MANAGEMENT OF ADVANCE INSURANCE CO. LTD.

v.

SHRI GURUDASMAL & ORS.

March 4, 1970

[M. HIDAYATULLAH, C.J., J. M. SHELAT, C. A. VAIDIALINGAM, A. N. GROVER AND A. N. RAY, JJ.]

Constitution of India; 1950, *7th Sch. List I Entry* 80—*Word 'State' in Entry—Whether includes 'Union Territories' after passing of Constitution (Seventh Amendment) Act,* 1956—*Adaptation of Laws (No.* 1) *Order* 1956 *enlarging definition of 'State' in s.* 3(58) *of General Clauses Act,* 1897 *to include Union Territories—Effect of Order—Power of President to pass Order after expiry of period specified in Art.* 372(2) *of Constitution—Power is sustained under new Art.* 372-*A.*

Special Police Establishment Act 25 *of* 1946 *as amended in* 1952—*Purporting to create Special Police Force "in Delhi'—Such force whether "belonging to" a 'State' within meaning of Entry* 80—*Consent of State Government to extension of powers of Special Police Establishment—Proof—Consent already given in respect of certain offences subsists after new offences added by fresh notification.*

Entry 80 in List I of the 7th Sch. to the Constitution of India 1950 corresponding to entry 39 in the Federal List of the Government of India Act, 1935, empowered the Central Legislature *inter alia* to extend the powers and jurisdiction of members of the police force 'belonging to' any State to any area outside that State with the consent of the State in which such area was situate. Under the Constitution as originally adopted the States in the Indian Union were specified as Part A, B & C States and certain territories as part D territories. By the Constitution (Seventh Amendment Act), 1956 the distinction between Part A & B States was abolished and Part C States and Part D territories came to be described as Union Territories. The Delhi Special Police Establishment Act 25 of 1946 was passed under entry 39 of the Federal List of the Government of India Act, 1935. As adapted in 1950, the long title of the Act referred to Special Police Force 'for the State of Delhi'. After the Delhi Special Police Establishment (Amendment) Act 26 of 1952 the long title referred to a Special Police Force 'in Delhi'. The Adaptation of Laws (No. 3) Order 1956 substituted the words 'Union Territories' in place of Part 'C' States in the Delhi Special Police Establishment Act. On November 6, 1956 Notification No. 7/5/55-AVD was issued by the Central Government under s. 3 of the Act enabling the Special Police Establishment to investigate *inter alia* offences under ss. 409 and 477A of the Indian Penal Code. By memorandum No. DPE/1260/6554-V, dated July 2, 1960, the Government of Maharashtra purported to express its consent to the extension to the State of Maharashtra of the powers of Delhi Police Establishment to investigate into the offences mentioned in the Central Government Notification aforesaid dated November 6, 1956 and subsequent notifications dated February 12, 1957, June 21, 1957 and August 27, 1957. The appellant company was charged in a complaint filed by Income-tax Officer (Section X Central), Bombay with offences under ss. 409, 477A and 120B read with s. 409 of the Indian Panel Code. The case was registered by the Superintendent of Police, Special Police Establishment, Delhi and investigation thereof was ordered to be conducted in the State of Maharashtra by an Inspector under the Establishment. The appellant filed a writ

petition under Art. 226 of the Constitution challenging the power of the Special Police Establishment to investigate the case in the State of Maharashtra. The petition being dismissed, an appeal with certificate was filed in this Court. The contentions raised on behalf of the appellant which fell for consideration were : (i) that Act 25 of 1946 when it was made applicable to Union Territories as a result of Adaptation Order No. 3 of 1956 was thereby cut adrift from entry 80 which referred only to 'States' (ii) that the enlargement of the definition of 'State' in s. 3(58) of the General Clauses Act to include Union Territories as respects the period after the Seventh Amendment of the Constitution was not effectively made by Adaptation Order (No. I) 1956 because the power of the President under Art. 372(2) expired in 1953; (iii) that Act 25 of 1947 as amended in 1952 purpoted to create a special police force in Delhi, and the Act was not thus not in accord with entry 80 in which the phrase used was 'belonging to any State,'; (iv) that the consent of the Maharashtra Government to the Central Government Notification dated November 6, 1956 extending to the State of Maharashtra, the power of the State Police Establishment to investigate cases under s. 409 and s. 477A of the Indian Penal Code was not proved to have been obtained; (v) that in any case no fresh consent for the investigation of these oftences was obtained when by Notification dated February 18, 1963 the Delhi Special Police Establishment was empowered to investigate in Maharashtra certain other offences in addition to those mentioned in the earlier notifications.

HELD : (i) After the amendment of s. 3(58) of the General Clauses Act by the Adaptation Order (No. 1) of 1956 the word 'State' in entry 80 of List I must be read as respects any period after the commencement of the Seventh Amendment of the Constitution so as to include 'Union Territories'. Therefore, members of a police force belonging to the Union Territory of Delhi could have their power and jurisdiction extended to another State with the consent of the Government of that State. Adaptation Order No. 3 of 1956 did not have the effect of taking Act 25 of 1946 outside the ambit of entry 80. [890 C]

(ii) The power of the President under Art. 372(2) to adapt and modify laws no doubt expired in 1953. But a fresh power equal and analogous to that under Art. 372(2) was conferred on President by Art. 372A which was introduced by the Constitution Seventh Amendment Act, 1956. Therefore, the amendment of the definition of 'State' in s. 3(58) of the General Clauses Act by the Adaptation of Laws (No. 1) Order, was valid and had the effect of including Union Territories in entry 80 of the Union List [890 H; 891 F-G; 892 D-E]

Ramkishore Sen & Ors. v. *Union of India & Ors.* [1966] 1 S.C.R. 430 at 438 and *T. M. Kanniyan* v. *Income-tax Officer, Pondicherry & Anr.* [1968] 2 S.C.R. 103 at 108, referred to.

Ram Kishore Sen's case to Art. 372 held *per incuriam.*

(iii) Provisions of law must be read as far as possible with a view to their validity and not to render them invalid. The expression 'belonging to' in entry 80 only conveys the meaning that it is a police force *constituted and functioning* in one area, which may be authorised to function in another area. The change from "for" to "in" made in the long title of Act 25 of 1946 by the amendment of 1952 makes no difference because both expressions fit with the meaning of the phrase 'belonging to' in the entry. In this way the Delhi Special Police Establishment means a police force constituted and functioning in the Union Territories in Delhi and it could not be said that Act 25 of 1946 as amended in 1952 was not in second with entry 80. [893 E-F]

A (iv) There is a presumption of regularity of official acts but even apart from it the memorandum of the Government of Maharashtra dated July 2, 1960 and the affidavit filed by the Under Secretary to the Government clearly established that the consent of the Government of Maharashtra to the notifications of the Central Government mentioned therein was duly given. [888 F]

B (v) If by the notification dated February 18, 1963 ss. 409 and 477A Indian Penal Code had been newly added, consent of the Government of Maharashtra would have been necessary. But that Government had on more than one occasion consented to the investigation in that State of those offences, and no fresh consent in respect of them was therefore necessary. [889 A-B]

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2258 of 1968.

Appeal from the judgment and order dated October 18, 1968 of the Delhi High Court, Himachal Bench at Simla in Civil Writ No. 365 of 1968.

A. K. Sen and *B. Datta,* for the appellant.

D *Jagadish Swarup, Solicitor-General, R. L. Mehta* and *R. N. Sachthey,* for the respondents.

The Judgment of the Court was delivered by

Hidayatullah, C.J. On a complaint, January 30, 1968 by the Income Tax Officer (Section X Central) Bombay, of the E Commission of Offences under ss. 409, 477A and 120B read with s. 409 of the Indian Penal Code a case was registered by the Superintendent of Police, Special Police Establishment, New Delhi. Investigation was entrusted to an Inspector under the Establishment. It was to be made in Maharashtra State. The appellant, which is a limited company, called the Management of F Advance Insurance Company Limited, thereupon filed a petition under Art. 226 of the Constitution in the High Court at Delhi challenging the right of the Special Police Establishment to investigate the case. This petition was disposed of on October 18, 1968 by the High Court ordering its dismissal. The present appeal is by certificate granted by the High Court.

G Before the High Court many questions were mooted. Shortly stated the argument is that the Delhi Special Police Establishment is not constitutional and that it has no jurisdiction to investigate the cases in other States. This argument has many facets which will presently appear. Before we consider them it is necessary to say something about the original constitution of this Special H Police Establishment.

We are concerned today with the Delhi Special Police Establishment Act of 1946 (XXV of 1946). This Act succeeded two

Ordinances which had been earlier passed by the Governor General and it had been amended from time to time by way of adaptation and modification. It was passed when the Government of India Act 1935 was in force. Entry No. 3 of the Provincial Legislative List in the 7th Schedule to the Government of India Act, 1935 read "police including railway and village police". Entry 39 of the Federal Legislative List was as follows :

> "39. Extension of the powers and jurisdiction of members of a police force belonging to any part of British India to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner as the case may be; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit."

It was substituted by the India (Provisional Constitution) Order 1947, as follows :

> "39. Extension of the powers and jurisdiction of members of a police force belonging to any province to any area in another province, but not so as to enable the police of one province exercise powers and jurisdiction in another province without the consent of the Government of that Province; extension of powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.
>
> In this entry "province" includes a Chief Commissioner's province."

The explanation which was included in this last entry was to obviate the implication of the definition of a Province in s. 46(3) of the Act which read :

> "In this Act the expression "Province" means unless the context otherwise requires, a Governor's Province, and "Provincial" shall be construed accordingly."

The implication of the explanation was to apply entry 39 to the Chief Commissioner's Province in addition to Governor's Province. In this way the jurisdiction exercisable under entry 39 was made co-extensive again with what was formerly British India, which, by s. 311(1) of the Act, meant both kinds of provinces. The prior history of the Act may be shortly noted. It has little bearing upon the questions in hand.

A On July 12, 1943 the Governor General enacted an ordinance (XXII of 1943) in exercise of his powers conferred by s. 72 of the Government of India Act which was continued in the Ninth Schedule to the Government of India Act, 1935. An emergency had been declared owing to World War II and the powers were exercisable by the Governor General. The ordi-
B nance was called the Special Police Establishment (War Department) Ordinance, 1943. It extended to the whole of British India and came into force at once. By s. 2(4) the Special Police Establishment (War Department) was constituted to exercise throughout British India the power and jurisdiction exercisable in a province by the members of the police force of that province
C possessing all their powers, duties, privileges and liabilities. Under s. 4 the superintendence of the Special Police Establishment (War Department) was vested in the Central Government. It was, however, provided by s. 3 as follows :

> "Offences to be investigated by Special Police Establishment :—
>
> D
>
> The Central Government may by general or special order specify the offences or classes of offences committed in connection with Departments of the Central Government which are to be investigated by the Special Police Establishment (War Department), or may direct any particular offence committed in connection with a
> E Department of the Central Government."

This ordinance would have lapsed on September 30, 1946. Before that on September 25, 1946 another ordinance of the same name (No. XXII of 1946) was promulgated. This constituted a special police force for the Chief Commissioner's pro-
F vince of Delhi for investigation of certain offences committed in connection with matters concerning departments of the Central Government. The scheme of this ordinance was slightly different. Under s. 2 Special Police Establishment was constituted for the Chief Commissioner's Province of Delhi for the investigation in that province of offences notified in s. 3. This was not-
G withstanding the provisions of the Police Act of 1861. The Police Establishment had throughout the Chief Commissioner's Province of Delhi in relation to those offences the powers, duties, privileges and liabilities of the regular police officers subject, however, to any orders which the Central Government might make in this behalf. Section 3 of the new ordinance was almost
H the same as s. 3 of the previous ordinance. The only changes were that the offences had to be *notified* and the power to refer any particular case was *not* repeated. In the ordinance s. 5 provided that the consent of the Government of the Governor's Pro-

vince or of the Chief Commissioner should be obtained to the extension before the powers would be exercised.

Ordinance No. XXII of 1946 was repealed by the Delhi Police Establishment Act 1946 (XXV of 1946) which re-enacted the provisions of the Ordinance. This Act was adapted and amended on more than one occasion. First came the Adaptation of Laws Order 1950, enacted under clause 2 of Art. 372 of the Constitution on January 26, 1950. It made two changes. The first was throughout the Act tor the words "Chief Commissioner's Province of Delhi" the words "State of Delhi" were substituted and for the word "Provinces" the words "Part A and C States" were substituted. This was merely to give effect to the establishment of "States" in place of provinces under the scheme of our Constitution.

Next came the changes introduced by Part B States (Laws) Act, 1951 (Act III of 1951). They were indicated in the schedule to that Act. Those changes removed the words 'in the States' in the long title and the preamble. The purpose of this was to remove reference to the States in the phrases "for the extension to other areas in the States". The more significant changes came in 1952 by the Delhi Special Police Establishment (Amendment) Act 1952 (XXVI of 1952). In the long title (after the "Adaptation of Laws Orders 1950) the words were :

> "An Act to make provision for the constitution of a special police force for the State of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government etc."

After the amendment the words read :

> "An Act to make provision for the constitution of a special poice force in Delhi for the investigation of certain offences in Part C States."

Similar changes were also made in the preamble and in s. 3 the reference to Departments of Government was also deleted. The change from 'for the State of Delhi' to 'in Delhi' was the subject of comment in the High Court. To that we shall refer later.

In 1956 the Constitution (Seventh Amendment) Act, 1956 was enacted. Previously the Constitution specified the States as Parts A, B and C States and some territories were specified in Part D in the First Schedule. By the amendment the distinction between Parts A and B was abolished. All States (previously Part A and B States) were shown in the First Schedule under the

A heading 'The States' and Part C States and Part D territories were all described as Union Territories. Thereupon an Adaptation of Laws Order, 1956 was passed and in the Delhi Special Police Establishment Act 1946 all references to 'Part C States' were replaced by the expression 'union territory'. Another significant change made by the Amending Act was to remove from s. 2 the B words 'for the State of Delhi', and all references to offences by the words 'committed in connection with matters concerning Departments of the Central Government' were deleted. The resulting position in 1956 may thus be stated by quoting the pertinent sections :

C "Section 2(1) Notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special police force to be called the Delhi Special Police Establishment... for the investigation of offences notified under section 3.

(2) Subject to any orders which the Central Gov- D ernment may make in this behalf, members of the said police establishment shall have throughout in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers have in connection with the investigation of offences committed E therein.

(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise in any of the powers of the officer in charge of a police station in the area in which he is F for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station."

G "Section 3. The Central Government may, by notification in the Official Gazette, specify the offences or class of offences which are to be investigated by the Delhi Special Police Establishment."

"Section 5(1) The Central Government may by order extended to any area (including Railway areas) H the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3."

"Section 6. Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in (a State not being a Union territory or railway area) without the consent of the Government of that State."

The remaining sections need not be quoted here as they follow the scheme of the earlier ordinances and confer powers, jurisdiction etc. equal to those of the regular police. Those provisions are not in dispute.

After the passing of the 1946 Act a number of notifications succeeded which notified the offences which the Special Police Establishment could investigate. On November 6, 1956 (Notn. No. 7/5/55-AVD) was issued under s. 3 of the Act of 1946. It enabled the Special Police Establishment to investigate *inter alia* offences under sections 409 and 477-A of the Indian Penal Code. A memorandum (No. DPE/1260/6554-V) dated July 2, 1960 shows that the Government of Maharashtra consented to the Delhi Special Police Establishment exercising powers and jurisdiction in the State of Maharashtra in respect of offences mentioned in notifications of the Government of India dated November 6, 1956, February 12, 1957, June 21, 1957 and August 27, 1957. The first notification has been referred to already. The remaining three notifications were not brought to our notice.

A doubt raised in the High Court and before us that the Government of Maharashtra had not considered the matter or that the consent was not properly given, is sufficiently answered by the affidavit of the Under Secretary to the Government of Maharashtra dated July 18, 1968 in which it is clearly stated that the Chief Minister had considered the matter and given his consent and that under the Rules of Business he was quite competent to do so. No argument has been advanced before us which entitles the appellant to go behind the memorandum and the affidavit. There is a presumption of regularity of official acts and even apart from it, the memorandum and the affidavit clearly establish that the consent was given.

It is, however, urged that the Government of India on February 18, 1963 issued another notification (No 25/12/62-AVD-II) which superseded the earlier notification No. 25/7/60-AVD dated January 21, 1961. From this it is argued that the earlier notification to which consent was given by the Maharashtra Government had all been revoked and fresh consent was therefore, necessary and has not been proved. In our judgment this is an argument of no avail. It is true that if sections 409 and

A 477-A I.P.C. were newly added, consent of the Government of Maharashtra would have been necessary. But the Maharashtra Government had on more than one occasion consented to the investigation in the State of Maharashtra of these offences. The notifications mentioned those offences afresh with some other offences. In so far as the newly added offences are concerned, B the argument would have some validity but not in respect of offences already assented to. We find no force in the argument since we consider the new notification as merely restating the old notification after including some other offences in the new notification.

C This brings us to the two main arguments. The first is that after the Constitution (Seventh Amendment) Act which removed the description 'Part C States' from the Constitution and introduced the expression 'Union Territories' the present entry 80 of the Union List (corresponding to entry 39 of the Federal Legislative List of the Government of India Act of 1935) cannot be read as enabling the power to be exercised in respect of a police force D belonging to the Union Territories such as Delhi. Entry No. 80 may be read here :

> "80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police E of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State."

F This entry speaks of a 'police force belonging to any State' and not of a police force belonging to the Union Territory. The adaptation of the Delhi Special Police Establishment Act by the Adaptation of Laws (No. 3) Order, 1956 by substituting 'Union territories' in place of 'Part C States', it is said, cut the Act adrift from the entry under which the power could alone be exercised. G This power is limited in extent, it is argued, and cannot be used except as specifically conferred and it applies to a police force belonging to a State and not Union territory. In reply the provisions of the General Clauses Act, as adapted by Adaptation Order (No. 1) were brought to our notice. Section 3(58) of the General Clauses Act was adapted to read :

H "State"—

(a) as respects any period before the commencement of the Constitution (Seventh Amendment)

Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and

(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory".

Previously the definition read :

"State" shall mean a Part A State, a Part B State or a Part C State".

This definition furnishes a complete answer to the difficulty which is raised since Entry 80 must be read so as to include Union territory. Therefore members of a police force belonging to the Union territory can have their powers and jurisdiction extended to another State provided the Government of that State consents. The Bombay State has consented as shown above.

Faced with this complete answer the appellants raised argument that the powers of adaptation of the President in relation to the General Clauses Act came to an end in 1953 and the adaptation of the General Clauses Act is ineffective to give the new meaning of the word 'State' in Entry 80. This argument needs some consideration.

Article 367 which followed Art. 366 in which the terms of the Constitution were expressly defined applied in addition the provisions of the General Clauses Act for the interpretation of an Act of the Legislature of the Dominion of India. The Article, however, said that the General Clauses Act might be adapted and modified under Art. 372. Under that article continuance of the laws in force in the territory of India immediately before the commencement of the Constitution was laid down by cl. (1). Clause (2) then empowered the President to bring the provisions of any such law into accord with the provisions of the Constitution by making such adaptations and modifications of such laws whether by way of repeal or amendment as were required and by providing in that order the date from which the law subject to the adaptation or modification was to have effect. The clause further provided that any such adaptation or modification shall not be questioned in any court of law. If this power had no time limit the adaptation of the General Clauses Act in 1956 would be covered by Art. 372(2) but the learned counsel for the appellants pointed out that there was a time limit of 2 years (later extended to 3 years) in clause (3) of the article and that time limit expired in 1953. They contend that the definition prior to the amendment would only apply.

A This argument overlooks the provision of a fresh power of adaptation confered on the President of India by Art. 372-A which was introduced by the Constitution (Seventh Amendment) Act 1956. That article reads :

"372A. Power of the President to adapt laws.

B (1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may C by order made before the 1st day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject D to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent legislature or other competent authority from repealing or amending any law E adapted or modified by the President under the said clause."

This conferred a power on the President of India to adapt any law in force in India by making such adaptations and modifications, whether by way of repeal or amendment, as may be necessary and provide that the law so adapted or modified shall have effect F subject to the adaptations or modifications so made and the adaptations and modification shall not be questioned. This was a fresh power equal and analogous to Art. 372(2). Therefore, when the President adapted the General Clauses Act by giving a new definition of 'State' the new definition appropriate to the purpose applied to the interpretation of the Constitution. The word G 'State' in entry 80 of Union List, therefore, applied to Union Territories also.

Reference is made to *Ramkishore Sen & others* v. *Union of India and others*(1) where the reference was to Art. 372. This was *per incuriam* as the proper reference ought to have been to Art. 372A. It is also argued that the definition cannot be read H at all the places where the word 'State' occurs in the Constitution. A number of such articles were brought to our notice, one such

(1) [1966] 1 S.C.R. 430 at 438.

being Art. 246(2). It is contended that in that clause at least the definition cannot be read as including Union Territories and, therefore, the General Clauses Act, as amended, cannot be read in Entry 80 either. The argument is correct that the definition cannot always be read. But the answer is plain. The definitions apply unless there is anything repugnant in the subject or context. After the Seventh Amendment India is a Union of States (Art. 1) and the territories thereof are specified in the First Schedule. Then there are Union Territories which are mentioned separately. There is thus a distinction between 'States' and 'Union territories' which cannot be lost sight of. When the definition cannot be made applicable owing to the context or the subject, the word 'State' refers to States in the First Schedule only. Such an occasion arose in *T. M. Kanniyan* v. *Income-Tax Officer, Pondicherry and Anr.*,(1) and Bachawat J. explained Art. 246 by holding that the definition of 'State' in two parts in the adapted section 3(58) of the General Clauses Act was repugnant to the subject and context of Art. 246. There is nothing in the subject or context of Entry 80 of the Union List which can be said to exclude the application of the definition in s. 3(58). Indeed the Part C States were expressly mentioned in Entry No. 39 of the Federal List of the Government of India Act, 1935 (after its amendment in 1947) and thus before the Seventh Amendment the definition of State (subject to the subject or context) included Part C States. Therefore, the definition of 'State' in s. 3(58) in the General Clauses Act after the adaptation in 1956 applies and includes Union Territories in Entry 80 of the Union List.

The last argument is that the Entry 80 of the Union List speaks of a police force 'belonging to any State' and this phrase was also used in the Government of India Act, 1935 to Entry 39 of the Federal Legislative List both before and after its amendment in 1947. It is argued that in Ordinance XXII of 1946 the phrase was 'for the Chief Commissioner's Province of Delhi' and it was repeated in Act XXV of 1946 till the phrase was changed to 'for Part C States'. Thus the word 'for' took the place of the words 'belonging to' in the Entry. Then came the change to the present phrase 'a special police force in Delhi.'

It is pointed out that the Special Police Establishment does not belong to the Union territory of Delhi, since the superintendence of it vests in the Central Government. It is said that the force of the words 'belonging to' is not the same as that of the word 'in'. Therefore it is claimed that the Act is not in accord with the Entry.

(1) [1968] 2 S.C.R. 103 at 108.

A Various meanings of the expression 'belonging to' are suggested in the arguments before us. On behalf of the appellants it is said that it meant 'employed by' and not merely 'located in'. In this sense, it is argued, the Special Police Establishment did not belong to any State or Union territory. On the other side it is argued that the words 'belonging to' convey no more than a territorial nexus. The police force belongs to a part of India and it does not have to belong to a Provincial Government or a State Government or Government of a Union territory. The extension of the powers, jurisdiction etc. of such a force is also in another part of India, placing again an emphasis on the territory. This shows that the police force of one area operates in another area.

C Now the scheme of the Constitution is that the Union territories are centrally administered and if the words 'belonging to' mean belonging to a part of India, the expression is equal to a police force constituted to function in an area. In this way the Delhi Police Establishment means a police force constituted and functioning in the Union territory of Delhi. Previously the same D force functioned in the Chief Commissioner's Province of Delhi, then in Part C State of Delhi and now it functions in the Union territory of Delhi.

It is no doubt true that the words are susceptible of the other meaning also but so long as the words are capable of bearing the E meaning we have given it is not necessary to discover another meaning under which the whole scheme would become void. Provisions of law must be read as far as is possible with a view to their validity and not to render them invalid. In our judgment the expression 'belonging to' only conveys the meaning that it is a police force constituted and functioning in one area which may be authorised to function in another area. The change from 'for' F to 'in' makes no difference because both expressions fit in with the meaning of the phrase 'belonging to' in the Entry. We see no force in this argument also.

The result is that the appeal is devoid of force. It fails and will be dismissed. There will be no order about costs.

G.C. *Appeal dismissed.*