed by rules and regulated under under Sections 151 to 152 of the Indian Contract Act. These provisions enforces as per law, liabilities, incurring on The Carriage Act, of 1865. And extended services to universe which plays a vital role in commercial transaction for

remuneration then a contract of carriage comes into existence, by land, or inland navigation, and accordingly classified into the following two categories: -

1. Common carrier
2. Private carrier

- Wherein, common carrier is defined under Section 2 of The Carriage Act, 1865. Though

4. AIR 1983 Bom. 83.

5. Reference Book - A Text Book of Mercantile Law : By P.P.S. GOGNA

a common carrier is bound to refuse or transport of goods of any person subject to insurance policy, which involves legal consequences. Further it may be noted that in certain cases common carrier refuse transit without any lawful excuse, as such in this cases is a liable for sue and held liable to pay damages as per the provisions of the law.

#### **Case Referred:**

1. *Croach. v. London & North Western Ry. Co.* (1854) under the Ex.556 M.V. Act. R.R.N. Ramalinga v. V.N. Chettiar, AIR 1971 Kerla High Court 1971 but under the, Indian Airlines Corporation is a common carrier follows liabilities.

#### **Case Referred :**

2. In recent Delta Fast Passenger Railway Accident Case at Veligonda (M), Dist. Nalgonda, State of Andhra Pradesh on 29th October 2005.

This issue had become a seriousness in the State by killing 102 passengers according to official sources. In accordance with Railway Act of 1989 to liability of the Railways for cause of injury or death of passenger should be paid compensation and wherein the victims are entitled for compensation.

Under Administration Act, 1989 under Sections 123 to 129, by serving on it a notice of claim for which compensation must be paid whereas in this issue the Central Government authorities, denied above charges and accusing the state Government administration authorities are responsible for the cause of the accident for which they are deemed sustaining the liabilities, further pointing out the officials' inefficiency as they could not assessed for caste, the consequences of cyclone during the heavy rains which caused neither of

authorities have been failure to exercise, due diligence in the matter.

The analysis of this facts, infers from the circumstances that to perform the pre-existence obligation according compensation is desirable for sustaining victims and accordingly justifiable as per the law.

#### **Case Referred :**

Page 667 – Carriage of goods by land.

*Andhra Pradesh Paper Mills v. Union of India* 1988, 1 ALT 453 A.P. CGL.

**Facts of the Case :—**The Agitators pulled down the driver from running train, assaulted the crue and set fire to several wagons. The act of the agitators, constitute rioting, i.e. Crime.

**Judgment :—**The Court held that on the cognance of offence, delivering the judgment that the Railway Administration shall not be liable under Section 102 C, II Part 4.

**My Opinion :—**Referring in this case, the failure of Railways Government Protection Force, and repercussions as per the law the Railway Protection Force is held liable, to safeguard the Government property as per the service rules of the Railway Administration Act. As such they cannot be exonerate from the consequences of the responsibility. The Hon'ble Court given verdict in this matter wherein a clear cognance of offence is cited, and the verdict is contrary to the law. Hence, the Hon'ble Court, keeping in view of the above facts shall order to Railway Administration authority to pay compensation to real victims and bind them for the consequences.

**Case Referred :—***Union of India v. Romji Lal*, AIR 1965. All 184

**Brief Facts of the Case :—**Wherein in this case the officials of the department have not exercised due deligency and delivered the

goods to a person who is not entitled to the goods. Sometimes the Railway Administration in good faith delivered the consignment to a person who produces the original receipt in such cases the Railway administration will be liable to rightful person if the goods are delivered to a wrong person without the production of Railway Receipt or without verifying whether the said person is the endorsee of the Railway Receipt.

**My Opinion :—**It is also important to note herein, that in case of wrong delivery, the person to whom the goods are so delivered will hold the goods on trust for the true owner, and the true owner can recover the goods from him. For such consequences, the Railway authorities must hold the responsibilities by giving assurances in this matter, and indemnify.

**Case Referred :—**In *Union of India v. Ramprasad*, AIR 1982 Raj 253.

In this case the Railway Administration was held liable under Section 95 where the goods reached destination about 4 months late, and delivered to the consignee in a deteriorated state.

In this case the Rajasthan High Court, followed a Supreme Court decision in *Jetmul Bhujraj v. DH Railway*, AIR 1962 SC 1879.

In this case the Hon'ble Court given verdict to real victim justifiable basing on the deviation of the rules of the Railway by the authorities as such is appreciated of the high status of the judiciary department.

**Verify with the Existing Law :—**On services of The Carriage Act specifies that there is a number of complaints filed on public carriers. Due to failure to exercise,

due deligency and not evolving necessary measures. To that effect and in regard to services extended to Carriage Act has been deferred. Under present scenario mercantile transaction in the universe as such necessary amendments are required to dimentiate the transaction in the global level.

**Judicial Trend :—**In regard to advocacy of the judiciary department, they have been exercising due deligency in respect of damages caused on merit basis, liabilities, and its enforcement. On potential basis, that should see the justice is reached to real victim.

**Suggestion :—**Referring into the cases of the Carriage Act, the parties interest shall not be prejudiced and they were given concern of fair and proper justice. In this connection the judiciary department would however required to review the legislation, Government order and in respect of mechanism of mercantile transaction. And further important source of mercantile law, transaction may be discussed under the following heads.

1. English Mercantile Law.
2. Precedence *i.e.* past judicial decisions
3. Local customs
4. And usages and
5. Indian statute law, *i.e.* Acts of Indian Legislation.

Further, it may be notified and examine clauses of arbitration and its essence in legal value. It may be noted further that insurance shall take its own course of action, according to provisions of insurance and liabilities to victims on justifiable grounds and as such they must be made bind for the consequences.