

upon it. Since the matter was not free from difficulty and there was conflict of judicial decisions, the parties are left to bear their own costs.

R. S. NARULA, C. J.

(13) It is impossible to make any useful addition to the lucid judgment prepared by my learned brother Tuli, J., I agree with every word of it.

M. R. SHARMA, J.—I entirely agree.

K. S. K.

FULL BENCH

Before R. S. Narula, C.J. and Prem Chand Jain and M. R. Sharma, JJ.

SHAM RATTAN NEWAR,—Petitioner.

versus.

THE STATE OF HARYANA ETC.,—Respondents.

Civil Writ No. 2876 of 1970.

August 6, 1974.

Punjab State Aid to Industries Act (V of 1935)—Section 35—Whether ultra vires Article 14, Constitution of India.

Held, that merely because a certain statute prescribes two procedures for effecting recovery of Government dues, one of which is harsher and more onerous than the other, without laying down any guidelines for the appropriate authorities to choose to follow one or the other of those two alternative courses, it does not make the statute repugnant to Article 14 of the Constitution. Hence section 35 of Punjab State Aid to Industries Act, 1935 is not *ultra vires* Article 14 of the Constitution. (Para 1).

Case referred by the Hon'ble Mr. Justice Prem Chand Jain on 2nd September, 1971 to the Full Bench for reconsidering the decision of this Court in Shri Harish Chand's case. The Full Bench consisting of Hon'ble the Chief Justice R. S. Narula, Hon'ble Mr. Justice Prem Chand Jain and the Hon'ble Mr. Justice M. R. Sharma finally decided the case on 6th August, 1974.

Sham Rattan Newar v. The State of Haryana etc. (Narula, C.J.)

Petition under Articles 226/227 of the Constitution of India praying that a writ in the nature of Certiorari, Mandamus or any other appropriate writ, order or direction be issued quashing the impugned order dated 6th March, 1969 and 13th August, 1970 (Annexures 'G' and 'H') and further praying that during the pendency of the writ petition, the respondents be restrained from realising the amount of loan as arrears of land revenue.

J. S. Shahpuri, Advocate, for the petitioner.

C. D. Dewan, Additional Advocate-General, Haryana with H. N. Mehtani, Assistant Advocate-General, Haryana, for the respondents.

JUDGMENT

Judgment of the Court was delivered by:—

R. S. NARULA, C.J.—(1) The *vires* of section 35 of the Punjab State Aid to Industries Act, 1935, were questioned in this petition before my learned brother P. C. Jain, J. on the ground that the said provision is repugnant to Article 14 of the Constitution of India inasmuch as it prescribes two procedures for effecting recovery, one of which is harsher and more onerous than the other, without laying down any guidelines for the appropriate authorities to choose to follow one or the other of those two alternative courses. This precise argument had already been repelled by a Full Bench of this Court in *Harish Chand v. Collector of Amritsar and another* (1). The counsel for the petitioner, however, submitted before the learned Judge that the view taken by the Full Bench of this Court in *Harish Chand's case* (1) (*supra*) no longer holds the field in view of the pronouncement of their Lordships of the Supreme Court in *Northern India Caterers (Private) Limited and another v. State of Punjab and another* (2) wherein section 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act (31 of 1959) was held to be discriminatory and violative of Article 14 of the Constitution of India on the same ground. As the learned Single Judge did not find it proper to hear further arguments on that question in view of the earlier Full Bench decision of this Court, the case was referred to a Full Bench. This is how the matter has been placed before us today.

(2) At the outset, Mr. C. D. Dewan, the learned Additional Advocate-General for the State of Haryana, has brought to our

(1) A.I.R. 1959 Pb. 19.

(2) A.I.R. 1967 S.C. 1581:

notice the judgment of the Supreme Court in *Maganlal Chhaganlal (Private) Limited v. Municipal Corporation of Greater Bombay and others* (and the connected cases) (3), wherein their Lordships of the Supreme Court have held as under:—

“Therefore, the contention that the mere availability of two procedures will vitiate one of them that is the special procedure, is not supported by reason or authority.”

Dealing with the *Northern India Caterers case* (2) (*supra*) specifically their Lordships observed:—

“We, therefore, find ourselves unable to agree with the majority in the *Northern India Caterers case* (2).”

On the merits of the cases decided by their Lordships, the argument about certain provisions of different statutes being *ultra vires* Article 14 of the Constitution of India merely on account of two procedures having been provided therein, one harsher than the other without laying down any guidelines for selecting one or the other of the two alternative procedures, was rejected outright.

(3) In these circumstances, the law laid down earlier by the Supreme Court in *Northern India Caterers case* (2) does not appear to hold the field and the only impediment in the way of the learned Single Judge for following the earlier Full Bench judgment of this Court in *Harish Chand's case* (1), no longer exists. We, therefore, hold that the decision of the Supreme Court in *Northern India Caterers case* (2) does not in these circumstances affect the correctness of the earlier Full Bench judgment of this Court which is otherwise binding on us. Since no other point was argued in this case before the learned Single Judge and none is even now sought to be canvassed before us, this petition must fail and is accordingly dismissed, though without any order as to costs.

K. S. K.

(3) C.A. No. 680 of 1968 decided by the Supreme Court on 11th April, 1974.