

A RESERVE BANK OF INDIA & ANR.

v.

STATE REP. BY M.R. BHAVSAR, BOMBAY
(Criminal Appeal No.61 of 2002)

SEPTEMBER 30, 2008

B (DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.)

C *The Contract Labour (Regulation and Abolition) Act, 1970; Ss. 2(e) and 7/Code of Criminal Procedure, 1973; S.482:*

D *Office/establishment of Government – College of Agricultural Banking run by Reserve Bank of India – Issuance of show cause Notice for alleged contravention/violation of provisions under s.7 of the Act – Application for quashing of proceeding dismissed by High Court – Correctness of – Held: Incorrect – High Court proceeded on an erroneous basis that RBI is an office/department of Government – The conclusion is clearly contrary to Scheme of RBI Act –Hence, judgments of High Court and also proceeding initiated against the ap-*

E *pellant quashed – Reserve Bank of India Act.*

F *In a complaint filed against the principal of a College of Agricultural Banking, the enforcement officer issued a Show Cause Notice alleging violation of provisions under s.7 of the Contract Labour (Regulations and Abolition) Act, 1970. The Principal, appellant in the connected appeal, filed an application for quashing of the proceedings on the ground that the Act does not apply to the Reserve Bank of India and/or the College because neither of them can be treated to be established under the Act.*

G *The Application was dismissed by the High Court. Hence the present appeal.*

H **Allowing the appeals, the Court**

HELD: A bare reading of the provisions under s.2(e)

of the Contract Labour (Regulations and Abolition) Act, A 1970 makes the position clear that the Act applies to an establishment which is either an office or department of the Government or local authority in terms of Section 2(e)(i) of the Act. It is not the case of the respondent that Section 2(e)(i) has application to the facts of the case. The High Court proceeded on an erroneous basis that RBI is an office or department of the Government. This conclusion is clearly contrary to the scheme of the RBI Act. Hence, the prosecution initiated on the basis of the complaints filed cannot be maintained. Impugned judgments of the High Court are quashed, so also the proceedings initiated on the basis of the complaints filed. (Paras -7 & 8) [1215,G-H; 1216,A-B]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 61 of 2002 D

From the Judgment and Order dated 23.2.2001 of the High Court of Judicature at Bombay in Criminal Application No. 3089 of 1993

Raju Ramachandran, Kuldeep S. Parihar and H.S. Parihar E for the Appellant.

Varuna Bhandari Gugnani, D.S. Mahra and B.V. Balaram Das for the Respondent.

The Judgment of the Court was delivered by F

DR. ARIJIT PASAYAT, J. 1. Challenge in these appeals is to the judgment of the learned Single Judge of the Bombay High Court, dismissing the applications filed questioning issuance of process and also prosecution by which they are sought to be prosecuted for alleged contravention of provisions of Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970 (in short the 'Act'). The appellant in Criminal Appeal no.62/2002 is Principal of the College of Agricultural Banking, Pune (in short 'the College'), which is run by the Reserve Bank of India (in short 'RBI'), the appellant in criminal appeal no 61/2002. H

- A The Labour Enforcement Officer (Central) issued show-cause notice alleging that there was violation of the provisions of the Act thereby attracting prosecution. The appellants in Criminal Appeal no.61/2002 took the stand before the High Court that the Act does not apply to the RBI and/or the college because
- B neither can be treated to be an establishment under the act. The High Court did not accept the stand and held that there was no scope of exercising power in terms of Section 482 of the Code of Criminal Procedure, 1973 (in short 'the Code') or Article 226 of the Constitution of India, 1950 (in short 'the Constitution'). The High Court found that the appellants are not prosecuted as an industry but as a government department/office and, therefore, can be treated to be an establishment under the Act. Accordingly, the petitions were dismissed.

- 2. Learned counsel for the appellants submitted that the
- D High Court has failed to notice that neither the RBI nor the College can be treated to be an establishment as it is neither a governmental department nor an office.

- 3. Learned counsel for the respondent submitted that whether it is a governmental department or office has to be adjudicated in the trial and the High Court was justified in rejecting the petitions filed in terms of Section 482 of the Code and Article 226 of the Constitution.

- 4. RBI is constituted under the Reserve Bank of India Act, 1934 (in short 'RBI Act'). In the introduction of RBI Act it is stated as follows:

- G "To regulate the issue of Bank notes and for the keeping of reserves with a view to securing monetary stability in British India and generally to operate the currency and credit system of the country to its advantage it was found expedient to constitute a Reserve Bank of India. Accordingly, the Reserve Bank of India Bill was introduced in the Legislature."

- H 5. The preamble to the Act reads as follows:

"An Act to Constitute a Reserve Bank of India

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WHEREAS it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country of its advantage;

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AND WHEREAS in the present disorganization of the monetary systems of the world it is not possible to determine what will be suitable as a permanent basis for the Indian monetary system;

C

BUT WHEREAS it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures;

D

It is hereby enacted as follows:-"

6. Section 2(aii) of the RBI Act defines the "Bank" to mean Reserve Bank of India constituted by the Act. The expression "establishment" is defined in Section 2(e) of The Contract Labour (Regulation and Abolition) Act, 1970 and reads as follows:

E

"establishment" means -

F

- (i) any office or department of the Government or a local authority, or
- (ii) any place where any industry, trade, business, manufacture or occupation is carried on,"

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7. A bare reading of the provisions makes the position clear that the Act applies to an establishment which is either an office or department of the Government or local authority in terms of Section 2(e)(i). It is not the case of the respondent that Section 2(e)(ii) has application to the facts of the case. It is only

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A based on Section 2(e)(i). The High Court proceeded on an erroneous basis that RBI is an office or department of the Government. This conclusion is clearly contrary to the scheme of the RBI Act.

B 8. That being the position, the prosecution initiated on the basis of the complaints filed cannot be maintained. Impugned judgments of the High Court are quashed, so also the proceedings initiated on the basis of the complaints filed.

9. The appeals are accordingly allowed.

C S.K.S. Appeals allowed.