Jus Corpus Law Journal
Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

Case Comment: Deep Chand v State of Uttar Pradesh - Granting Power for Subject-wise Legislation and Ensuring Protection of Fundamental Rights

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Received 08 August 2023; *Accepted* 26 August 2023; *Published* 30 August 2023

INTRODUCTION

The Indian Constitution, which was enacted by the Constituent Assembly on 26 November 1949 and took effect on 26 January 1950 governs the Democratic Republic of India. The Constitution establishes a Parliamentary system of governance that has certain unitary characteristics and a federal framework. The Seventh Schedule of the Indian Constitution is dedicated to delineating the distribution of powers between the Union and State governments. This crucial aspect forms one of the twelve schedules encompassed within the Indian Constitution. Three types of the list stated in the seventh schedule serve as notice of the distribution of powers between the Union and the State. They belong to Union List – List I, State List – List II, and Concurrent List-List III. The Seventh Schedule of the Indian Constitution, which details the power relationships between the Union and the States is within the scope of Article 246.[1] The Australian Constitution served as the Model for the Indian

[1] Constitution of India 1950, art 246

Constitution's 'Concurrent List' idea. On the matters included in the Concurrent List, both the Central and the State governments may pass legislation. While both the Central and State Governments have the authority to enact laws on the topics included in the Concurrent List the Central government's laws take precedence in the event of disagreement. The issues on which it would be ideal for national law to be uniform. According to Article 254 of the Constitution, if both the Parliament and the state pass laws on the same item on the Concurrent List and those laws are incompatible, the law passed by the Parliament shall take precedence and the law passed by the state shall be deemed to be incompatible to the extent that it is incompatible with the Central law.[2] There are certain similarities between the Deep Chand case[3] and the repugnancy concept. The Supreme Court addresses the doctrines of eclipse and repugnancy in a landmark case.

FACTS OF THE CASE

In accordance with legal licenses provided under the Motor Vehicles Act 1939 the petitioners were operating stage carriages on various routes throughout Uttar Pradesh, using government-owned buses. The Uttar Pradesh Transport Service (Development) Act 1955 had been passed by the Uttar Pradesh Legislature, and under Section 3, the government announced the nationalization of routes.[4] Notices were sent to the appellants under Section 5 of the Uttar Pradesh Act asking them to submit any objections they might have. They were informed that the complaints would be heard by a board when they were received.[5] Every single operator who lodged objections apart from those belonging to the Agra region had their complaints heard, and the investigation into that region was postponed because those operators did not show up again. A notice was published in the Uttar Pradesh Gazette in accordance with Section 8 of the Act.[6] Furthermore, the Secretary of the Regional Transport Authority, Agra, issued a directive to the operators of the Agra region, purportedly announced by the Transport Commissioner, prohibiting them from operating the stage carriages on the

[2] Constitution of India 1950, art 254
[3] *Deep Chand v State of Uttar Pradesh* AIR 1959 SC 648
[4] Uttar Pradesh Transport Service (Development) Act 1955, s 3
[5] Uttar Pradesh Transport Service (Development) Act 1955, s 5
[6] Uttar Pradesh Transport Service (Development) Act 1955, s 8

designated paths as well as informing them of the fact that the permits they had obtained could be given away to different routes.

LEGAL ISSUES

1. Whether or not the articles of the third part of the Constitution that are aimed at securing fundamental rights are merely controls or restrictions on the power of legislation granted to Parliament and the State's Legislatures by Articles 245[7] and Article 246[8] read with the pertinent entries found in the Lists in the 7th Schedule of the Constitution or are a fundamental component of the provisions describing, recommending, and granting the legislative competence itself as well.
2. Does the Doctrine of Eclipse merely refer to legislation passed before the ratification of the Constitution, or could this additionally be applied to any sort of post-Constitutional statute that is covered by Article 13(2)[9] of the Constitution?
3. Does the Uttar Pradesh Transport Service (Development) Act 1955[10] which was passed by the State Legislature after receiving the President's acceptance, face any constitutional challenges in light of these appeals?
4. Did they furthermore contest the legality underlying the state government's nationalization plan as well as the related notices that were released in accordance with it?

OBSERVATIONS OF SUPREME COURT

In this case, the Uttar Pradesh Transport Service (Development) Act 1955[11] and the nationalization plan created under it, were being appealed. In Uttar Pradesh, the appellants, who held permits under the Motor Vehicles Act 1939[12] ran buses. In accordance with the contested Act, the State Government first issued a notice ordering that only buses operated by

[7] Constitution of India 1950, art 245
[8] Constitution of India 1950, art 246
[9] Constitution of India 1950, art 13(2)
[10] Uttar Pradesh Transport Service (Development) Act 1955
[11] *Ibid*
[12] Motor Vehicles Act 1988

the State should travel specified routes. Subsequent notifications were also issued under the Act. In petitions submitted to the High Court according to Article 226[13], the appellants disputed the Act's and the notifications' legality. Their applications were denied by the High Court. During the proceedings, Chapter IVA of the Motor Vehicles (Amendment) Act[14], which provided for the nationalization of transportation, went into effect. The Amendment Act rendered the contested Act invalid in accordance with Article 254(1)[15] of the Constitution, according to one of the arguments stated by the appellants. Additionally, they claimed that the plan created by the contested Act was rendered ineffective by Section 68B [16]of the Amendment Act. Another argument made was that Article 31[17] as it was before to the Constitution (Fourth Amendment Act, 1955)[18] was breached by the contested Act. In a majority ruling, the Court determined that the Motor Vehicles (Amendment) Act of 1956[19] did not completely nullify the Uttar Pradesh Transport Service (Development) Act 1955[20]. The previous one continued to be legislation that supported the already-created plan beneath it. Even if the Amending Act may be seen as repealing the State Act under Article 254(2)[21], the current arrangement would still be preserved according to Section 6 of the General Clauses Act.[22] The Court further determined that because the contested Act fully covered compensation, it did not infringe Article 31 since it existed prior to the Constitution (Fourth Amendment) Act 1955.[23]

DECISION

When a statute is passed after 25 January 1950 that is opposed to the Constitution it is void from the beginning as well as everything executed according to that additionally becomes invalid and unlawful in India, to be is the case in America. even convictions rendered

[13] Constitution of India 1950, art 226
[14] Motor Vehicles (Amendment) Act 1956
[15] Constitution of India 1950, art 254(1)
[16] Motor Vehicles (Amendment) Act 1956, s 68B
[17] Constitution of India 1950, art 31
[18] Constitution of India (Fourth Amendment) 1955
[19] Motor Vehicles (Amendment) Act 1956
[20] Uttar Pradesh Transport Service (Development) Act 1955
[21] Constitution of India 1950, art 254(2)
[22] General Clauses Act 1897, s 6
[23] Constitution of India (Fourth Amendment) Act 1955

pursuant to such an unconstitutional law will be able to be overturned by using the constitutionally authorized authority of this court. It is evident from a comparison of the Uttar Pradesh Act's as well as the amending Act's clauses that both of these Acts were intended to apply to the exact same field and subject matter. The Motor Vehicles Act 1939[24], as it stood in its original form, nevertheless failed to include any provisions for the nationalization of transportation services, but the state eventually passed revisions to carry out its plan for nationalizing the public transportation industry. As a consequence, the State of Uttar Pradesh will incur a single set of expenses for the dismissal of every single appeal. In 1950, the U.P. Transport Act went into effect. It included nationalization provisions. However because there was no adequate compensation provision, the law was seen to be unjust. However, the Fourth Amendment rendered inadequate compensation impermissible in all courts. The issue was whether the unjust monopoly legislation went into effect following the Amendment. The Supreme Court ruled that the eclipse concept did not apply. The legislation was passed in 1955, which was the cause. It immediately became empty. Because it was stillborn, it is now extinct. Therefore, there was never rebirth. If the State deems it necessary, fresh legislation should be passed.

ANALYSIS

The Doctrine of Eclipse was the legal provision that was being examined by the Hon'ble Supreme Court of India. It was made clear that the notion of eclipse cannot be used since any post-constitutional law that violates fundamental rights is invalid from the very beginning. The Supreme Court of India ruled in Deep Chand v State of Uttar Pradesh[25] that a post-constitutional legislation passed according to Article 13(2)[26] that violates a fundamental right is void from the moment that is passed and is a stillborn statute. It is invalid from the start. Since post-constitutional legislation is not covered by the notion of the doctrine of eclipse, it cannot be reinstated by a future constitutional amendment. In conclusion, it might be argued that the Supreme Court established a significant legal criterion in this case by ruling that there must be

[24] Motor Vehicles Act 1939
[25] *Deep Chand v State of Uttar Pradesh* AIR 1959 SC 648
[26] Constitution of India 1950, art 13(2)

a discernible difference between the two provisions of Article 13[27]. Pre-Constitutional laws continue to exist under the first clause except to the extent that they conflict with Part III's provisions, whereas the second clause prohibits the creation of post-Constitutional laws that do so, rendering any such laws that have already been passed null and void to the extent they do.

CONCLUSION

Litigation may result from the simultaneous existence of central and state laws in a specific region. Such issues may emerge because the Union or a State may unjustly intrude onto the purview of the other parallel legislations or they may arise because the two laws conflict even if there isn't an actual encroachment on one another's domain. The state legislation was invalid to the degree that it proved incompatible with the union law since both the union law and the state law were applicable to the exact same subject. On the contrary, the issue cannot be resolved by using the standard of unconstitutionality when the legislation passed by the Union and the State is on a topic covered by the Concurrent List due to the assumption that both laws are aside from repugnancy, legally binding. According to Article 254(2)[28] of the Constitution, the repugnance test shall be used in this situation.

[27] Constitution of India 1950, art 13
[28] Constitution of India 1950, art 254(2)