

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W.P. (C) No.4933 of 2018**

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Express Residency Private Limited a company incorporated under the Companies Act, 1956 having its registered office at 55, Baralal Street, Upper Bazar, P.O. Ranchi, P.S. Kotwali, District: Ranchi through its Director Rahul Maroo aged about 35 years son of Shri Ajay Maroo, resident of 55, Baralal Street, Upper Bazar, P.O. Ranchi, P.S. Kotwali, District: Ranchi

... Petitioner

*Versus*

1. The State of Jharkhand
2. The Principal Secretary, Department of Revenue & Land Reforms, Government of Jharkhand, Nepal House, P.O. & P.S. Doranda, Ranchi.
3. The Deputy Commissioner (Ranchi), having its office at Collectarait Building, Kutchery Road, P.O: Ranchi, P.S. Kotwali, District: Ranchi.
4. The District Sub-Registrar (Ranchi), having its office at Kutchery Road, P.O: Ranchi, P.S. Kotwali, District: Ranchi
5. The Deputy Secretary, Jharkhand Vidhan Sabha, having its office at Jharkhand Vidhan Sabha Secretariat, Dhurwa, HEC Campus P.O. & P.S. Dhurwa, Ranchi
6. The Circle Officer, (Ranchi Circle) having its office at Kutchery Road, P.O: Ranchi, P.S. Kotwali, District: Ranchi
7. Sanskriti Vihar having its office at 55, Baralal Street, Upper Bazar, P.O. Ranchi, P.S. Kotwali, District: Ranchi through its Secretary Bishwanath Narsaria son of Late Sanwarmal Narsaria, resident of Randhir Prasad Street, Near Gandhi Chowk, Upper Bazar, P.O. Ranchi, P.S. Kotwali, District: Ranchi
8. Sri Karma Oraon, S/o- Koka Oraon, Vill- Hindpiri P.O.- Hindpiri, Tisrigali, P.S. Hindpiri, Distt.- Ranchi

9. Sri Chandradeep Kachhap, S/o Mahadeo Kachhap Vill- Purani  
Ranchi, P.O. GPO, P.S. Kotwali, Distt. Ranchi.
10. The Secretary, Jharkhand Vidhan Sabha, Ranchi

... Respondents

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For the Petitioner : Mr. Sumeet Gadodia, Advocate  
Mrs. Shilpi Sandil Gadodia, Advocate  
Mr. Prakhar Harit, Advocate  
Ms. Shruti Shekhar, Advocate  
Ms. Savya Kumari, Advocate  
Mr. N. Choubey, Advocate  
Mr. K. Hari, Advocate  
Mr. Chaitanya Vijoy, Advocate  
For the State : Mr. Manoj Kumar, GA-III  
For the Resp. 5 & 10 : Mr. Anil Kumar, SC (JVS)  
Mr. Ankitesh Kumar Jha, AC to SC (JVS)  
For the Resp. 8 : None

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**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

***By the Court:-*** Heard the parties.

2. No one turns up on behalf of the respondent No.8 in spite of repeated calls.
3. This Writ Petition (Civil) has been filed under Article 226 of the Constitution of India with a prayer for quashing the letter No.1566 dated 20.08.2018 (Annexure-3) issued by the respondent No.5 to respondent No.2, 3 and 6 so far as it relates to directing them to restrain themselves from issuing the land receipts with respect to 34 kathas of land situated on Mauza- Ranchi, Thana No.205, Khata No.33, Plot No.591 until further orders.
4. The second prayer is for quashing the said letter No.1566 so far as it relates to the respondent No.5 directing the respondent No.4 to restrain itself from registering the sale and purchase of shops/plots in the building

constructed on the said plot No.591 and to cancel the registration of sale-deed/lease-deed done in the past on the said land. Prayer has also been made for quashing the noting dated 27.08.2018 (Annexure-1) made by the respondent No.4 on the sale-deed executed by the petitioner in favour of the respondent No.7 whereby and wherein the respondent No.4 has rejected the application of the petitioner for registering the sale-deed in favour of the respondent No.7 in the light of letter No.1566 dated 20.08.2018 issued by the respondent No.5 and further prayer to direct the respondent No.4 to immediately and forthwith register the sale-deed executed by the petitioner in favour of the respondent No.7 in accordance with the provisions of Registration Act, 1908.

5. The brief fact of the case is that the petitioner's company in furtherance of its core activity of construction business purchased 37.5 kathas of land from M/s S.K. Enterprises vide registered sale-deed No.18710 dated 23.12.2005 in respect of the said plot No.591 which was said to be recorded in the RS Record of Rights in the name of Chinigia Oraon. Chinigia Oraon by virtue of registered Deed of Surrender, surrendered the land to the landlord of the village namely Baralal Kandarpnath Shahdeo and handed over the possession of the same. Baralal Kandarpnath Shahdeo settled the said plot No.591 with Sk. Rojid Mian by virtue of registered Deed of Settlement dated 04.08.1939 and handed over the possession to him. Settlement of the said land was also done by Sk. Rojid Mian by executing a registered kabuliyat in favour of the landlord. In the year 1983-84, Koka Oraon and Mangra Oraon- sons of recorded tenant namely late Chingia Oraon filed an application under Section 71A of the Chota Nagpur Tenancy Act, 1908 before the Special Officer, SAR, Ranchi for restoration of the land of the said plot No.591. SAR Officer, Ranchi rejected the application for

restoration vide order dated 18.01.1984 in connection with SAR Case No.83 of 1983-84. Koka Oraon and Mangra Oraon filed C.W.J.C. No.1735 of 2000 (R). The Writ Petition was allowed in terms of the order dated 21.12.2001 and the case was remanded back to the Additional Collector for disposal on merit. The Additional Collector, Ranchi vide SAR Appeal No.6R15 of 1984/85 dismissed the same on 01.04.2002. SAR Revision No.42 of 2002 filed by Koka Oraon and Mangra Oraon was dismissed by the Commissioner on 21.12.2004. The same has attained finality. After death of Sk. Rojid Khan, his legal heirs sold the land to M/s S.K. Enterprises vide registered sale-deed No.2585 dated 04.03.1985 and M/s S.K. Enterprises ultimately sold the land to the petitioner's company. After purchase of the land, the petitioner applied for approval of building before the Competent Authority for construction of multi-storied building over the said plot of land. The Ranchi Regional Development Authority approved the building plan of the petitioner and also granted its consent for construction. The petitioner started construction and sold out few shops/offices to 12 different persons whose names have been mentioned in paragraph-10 of this Writ Petition (Civil), by registered sale-deed. The petitioner sold the shop/office No.1 measuring an area of 375 sq. ft. on the Third Floor to the respondent No.7. The petitioner made an application along with all the requisite documents and adequate stamp duty before the respondent No.4 for registration of the sale-deed executed by the petitioner in favour of the respondent No.7 but the respondent No.4 summarily rejected the registration of the sale-deed by making an endorsement on the sale-deed *"in view of directions as contained in paragraph 4 of letter No.1566 dated 20.08.2018 issued by the Jharkhand Vidhan Sabha Secretariat, the registry of the document is hereby rejected"*.

The petitioner sought information under Right to Information Act from the respondent No.4 and the respondent No.4 provided the relevant information including the copy of the letter No.1566 dated 20.08.2018 issued by the respondent No.5 whereby the respondent No.5 directed the respondent Nos.2, 3 and 6 to restrain themselves from issuing the land revenue receipts with respect to 34 kathas of land situated in Mauza- Ranchi on the said plot No.591 until further orders and also directed the respondent No.4 to restrain itself from registering the sale-deed and purchase of shop/plots at the multi-storied building constructed over the said plot No.591 and further direction was given to the respondent No.4 to cancel the registration of the sale-deed/lease-deed done in the past in respect of the plot No.591. The said direction was given by the respondent No.5 to the respondent No.4; on the basis of the directives issued by the Scheduled Castes, Scheduled Tribes, Backward & Under-Privileged Welfare Committee (constituted in terms of provisions of Jharkhand Vidhan Sabha Practice & Procedures Rules). The said committee has been constituted in terms of Rules 259 and 264 of the Jharkhand Vidhan Sabha Practice & Procedures Rules. The said committee has been vested with the power to review the decision made by the Government and to make recommendation to the Speaker of Vidhan Sabha.

6. It is contended by the writ petitioner that the petitioner No.5 has exceeded its jurisdiction by directing the respondent Nos.2, 3 and 6, in most arbitrary and *malafide* manner to restrain them from issuing the land revenue receipts with respect to the said plot No.591 until further orders and has also exceeded its jurisdiction by directing upon respondents as already indicated above. It is next submitted that the action of the respondent No.4 in rejecting

the application submitted by the learned counsel for the petitioner for registration of the sale-deed in favour the respondent No.4 *dehors* Section 35 of the Registration Act.

7. Learned counsel for the petitioner relies upon the judgment of the Seven Judges Bench of the Hon'ble Supreme Court of India in the case of **Special Reference No.01 of 1964** reported in **AIR 1965 SC 745** regarding Re- Powers, Privileges and Immunities of State Legislatures has laid down the law regarding Article 208 to 212 of the Constitution of India as under in para-60 and 61 which are as follows:-

*“60. Whilst we are considering this aspect of the matter, it is relevant to emphasise that the conflict which has arisen between the High Court and the House is, strictly speaking, not a conflict between the High Court and the House as such, but between the House and a citizen of this country. Keshav Singh claims certain fundamental rights which are guaranteed by the Constitution and he seeks to move the High Court under Art. 226 on the ground that his fundamental rights have been contravened illegally. The High Court purporting to exercise its power under Art. 226(1), seeks to examine the merits of the claims made by Keshav Singh and issues an interim order. It is this interim order which has led to the present unfortunate controversy. No doubt, by virtue of the resolution passed by the House requiring the Judges to appear before the Bar of the House to explain their conduct, the controversy has developed into one between the High Court and the House; but it is because the High Court in the discharge of its duties as such Court intervened to enquire into the allegations made by a citizen that the Judges have been compelled to enter the arena. Basically and fundamentally, the controversy is between a citizen of Uttar Pradesh and the Uttar Pradesh Legislative Assembly. That is why in dealing with the question about the extent of the powers of the House in dealing with cases of contempt committed outside its four walls, the provisions of Art. 226 and Art. 32 assume significance. We have already pointed out that in the case of M.S.M. Sharma, (1959) Supp (1) SCR 806 : (AIR 1959 SC 395) (supra), this Court has held that Art. 21 applies when powers are exercised by the legislature under the latter part of Art. 194(3). If a citizen moves the High Court on the ground that his fundamental right under Art. 21 has been contravened, the High Court would be entitled to examine his claim, and that itself would introduce some limitation on the extent of the powers claimed by the House in the present proceedings.*

61. *There are two other articles to which reference must be made. Art. 208(1) provides that a House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business. This provision makes it perfectly clear that if the House were to make any rules as prescribed by it, those rules would be subject to the fundamental rights guaranteed by Part III. In other words, where the House makes rules for exercising its powers under the latter part of Art. 194(3), those rules must be subject to the fundamental rights of the citizens."*

and submits that rules framed by the Legislature of State is subject to fundamental rights guaranteed under part-III of the Constitution of India. It is next submitted that Article 212(1) of the Constitution of India is regarding the proceedings in the Legislature of State and Article 212(2) of the Constitution of India confers immunity on the Officer and Members of Legislature in whom powers are vested by or under the Constitution for regulating procedure or conduct of business or for maintaining order in the legislature from being subject to jurisdiction of any court.

8. Learned counsel for the petitioner next submits that even though the subject matter of this Writ Petition (Civil) being the letter issued by the respondent No.5 does not relate to any proceeding inside the legislative chamber but even in respect of the proceedings which took place inside the legislative chamber, it is possible for a citizen to call in question if the procedure is illegal and unconstitutional. The same is open to be scrutinized by a Court of Law. It is then submitted that in this case as there is not even any resolution of any committee as the counter-affidavit filed by the respondent No.5 is silent, that the committee has taken any resolution of either directing the respondent Nos.2, 3 and 6 to restrain themselves from issuing land revenue receipts in respect for the said plot No.591 or to restrain the respondent No.4 from registering the sale and purchase of the sub-plots and to cancel the

registration of sale-deed/lease-deed done in the past in respect of the said plot No.591 and such power exercised by the respondent No.5, who is the Deputy Secretary of Vidhan Sabha in his own account is without jurisdiction and *dehors* the power vested upon the respondent No.5 by any law. Hence, the same is illegal and unconstitutional.

9. Learned counsel for the petitioner next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Raja Ram Pal vs. Hon'ble Speaker, Lok Sabha & Others** reported in (2007) 3 SCC 184 and submits that therein the Hon'ble Supreme Court of India had laid down the extent and scope of judicial review on parliamentary matters by observing thus in para-360, 362, 364, 366 which read as under:-

*"360. The question of extent of judicial review of parliamentary matters has to be resolved with reference to the provision contained in Article 122(1) that corresponds to Article 212 referred to in Pandit Sharma (II) [AIR 1960 SC 1186 : (1961) 1 SCR 96 (Eight Judges)] . On a plain reading, Article 122(1) prohibits "the validity of any proceedings in Parliament" from being "called in question" in a court merely on the ground of "irregularity of procedure". In other words, the procedural irregularities cannot be used by the court to undo or vitiate what happens within the four walls of the legislature. But then, "procedural irregularity" stands in stark contrast to "substantive illegality" which cannot be found included in the former. We are of the considered view that this specific provision with regard to check on the role of the judicial organ vis-à-vis proceedings in Parliament uses language which is neither vague nor ambiguous and, therefore, must be treated as the constitutional mandate on the subject, rendering unnecessary search for an answer elsewhere or invocation of principles of harmonious construction."*

*362. The above indeed was a categorical clarification that Article 122 does contemplate control by the courts over legality of parliamentary proceedings. What the provision intended to prohibit thus were cases of interference with internal parliamentary proceedings on the ground of mere procedural irregularity.*

*364. The submissions of the learned counsel for the Union of India and the learned Additional Solicitor General seek us to read a finality clause in the provisions of Article 122(1) insofar as parliamentary proceedings are concerned. On the subject of finality clauses and their effect on power of judicial review, a number of cases have been referred that may be taken note of at this stage.*



*366. The touchstone upon which parliamentary actions within the four walls of the legislature were examined was both the constitutional as well as substantive law. The proceedings which may be tainted on account of substantive illegality or unconstitutionality, as opposed to those suffering from mere irregularity thus cannot be held protected from judicial scrutiny by Article 122(1) inasmuch as the broad principle laid down in Bradlaugh [(1884) 12 QBD 271 : 53 LJQB 290 : 50 LT 620] acknowledging exclusive cognizance of the legislature in England has no application to the system of governance provided by our Constitution wherein no organ is sovereign and each organ is amenable to constitutional checks and controls, in which scheme of things, this Court is entrusted with the duty to be watchdog of and guarantor of the Constitution."*

10. The learned counsel for the petitioner next submits that the prayer as prayed for in this petition by the petitioner, be allowed.

11. Learned counsel appearing for the State on the other hand draws attention of this court towards counter-affidavit filed on behalf of the respondent Nos.2, 4 and 6 and submits that the contention of the petitioner regarding the ownership of the land and its history of acquisition could not be ascertained. It is next submitted that the subject matter of this Writ Petition (Civil) is basically related to the Jharkhand Vidhan Sabha Practice & Procedure Rules and the State of Jharkhand has got nothing to comment regarding the same.

12. Learned counsel for the respondent No.5 relies upon the counter-affidavit filed on behalf of the respondent No.5 and submits that the writ application is not maintainable and the proceedings of the Committee of the Vidhan Sabha cannot be questioned in the writ jurisdiction, as the same is not permissible under the framework of the Constitution of India. It is next submitted that the business of the Vidhan Sabha is transacted in accordance with the rules of procedure as framed under Article 208 of the Constitution of India. The proceedings of the said committee have not been culminated as yet.

Drawing attention of this court towards Rule 209 of the said rules, learned counsel for the respondent No.5 submits that the Committee of the Vidhan Sabha including the said Scheduled Castes, Scheduled Tribes and Backward Classes Welfare Committee has the power to summon any person and to produce any document. It is next submitted that the said impugned letters at serial No.2, 3, 6, 7 & 8 are regarding portion of documents on other matters. The petitioner cannot have any right to challenge the same nor has any *locus standi* before the same. Hence, the said portion of impugned letter No.1566 dated 20.08.2018 does not warrant any interference of this Court.

13. Learned counsel for the respondent No.5 next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Kalpna Mehta & Others vs. Union of India & Others** reported in (2018) 7 SCC 1, para-418 to 422 of which reads as under:-

*"418. Although, heading of Article 122 reads "Courts not to enquire into proceedings of Parliament" but substantive provision of the Constitution, as contained in clause (1) of Article 122 debars the court from questioning the validity of any parliamentary proceeding on the ground of any alleged irregularity or procedure. The embargo on the court to question the proceeding is thus limited on the aforesaid ground alone. There is no total prohibition from examining the validity of the proceeding if the proceedings are clearly in breach of fundamental rights or other constitutional provisions.*

*419. The Constitution Bench in Special Reference No. 1 of 1964 [Powers, Privileges and Immunities of State Legislatures, In re, Special Reference No. 1 of 1964, AIR 1965 SC 745 : (1965) 1 SCR 413] , while considering the scope of Article 194 of the Constitution laid down the following : (AIR p. 762, para 40)"*

*"40. Our legislatures have undoubtedly plenary powers, but these powers are controlled by the basic concepts of the written Constitution itself and can be exercised within the legislative fields allotted to their jurisdiction by the three Lists under the Seventh Schedule; but beyond the Lists, the legislatures cannot travel. They can no doubt exercise their plenary legislative authority and discharge their legislative functions by virtue of the powers conferred on them by the relevant provisions of the*

*Constitution; but the basis of the power is the Constitution itself. Besides, the legislative supremacy of our legislatures including Parliament is normally controlled by the provisions contained in Part III of the Constitution. If the legislatures step beyond the legislative fields assigned to them, or acting within their respective fields, they trespass on the fundamental rights of the citizens in a manner not justified by the relevant articles dealing with the said fundamental rights, their legislative actions are liable to be struck down by courts in India. Therefore, it is necessary to remember that though our legislatures have plenary powers, they function within the limits prescribed by the material and relevant provisions of the Constitution."*

420. As observed above, the Constitution of India empowers this Court in exercise of judicial review to annul the legislation of a Parliament if it breaches the fundamental rights, guaranteed under Part III of the Constitution. Thus, the privileges which are enjoyed by the Indian Legislature have to be considered in light of the provisions of the Indian Constitution. These are the clear exceptions to the parliamentary privileges, as applicable in the House of Commons on the strength of Article IX of the Bill of Rights, 1688. This Court in Special Reference No. 1 of 1964 [Powers, Privileges and Immunities of State Legislatures, In re, Special Reference No. 1 of 1964, AIR 1965 SC 745 : (1965) 1 SCR 413] noticing the different constitutional provisions referred to various privileges which although were enjoyed by the House of Commons, but are no longer available to the Indian Legislature.

421. The power of judicial review enjoyed by this Court in reference to legislation and some parliamentary proceedings are recognised exceptions, when this Court can enter into parliamentary domain. In all other respects, parliamentary supremacy with regard to its proceedings, the procedure followed has to be accepted.

422. In view of the above foregoing discussion, we are of the view that on the strength of Article 122, it cannot be contended that Parliamentary Standing Committee reports can neither be admitted in evidence in court nor the said reports can be utilised for any purpose." (Emphasis supplied)

and submits that courts ought not to enquire into the proceedings of Parliament or Legislative Assembly. Hence, it is submitted that this Writ Petition (Civil), being without any merit, be dismissed.

14. Having heard the submission made at the Bar and after carefully going through the materials available in the record, the question which crop up for consideration before this Court is whether the serial No.1, 4 & 5 of the

impugned letter written by the respondent No.5 is illegal, without jurisdiction and is liable to be quashed and set aside. It is pertinent to mention here that in this case, there is no proceeding which took place inside the chamber of Legislature involved. As already indicated above, the Scheduled Castes and Scheduled Tribes Welfare Committee has been constituted in terms of Rule 259 of the Jharkhand Vidhan Sabha Practice and Procedure Rules. Rule 260 of the said Rules deals with the object of the said Committee to review the rules and regulations formulated in respect of the Scheduled Castes and Scheduled Tribes by the Constitution of India and the State Government as well as implementation of the circulars, order and directions and to make recommendations.

15. It is crystal clear from the Jharkhand Vidhan Sabha Practice and Procedure Rules that the Scheduled Castes and Scheduled Tribes Welfare Committee has not been vested with any power to give direction to any officer of the State Government to do or restrain from doing any act, deeds and things. What all it can do is that it can make recommendation and it is indisputable that no recommendation has been made by the said Committee as it was submitted by the learned counsel for the respondent No.5 that the proceedings of the Committee has still remained inconclusive. It is also indisputable that the respondent No.5 himself does not have any power to direct the respondent Nos.2, 3 and 6 or the respondent No.4 to either do anything or restrain from doing anything.

16. So far as the judgment as relied upon by the respondent No.5 in the case of **Kalpna Mehta & Others vs. Union of India & Others (supra)** is concerned, therein also in para-420 of that judgment the law has been laid down that the

privileges which are enjoyed by the Indian Legislature have to be considered in the light of the provisions of the Indian Constitution as has been held in the case of Special Reference No.01 of 1964. Article 212 confers immunity on the Officer and Members of the Legislature in whom powers are vested by or under the Constitution of India but even that the privileges do not keep any immunity to the Legislature even for proceedings inside the Legislative Chamber for doing any illegality and such immunity is restricted only for irregularity.

17. Now coming to the facts of the case, the impugned letter in question bearing No.1566 got nothing to do with the proceedings inside the Legislative Chamber. As already indicated above, the Scheduled Castes and Scheduled Tribes Welfare Committee has not been vested with any power to direct any Officer of State Government to do or restrain from doing act, deeds and things nor the respondent No.5 has been vested with such power in his individual capacity.

18. Under such circumstances, this Court has no hesitation in holding that the directions made in the impugned letter No.1566 dated 20.08.2018 so far as it relates to serial No.1 by which the respondent Nos.2, 3 and 6 have been directed to restrain themselves from issuing land revenue receipts on the said plot No.591, serial No.4 by which the respondent No.4 has been directed to restrain itself from registering the sale and purchase of shops/plots in the building constructed over the said plot No.591 and the serial No.5 by which the respondent No.4 has been direction to cancel the registration of sale-deed/lease-deed done in the past in respect of the said plot No.591 is illegal

being *dehors* the power vested upon either said Committee or the respondent No.5. Hence, the same is liable to be quashed and set aside.

19. Accordingly, direction given in the serial Nos.1, 4 and 5 of the said letter No.1566 dated 20.08.2018 as referred to above is quashed and set aside.

20. So far as the noting on the sale-deed executed by the petitioner in favour of the respondent No.7 by the respondent No.4 dated 27.08.2018 vide Annexure-1 of this Writ Petition (Civil) is concerned, such noting has been made by the petitioner on the basis of the serial No.4 of the impugned letter No.1566 dated 20.08.2018 and as the said serial No.4 of the impugned letter No.1566 dated 20.08.2018 has been quashed so, consequently the said noting dated 27.08.2018 being consequential act of the respondent No.4; is also quashed and set aside.

21. In view of setting aside of the noting on the sale-deed executed by the petitioner in favour of the respondent No.7 by the respondent No.4 dated 27.08.2018 vide Annexure-1, the respondent No.4 is directed to register the sale-deed executed by the petitioner in favour of the respondent No.7 if the same is produced for registration in accordance with the provisions of law.

22. This Writ Petition (Civil) is disposed of accordingly.

**(Anil Kumar Choudhary, J.)**