

(2013) 12 KAR CK 0549

In the Karnataka High Court

Case No : Writ Petition No. 37302/2013 (S-KAT)

Abdul Wajid

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 20-12-2013

Acts Referred:

Citation : (2014) 3 AKR 455 : (2014) 3 KCCR 2492

Hon'ble Judges : Rathnakala, J;N. Kumar, J

Bench : Division Bench

Judgement

N. Kumar, J.—This writ petition is placed before us to consider the office objections regarding territorial jurisdiction of the Principal Bench to entertain this petition.

FACTUAL MATRIX

2. The petitioner was initially appointed as an Inspector of Motor Vehicles in November 1978. Thereafter he was promoted as Senior Motor Vehicle Inspector during June 1992. He was further promoted as Assistant Senior Inspector in August 2010. He has been working as Assistant Regional Transport Officer at Humanabad Check Post. By an order dated 18.12.2012 he was placed in additional charge of the post of Assistant Regional Transport Officer at Bhalki and Basavakalyana respectively. The Lokayuktha Police based upon alleged credible information received on 28.11.2012 to the effect that the Motor Vehicle Inspectors in the Humanabad RTO Check Post are colluding with private persons and receiving illegal gratification from public, while performing the duty of checking the vehicles passing through the said check post, registered a suo-moto case in Crime No. 09/12 for offences punishable under Sections 13(1)(d) of the Prevention of Corruption Act, 1988. The petitioner was arrested along with other accused. He was released on bail. The police are yet to file the final report in respect of the said case. In the meanwhile, the first respondent-the State Government passed an order dated 8.1.2013 keeping the petitioner under suspension and the second respondent-The Commissioner for Transport passed

another order of suspension dated 5.1.2013 keeping the petitioner under suspension with effect from 28.11.2012 on the ground that he had been detained in police custody for more than 48 hours. Aggrieved by the said orders of suspension dated 8.1.2013 and 5.1.2013 the petitioner approached the Karnataka Administrative Tribunal in Application No. 528/13 seeking to quash the impugned order of suspension passed by the first and second respondents. After service of notice, the respondents entered appearance and they filed their reply statement. The Tribunal after hearing both the parties at length dismissed the said application holding that there is no infirmity in the order of suspension. Aggrieved by the said order, the petitioner has preferred this writ petition before the Principal Bench.

OFFICE OBJECTION

3. The Office has raised the following objection:-

1. How jurisdiction is maintainable? When there is provision to file W.P. in Circuit Bench at Gulbarga?

4. We heard the learned counsel for the petitioner regarding office objection. As the question involved would have a bearing on the functioning of the newly constituted Benches at Gulbarga as well as Dharwad, we requested the learned Advocate General Prof. Ravivarma Kumar as well as Sri Udaya Holla, learned senior counsel, to assist us in deciding the said question. Accordingly, we heard all of them.

5. The petitioner was the resident of Bidar District, to be more precise of Humanabad, where he was kept under suspension. He challenged the said order of suspension before the KAT which is situated in Bangalore. The jurisdiction of KAT extends to the whole of Karnataka. Now the Tribunal has passed an order dismissing the application. The said order dismissing the application is passed at Bangalore. This writ petition is filed challenging the said order. The person challenging the order is the resident of Bidar. In those circumstances, office has raised an objection as to whether the petitioner has to approach the Principal Bench at Bangalore or the Bench at Gulbarga. In other words, as the petitioner is residing within the jurisdiction of Gulbarga Bench, is the jurisdiction of Principal Bench ousted to entertain this writ petition.

BENCHES AT DHARWAD AND GULBARGA

6. After the constitution of the circuit Benches at Dharwad and Gulbarga in pursuance of the resolution passed by the Full Court regarding the matter to be heard by these Circuit Benches, Notification dated 04.06.2008, came to be issued which reads as under:

In exercise of powers u/s 51(3) of the State Re-organisation Act 1956 and with the approval of His Excellency the Governor of Karnataka, the Hon'ble Chief Justice, High Court of Karnataka, vide Notification dated 19.10.2004, was pleased to notify sittings of Judges and Division Courts of the High Court of

Karnataka at Dharwad and Gulbarga. It was stated in the Notification dated 19.10.2004 that the date of sitting will be notified later.

The Full Court of the High Court, vide Resolution dated 03.06.2008, has resolved to commence the sitting of Judges and Division Courts at the Circuit Benches at Dharwad and Gulbarga on 7.7.2008. The Full Court has also resolved that the cases arising from the Districts of Bagalkot, Bellary, Belgaum, Dharwad, Gadag, Haveri, Uttara Kannada-Karwar and Koppal will be heard and decided at the Circuit Bench at Dharwad and cases arising from the Districts of Bidar, Bijapur, Gulbarga and Raichur will be heard and decided at the Circuit Bench at Gulbarga. It has been further resolved that pending cases from the above mentioned districts will be transferred to the respective Circuit Bench before 07.07.2008 and that filing of new cases at the Circuit Benches will be permitted from 07.07.2008.

In the above circumstances, the Hon'ble Chief Justice, High Court of Karnataka has been pleased to order that sitting of Judges and Division Courts at the Circuit Benches at Dharwad and Gulbarga will commence on 07.07.2008; that cases arising from the Bagalkot, Bellary, Belgaum, Dharwad, Gadag, Haveri, Uttara Kannada-Karwar and Koppal will be heard and decided at the Circuit Bench at Dharwad; that cases arising from the Districts of Bidar, Bijapur, Gulbarga and Raichur will be heard and decided at the Circuit Bench at Gulbarga; that pending cases from the above mentioned districts will be transferred to the respective Circuit Bench before 07.07.2008 and that filing of new cases at the Circuit Benches will be permitted from 07.07.2008.

7. Subsequently, by a Notification issued by the President of India, Circuit Benches at Dharwad and Gulbarga were made Permanent Benches.

8. The High Court of Karnataka (Establishment of Permanent Benches at Dharwad and Gulbarga) Order, 2013, came to be passed which is duly notified in the Notification dated 14.08.2013, which reads as under:

G.S.R.....(E):-The following Order made by the President of India under sub-section (2) of section 51 of the States Reorganization Act, 1956 (37 of 1956) is hereby published as required by that sub-section, namely:-

THE HIGH COURT OF KARNATAKA (ESTABLISHMENT OF PERMANENT BENCHES AT DHARWADAND GULBARGA) ORDER, 2013

In exercise of the powers conferred by sub-section (2) of Section 51 of the States Reorganization Act, 1956 (37 of 1956), the President, after consultation with the Governor of Karnataka and the Chief Justice of the High court of Karnataka is pleased to make the following Order, namely:-

1. Short title-This Order may be called the High Court of Karnataka (Establishment of Permanent Benches at Dharwad and Gulbarga), Order, 2013.
2. Establishment of Permanent Bench of High Court of Karnataka at Dharwad-The Permanent Bench of the High Court of Karnataka at Dharwad shall come into

operation on 24th August 2013.

3. Establishment of Permanent Bench of High Court of Karnataka at Gulbarga- The Permanent Bench of the High Court of Karnataka at Gulbarga shall come into operation on 31st August, 2013.

4. The Chief Justice of the High Court of Karnataka may, from time to time, nominate the Judges of the High Court of Karnataka, who shall sit,-

(i) at Dharwad in respect of cases arising in the Districts of Bagalkot, Bellary, Belgaum, Dharwad, Gadag, Haveri, Uttara Kannada-Karwar and Koppal; and

(ii) at Gulbarga in respect of cases arising in the Districts of Bidar, Bijapur, Gulbarga and Raichur, in order to exercise the jurisdiction and powers of the time being vested in that High Court in the State of Karnataka.

5. Notwithstanding anything in subparagraphs (i) and (ii), of paragraph 4, the Chief Justice of the High Court of Karnataka may, in his discretion, order that any case or class of cases arising in any such district shall be heard at Bangalore.

9. In the Notifications issued on 4.6.2008, the Chief Justice of the High Court in pursuance of the resolution of the Full Court of the High Court was making arrangements for sitting of Judges and Division Courts at the Circuit Benches at Dharwad and Gulbarga. Further he was making an arrangement for hearing of cases "arising from" Districts of Bagalkot, Bellary, Belgaum, Dharwad, Gadag, Haveri, Uttara Kannada-Karwar and Koppal at Circuit Bench at Dharwad and cases arising out of Districts of Bidar, Gulbarga, Bijapur and Raichur will be heard and decided at the Circuit Bench at Gulbarga. Similarly in the Notification dated 14.8.2013 insofar as jurisdiction of the permanent Bench is concerned, all that has been said at clause 4 of the said order was that cases "arising in" the aforesaid District would be heard by the respective permanent Benches.

10. By these Notifications the territorial jurisdiction of these Benches were defined. In other words these Notifications specified the cases arising from which District will be entertained by these benches. But for these notifications the benches at Dharwad and Gulbarga had no jurisdiction to entertain the cases arising from those districts. Once the jurisdiction is conferred on these benches the jurisdiction of the Principal Bench, hitherto exercised in respect of the cases arising from those districts is taken away. This jurisdiction is in respect of civil, criminal, labour, tax, service, etc., matters. However, Chief Justice retained the power to order that any case or class of cases arising in such district, shall be heard at Bangalore, in his discretion. This is a working arrangement, to facilitate litigant public to approach the High Court near to their residence, thereby they can avoid unnecessary expenditure in fighting a litigation. The underlying principle behind this exercise is to take justice to the doors of the litigants and also provide inexpensive justice. It has nothing to do with the power of the High Court under Article 226 of the Constitution.

ARTICLE 226

11. A Constitution Bench of the Apex Court in the case of L. Chandra Kumar Vs. Union of India and others, explaining the scope of Article 226 of the Constitution held as under:

78. The legitimacy of the power of Courts within constitutional democracies to review legislative action has been questioned since the time it was first conceived. The Constitution of India, being alive to such criticism, has while conferring such power upon the higher judiciary, incorporated importance safeguards. An analysis of the manner in which the Framers of our Constitution incorporated provisions relating to the judiciary would indicate that they were very greatly concerned with securing the independence of the judiciary. These attempts were directed to ensuring that the judiciary review. While the Constitution confers the power to strike down laws upon the High Courts and the Supreme Court, it also contains elaborate provisions dealing with the tenure, salaries, allowances, retirement age of Judges as well as the mechanism for selecting Judges to the superior Courts. The inclusion of such elaborate provisions appears to have been occasioned by the belief that, armed by such provisions, the superior Courts would be insulated from any executive or legislative attempts to interfere with the making of their decisions. The Judges of the superior Courts have been entrusted with the task of upholding the Constitution and to this end, have been conferred the power to interpret it. It is they who have to ensure that the balance of power envisaged by the Constitution is maintained and that the legislature and the executive do not, in the discharge of their functions, transgress constitutional limitations. It is equally their duty to oversee that the judicial decisions rendered by those who man the subordinate Courts and tribunals do not fall foul of strict standards of legal correctness and judicial independence. The constitutional safeguards which ensure the independence of the Judges of the superior judiciary, are not available to the Judges of the subordinate judiciary or to those who man tribunals created by ordinary legislations. Consequently, Judges of the latter category can never be considered full and effective substitutes for the superior judiciary in discharging the function of constitutional interpretation. We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.

79. We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all Courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from, that of constitutional interpretation, is equally to be avoided.

.....

91. It has also been contended before us that even in dealing with cases which are properly before the Tribunals, the manner in which justice is dispensed by them leaves much to be desired. Moreover, the remedy provided in the parent statutes, by way of an appeal by special leave under Article 136 of the Constitution, is too costly and inaccessible for it to be real and effective. Furthermore, the result of providing such a remedy is that the docket of the Supreme Court is crowded with decisions of Tribunals that are challenged on relatively trivial grounds and it is forced to perform the role of a first appellate court. We have already emphasized the necessity for ensuring that the High Courts are able to exercise judicial superintendence over the decisions of the Tribunals under Article 227 of the Constitution. In *R.K. Jain* case, after taking note of these facts, it was suggested that the possibility of an appeal from the Tribunal on questions of law to a Division Bench of a High Court within whose territorial jurisdiction the Tribunal falls, be pursued. It appears that no follow-up action has been taken pursuant to the suggestion. Such a measure would have improved matters considerably. Having regard to both the aforesaid contentions, we hold that all decisions of Tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to the High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls.

12. The object of the framers of our Constitution in adopting Article 226 was to remove all the limitations and to place all the High Courts in the territory of India in the same situation as the High Court of England in the matter of the power to issue the writs, and in some respects even in a better position. The makers of the Constitution having decided to provide for certain basic safeguards for the people in the new set up, which they called fundamental rights, thought it necessary to provide a quick and inexpensive remedy for the enforcement of such rights. Being a Constitutional power, the power under Article 226 is not fettered by anything contained in any statutory provision. The power under Article 226 is available not only for the enforcement of fundamental rights which are created for the first time by the Constitution but also for the enforcement of legal rights. The jurisdiction conferred on the High Court under Article 226 is very wide. The remedy under Article 226 is pre-eminently a public law remedy. Article 226 not being one of those provisions of the Constitution which may be changed by ordinary legislations. The powers under Article 226 cannot be taken away or curtailed by any legislation short of amendment to the Constitution. Article 226 empowers the High Court to issue writs, directions or orders in the nature of Habeas Corpus, mandamus, prohibitions, co-warranto and certiorari (a) for the enforcement of any one of the rights conferred by Part III(b) for any other purpose. There are only two limitations placed upon the exercise of these powers by a High Court. They are, (a) that the power is to be exercised throughout the territories in relevance to which it exercises jurisdiction, i.e. to say, the writs issued by the Court cannot run beyond the territories subject to its jurisdiction,

(b) That the person or authority to whom the High Court is empowered to issue the writs must be within those territories and this implies that they must be amenable to the jurisdiction of the Court either by the residence or location within those territories or by accrual of the cause of action.

13. The power of judicial review over legislative and administrative action vested in the High Courts under Article 226 the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. The power vested in the High Courts to exercise judicial superintendence over the decisions of all the Courts and Tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. The power flows from the Constitution. Neither the parliament nor any other authority including the Chief Justice of a High Court or a Full Court of a High Court can curtail the power of the High Court, in any manner what so ever.

ARTICLE 226 PRIOR TO AMENDMENT

14. Article 226 of the Constitution of India deals with the power of the High Courts to issue certain writs. Before the fifteenth amendment it read as under:-

Power of the High Courts to issue certain writs-

(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including {writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them for the enforcement of any of the rights conferred by Part-III and for any other purpose.}

15. Article 226(1) neither speaks about location of a Government or about functioning of the Government. Therefore, the residence or location of the Government or of the person affected by any act of the Government has no relevance on the question of High Court's jurisdiction. The jurisdiction of the High Court depends on the person or authority passing the order and the place where the said order is passed or act or omission against which relief sought took place and whether the said place is within those territories in relation to which the High Court exercises jurisdiction.

16. A Constitution Bench of the Supreme Court in the case of Lt. Col. Khajoor Singh Vs. The Union of India and Another, held as under:-

"13. This brings us to the first question, namely, whether the Government of India as such can be said to be located at one place, namely, New Delhi. The main argument in this connection is that the Government of India is all-pervasive and is functioning throughout the territory of India "and therefore every High Court has power to issue a writ against it, as it must be presumed to be located within the territorial jurisdiction of all State High Courts. This argument in our opinion confuses the concept of location of "a Government with the concept of its

functioning". A Government may be functioning all over a State or all over India; but it certainly is not located all over the State or all over India. It is true that the Constitution has not provided that the seat of the Government, of India will be at New Delhi. That, however, does not mean that the Government of India as such has no seat where it is located. It is common knowledge that the seat of the Government of India is in New Delhi and the Government as such is located in New Delhi. The absence of a provision in the Constitution can make no difference to this fact. What we have to see, therefore, is whether the words of Art. 226 mean that the person or authority to whom a writ is to be issued has to be resident in or located within the territories of the High Court issuing the writ?"..... It seems to us therefore that it is not permissible to read in Art. 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court. That jurisdiction depends on the person or authority passing the order being within those territories and the residence or location of the person affected can have no relevance on the question of the High Court's jurisdiction..... It would, therefore, in our opinion be wrong to introduce in Art. 226 the concept of the place where the order passed has effect in order to determine the jurisdiction of the High Court which can give relief under Art. 226. The introduction of such a concept may give rise to confusion and conflict of jurisdictions. ...

16..... The concept of cause of action cannot in our opinion be introduced in Art. 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from Now Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in Art. 226. But the argument of inconvenience, in our opinion cannot affect the plain language of Art. 226, nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it.

57. while the Government of India is within the territories of every High Court in India the only High Court which has jurisdiction to issue a writ or order or directions under Art. 226 or Art. 32(2A) against it is the one within the territories under which the act or omission against which relief was sought took place.

17. As a result of the view taken by the Supreme Court in the aforesaid case and other cases that it was location or residence of the respondent which gave territorial jurisdiction to a High Court under Article 226, the situs of the cause of action was held to be immaterial. Therefore, the decisions of the Supreme Court led to the result that only the High Court of Punjab would have jurisdiction to entertain petitions under Article 226 against the Union of India and those other

bodies which were located in Delhi. It involved considerable hardship to litigants from distant places. Therefore, Parliament amended Article 226 so that when any relief is sought against the Government authority or person for any action taken, the High Court within whose jurisdiction that cause of action arises may also have jurisdiction to issue appropriate writs, directions or orders.

AFTER AMENDMENT

18. Therefore, Article 226 was amended by the Constitution (Fifteenth Amendment) Act, 1963 and after Clause (1), new Clause (1-A) was inserted which read as under:

226. (1-A) The power conferred by clause (1) to issue directions, orders of writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

19. The underlying object of amendment was expressed in the following words:

Under the existing Article 226 of the Constitution, the only High Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant places. It is, therefore, proposed to amend Article 226 so that when any relief is sought against any Government, authority or person for any action taken, the High Court within whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs.

20. As Joint Committee observed:

This clause would enable the High Court within whose jurisdiction the cause of action arises to issue directions, orders or writs to any Government, authority or person, notwithstanding that the seat of such Government or authority or the residence of such person is outside the territorial jurisdiction of the High Court. The Committee feels that the High Court within whose jurisdiction the cause of action arises in part only should also be vested with such jurisdiction.

21. Clause (1A) which had been inserted by the Constitution (Fifteenth Amendment), Act 1963 has been renumbered clause (2) by the Constitution (42nd Amendment) Act, 1976.

22. The effect of the amendment was that the accrual of cause of action was made an additional ground to confer jurisdiction on a High Court under Article 226 of the Constitution. The amendment by which clause (2) is inserted is thus aimed at widening the width of the area for reaching the writs issued by different High Courts. From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within

the territorial jurisdiction of that Court. The legislative history of the constitutional provisions, therefore, makes it clear that after 1963, cause of action is relevant and germane and a writ petition can be instituted in a High Court within the territorial jurisdiction of which cause of action in whole or in part arises. After 15th amendment to the Constitution, by introduction of clause (2) of Article 226 power is conferred on the High Courts to exercise jurisdiction beyond the territories of the State over which it has jurisdiction. Such a power is conferred subject to the fulfillment of one condition that the cause of action for issue of such writ should wholly or in part arise within the jurisdiction of the State over which it has jurisdiction.

23. This provision has been the subject matter of interpretation by the Hon'ble Supreme Court in several cases, which explain the scope and ambit of Article 226.

DECISIONS

24. The Apex Court in the case of Sri Nasiruddin Vs. State Transport Appellate Tribunal, held as under:

37. The conclusion as well as the reasoning of the High Court is incorrect. It is unsound because the expression "cause of action" in an application under Article 226 would be as the expression is understood and if the cause of action arose because of the appellate order or the revisional order which came to be passed at Lucknow then Lucknow would have jurisdiction though the original order was passed at a place outside the areas in Oudh. It may be that the original order was in favour of the person applying for a writ. In such case an adverse appellate order might be the cause of action. The expression "cause of action" is well known. If the cause of action arises wholly or in part at a place within the specified Oudh areas, the Lucknow Bench will have jurisdiction. If the cause of action arises wholly within the specified Oudh areas, it is indisputable that the Lucknow Bench would have exclusive jurisdiction in such a matter. If the cause of action arises in part within the specified areas in Oudh it would be open to the litigant who is dominus litis to have his forum conveniens. The litigant has the right to go to a Court where part of his cause of action arises. In such cases, it is incorrect to say that the litigant chooses any particular Court. The choice is by reason of the jurisdiction of the Court being attracted by part of cause of action arising within the jurisdiction of the Court. Similarly, if the cause of action can be said to have arisen part within specified areas in Oudh and part outside the specified Oudh areas, the litigant will have the choice to institute proceedings either at Allahabad or Lucknow. The Court will find out in each case whether the jurisdiction of the Court is rightly attracted by the alleged cause of action.

25. A Bench of three learned Judges of the Supreme Court in the case of Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others, held as under:-

5. Clause (1) of Article 226 begins with a non obstante clause - notwithstanding anything in Article 32 - and provides that every High Court shall have power throughout the territories in relation to which it exercises jurisdiction, to issue to

any person or authority, including in appropriate cases, any Government, "within those territories" directions, orders of writs, for the enforcement of any of the rights conferred by part III or for any other purpose. Under clause (2) of Article 226 of High Court may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. On a plain reading of the aforesaid two clauses of Article 226 of the Constitution it becomes clear that a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. In order to confer jurisdiction on the High Court of Calcutta, NICCO must show that at least a part of the cause of action had arisen within the territorial jurisdiction of that Court. This is at best its case in the writ petition.

6. ...Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the basis of the averments made in the petition, the truth or otherwise whereof being immaterial.....

26. The Supreme Court in the case of Navinchandra N. Majithia Vs. State of Maharashtra and Others, held as under:-

17. From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.

18. In legal parlance the expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a Court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in Court from another person.

37..... the power conferred on the High Courts under Article 226 could as well be exercised by any High Court exercising jurisdiction in relation to the territories within which "the cause of action, wholly or in part, arises" and it is no matter that the seat of the authority concerned is outside the territorial limits of the jurisdiction of that High Court. The amendment by which cl. (2) is inserted is thus aimed at widening the width of the area for reaching the writs issued by different High Courts.

38. "Cause of action" is a phenomenon well understood in legal parlance. The collocation of the words "cause of action wholly or in part arises" seems to have been lifted from Section 20 of the Code of Civil Procedure, which section also deals with the jurisdictional aspect of the courts. As per that section the suit could be instituted in a Court within the legal limits of whose jurisdiction the "cause of action wholly or in part arises". Judicial pronouncements have accorded almost a uniform interpretation to the said compendious expression even prior to the Fifteenth Amendments of the Constitution as to mean the bundle of facts which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court.

27. The Apex Court in the case of Rajasthan High Court Advocates Association Vs. Union of India and Others, held as under:

17. The expression "cause of action" has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in "cause of action". It has to be left to be determined in each individual case as to where the cause of action arises. The Chief Justice of the High Court has not been conferred with the legislative competence to define cause of action or to declare where it would be deemed to have arisen so as to lay down artificial or deeming test for determining territorial jurisdiction over an individual case or class of cases. The permanent Bench at Jaipur has been established by the Presidential Order issued under sub-section (2) of Section 51 of the Act. The territorial jurisdiction of the permanent Bench at Jaipur is to be exercised in respect of the cases arising in the specified districts. Whether the case arises from one of the specified districts or not so as to determine the jurisdictional competence to hear by reference to territory bifurcated between the principal seat and the Bench seat, shall be an issue to be decided in an individual case by the Judge or Judges hearing the matter if a question may arise in that regard. The impugned explanation appended to the order of the Chief Justice dated 23.12.1976 runs counter to the Presidential Order and in a sense it is an inroad into the jurisdiction of the Judges hearing a particular case or cases, pre-empting a decision to be given in the facts of individual case whether it can be said to have arisen in the territory of a particular district. The High Court is right in taking the view which it has done.

28. The Supreme Court in the case of Union of India and Others Vs. Adani Exports Ltd. and Another, held as under:-

17. The High Court must be satisfied from the entire facts pleaded in

support of the cause of action that those facts do constitute a cause so as to empower the court to decide a dispute which has, at least in part, arisen within its jurisdiction. Each and every fact pleaded, ipso facto do not lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned.....

29. In the case of *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*, the question that arose was "whether the seat of Parliament or the legislature of a State would be a relevant factor for determining the territorial jurisdiction of a High Court to entertain a writ petition under Article 226 of the Constitution?" In answering the said question, the Supreme Court held as under:-

21. A parliamentary legislation when it receives the assent of the President of India and is published in the Official Gazette, unless specifically excluded, will apply to the entire territory of India. If passing of a legislation gives rise to a cause of action, a writ petition questioning the constitutionality thereof can be filed in any High Court of the country. It is not so done because a cause of action will rise only when the provisions of the Act or some of them which were implemented shall give rise to civil or evil consequences to the petitioner. A writ court, it is well settled, would not determine a constitutional question in a vacuum.

.....

26..... In fact, a legislature of a State, which would include delegated legislation and subordinate legislation or an executive order made by the Union of India, State or any other statutory authority. In case where the field is not covered by any statutory rule, executive instructions issued in this behalf shall also come within the purview thereof. Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action on cases arising. In other words, framing of a statute, statutory rule or issue of an executive order or instruction would not confer jurisdiction upon a court only because of the situs of the office of the maker thereof.

27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate/revisional authority is constituted at another, a writ petition would be maintainable at both the places as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the

appellate authority.

....

29. In view of Clause (2) of Article 226 of the Constitution of India, now if apart of cause of action arises outside the jurisdiction of the High Court, it would have jurisdiction to issue a writ. The decision in Khajoor Singh has thus, no application.

30. The Apex Court in the case of Om Prakash Srivastava Vs. Union of India (UOI) and Another, held as under:

7. The question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limits of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition a writ petitioner has to establish that a legal right claimed by him has prima facie either been infringed or is threatened to be infringed by the respondent within the territorial limits of the Court's jurisdiction and such infringement may take place by causing him actual injury or threat thereof.

8. Two clauses of Article 226 of the Constitution on plain reading give clear indication that the High Court can exercise power to issue direction, order or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action wholly or in part had arisen within the territories in relation to which it exercises jurisdiction notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories.

9. By "cause of action" it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit.

10. In a generic and wide sense (as in Section 20 of the Civil Procedure Code, 1908) "cause of action" means every fact, which it is necessary to establish to support a right to obtain a judgment.

11. It is settled law that "cause of action" consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a Court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise.

12. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense "cause of action" means the circumstances forming the infringement of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit,

including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in "cause of action".

13. The expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts, which a plaintiff must prove in order to succeed. These are all those essential facts without the proof of which the plaintiff must fail in his suit.

14. The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a Court of a tribunal; a group of operative facts giving rise to one or more bases of suing; a factual situation that entitles one person to obtain a remedy in court from another person. In Stroud's Judicial Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edition) the meaning attributed to the phrase "cause of action" in a common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

31. The Apex Court in the case of Ambica Industries Vs. Commissioner of Central Excise, held as under:

13. The Tribunal, as noticed hereinabove, exercises jurisdiction over all the three States. In all the three States there are High Courts. In the event, the aggrieved person is treated to be the dominus litis, as a result whereof, he elects to file the appeal before one or the other High Court, the decision of the High Court shall be binding only on the authorities which are within its jurisdiction. It will only be of persuasive value on the authorities functioning under a different jurisdiction. If the binding authority of a High Court does not extend beyond its territorial jurisdiction and the decision of one High Court would not be a binding precedent for other High Courts or Courts or tribunals outside its territorial jurisdiction, some sort of judicial anarchy shall come into play. An assessee, affected by an order of assessment made at Bombay, may invoke the jurisdiction of the Allahabad High Court to take advantage of the law laid down by its and which might suit him and thus he would be to successfully evade the law laid down by the High Court at Bombay.

.....

41. Keeping in view the expression "cause of action" used in Clause (2) of Article 226 of the Constitution of India, indisputably even if a small fraction thereof accrues within the jurisdiction of the Court, the Court will have jurisdiction in the

matter though the doctrine of forum conveniens may also have to be considered.

32. The Apex Court in the case of Alchemist Limited and Another Vs. State Bank of Sikkim and Others, , held as under:

37. From the aforesaid discussion and keeping in view the ratio laid down in a catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the appellant-petitioner would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a "part of cause of action", nothing less than that.

33. The Apex Court in the case of Rajendran Chingaravelu Vs. Mr. R.K. Mishra, Addl. Commissioner of IT and Others, held as under:

9. The first question that arises for consideration is whether the Andhra Pradesh High Court was justified in holding that as the seizure took place at Chennai (Tamil Nadu), the appellant could not maintain the writ petition before it. The High Court did not examine whether any part of cause of action arose in Andhra Pradesh. Clause (2) of Article 226 makes it clear that the High Court exercising jurisdiction in relation to the territories within which the cause of action arises wholly or in part, will have jurisdiction. This would mean that even if a small fraction of the cause of action (that bundle of facts which gives a petition, a right to sue) accrued within the territories of Andhra Pradesh, the High Court of that State will have jurisdiction.

10. In this case, the genesis for the entire episode of search, seizure and detention was the action of the security/intelligence officials at Hyderabad Airport (in Andhra Pradesh) who having inspected the cash carried by him, alerted their counterparts at Chennai Airport that the appellant was carrying a huge sum of money, and required to be intercepted and questioned. A part of the cause of action therefore clearly arose in Hyderabad. It is also to be noticed that the consequential income tax proceedings against him, which he challenged in the writ petition, were also initiated at Hyderabad. Therefore, his writ petition ought not to have been rejected on the ground of want of jurisdiction.

34. The Division Bench of this Court in the case of Chief General Manager vs. D.V. Kavitha in W.P. No. 19826/2010, was considering the objections raised by the High Court Office regarding maintainability of writ petition before the Bench at Dharwad. When it was contended that as the said case arises from the district of Bellary, in terms of the notification dated 04.06.2008, it is only the Circuit Bench at Dharwad, which has jurisdiction to entertain, this Court held as under:-

7..... Wherefore, it is clear that the order dt. 30.05.2009 against which respondent was aggrieved, was passed by the first petitioner herein at Bangalore. The said order was challenged by the respondent who was working in

Bellary and the said Original Application before the CAT has been allowed by CAT, Bangalore Bench and the grievance of the petitioners in this Writ Petition is that the CAT was not Justified in quashing the order insofar as it relates to the Original Application filed by the respondent before the CAT and wherefore, having regard to the wordings of the notification dt. 4.6.2008; "cases arising from the Districts of Bagalkot, Bellary, Belgaum, Dharwad, Gadag, Haveri, Uttara Kannada - Karwar and Koppal will be heard and decided at the Circuit Bench at Dharwad" when interpreted in the light of the decision Hon"ble Supreme Court in the case of Sri Nasiruddin Vs. State Transport Appellate Tribunal, , it is clear that having regard to the above said admitted facts of this case, we hold that this petition is maintainable before the Principal Bench at Bangalore and the objection that Writ Petition must have been filed at Dharwad Bench only, cannot be accepted. Office objection that the Writ Petition is liable to be rejected as not maintainable and should have been filed at Dharwad, cannot be sustained and the same is rejected.

CAUSE OF ACTION

35. Thus, under Article 226 a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part-III of the Constitution or for any other purpose, if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. From the aforesaid judgments it is clear that while deciding jurisdiction of High Court under Article 226 or 227 of the Constitution, after 1963, cause of action is relevant and germane. A Writ Petition can be instituted in a High Court within the territorial jurisdiction of which the cause of action in whole or in part arises. In deciding whether facts averred in the petition would or would not constitute part of cause of action, one has to consider whether such facts constitutes a material, essential or integral part of the cause of action. Even if a small fraction of cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the Writ Petition. Nevertheless, it must be a part of cause of action nothing less than that.

36. In Halsbury's Law of England (4th Edn.) it has been stated as follows:

"Cause of action" has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. "Cause of action" has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action.

37. In Stroud's Judicial Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every facts, which, if traversed, the plaintiff must prove in order to obtain judgment.

38. In "Words and Phrases" (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts which give a party a right to judicial interference on his behalf.

39. "Cause of action" is a phenomenon well understood in legal parlance. In legal parlance the expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person. The collocation of the words "cause of action wholly or in part arises" is lifted from Section 20 of the Code of Civil Procedure, which section also deals with the jurisdictional aspect of the courts. The expression "cause of action" has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to obtain the judgment of the Court. It must be remembered that it is well settled that the expression "cause of action" means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court.

40. Therefore, in determining the objection of lack of territorial jurisdiction the Court must take all the facts pleaded in support of the cause of action into consideration, albeit, without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words, the question whether a High Court has territorial jurisdiction to entertain the Writ Petition must be answered on the basis of the averments made in the petition, the truth or otherwise being immaterial. But the question of territorial jurisdiction must be decided on the facts pleaded in the petition. The cause of action has no relation whatsoever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the ground set forth in the plaint as the cause of action, or, in other words, to the basis upon which the plaintiff asks the Court to arrive at a conclusion in his favour.

41. When an order is passed by a court or Tribunal or an appellate/executive authority whether under the provisions of a statute or otherwise, a part of cause of action arises at that place. In a given case, the original authority which passed the original order may constitute in one place and Appellate Authority is constituted at another place. The place from where the appellate order or a revisional order is passed may give rise to part of cause of action although the original order was at a place outside the said area. A Writ Petition challenging the

order of Appellate Authority would lie both at the place where the original order was passed as well as the place where the appellate order was passed. Even if the original order does not fall within the jurisdiction of a particular court, if the appellate order or revisional order falls within its jurisdiction as part of cause of action arising within its jurisdiction, the Court within whose jurisdiction the said cause of action arises has jurisdiction to entertain Writ Petition. When the part of cause of action arises within the jurisdiction of one or other High Court or one or other Bench of the same High Court it will be for the petitioner to choose his forum. Therefore, it would be open to the litigant who is dominus litis to have his forum conveniens. The litigant has a right to go to the court where part of cause of action arises. In such cases, it is incorrect to say that litigant chooses any particular Court. The choice is by reason of jurisdiction of the Court being attracted by part of cause of action arising within the jurisdiction of the Court. Therefore, the Court will find out in each case as to whether jurisdiction of the Court is rightly attracted by the alleged cause of action and then exercise jurisdiction if cause of action falls within its jurisdiction.

42. In the context of cause of action arising within the jurisdiction of the benches in Karnataka, any one of these benches gets jurisdiction to entertain a matter even if a part of cause of action arises within their jurisdiction. Whether the case arises from one of the specified districts or not, so as to determine the jurisdictional competence to hear, by reference to territory bifurcated between the principal seat and the Bench, shall be an issue to be decided in an individual case by the Judge or Judges hearing the matter if a question arises in that regard. Similarly, if the cause of action can be said to have arisen in part within specified areas in Dharwad Zone or Gulbarga Zone and part outside the specified Dharwad or Gulbarga areas, the litigant will have the choice to institute proceedings either at Dharwad or Gulbarga or Bangalore. The Court will find out in each case whether the jurisdiction of the Court is rightly attracted by the alleged cause of action. The Chief Justice of the High Court or the Full Bench of the High Court has not been conferred with the legislative competence to define cause of action or to declare where it would be deemed to have arisen so as to lay down artificial or deeming test for determining territorial jurisdiction over an individual case or class of cases.

43. In that view of the matter, we do not see any substance in the objection raised by the office. The petitioner is a resident of Bidar district. The order of suspension was passed by the respondents who are situated within Bangalore city within the jurisdiction of Principal Bench of High Court of Karnataka. Even if that order had been passed by an authority within jurisdiction of Bijapur District which falls within the jurisdiction of a Bench at Gulbarga as the said order has to be challenged before the Karnataka Administrative Tribunal (for short "KAT"), the petitioner had to approach the KAT which is situated at Bangalore. Against the order passed by the KAT the person aggrieved has a right to approach the bench within whose jurisdiction, KAT is situated. Therefore, when the impugned order is passed within the jurisdiction of the Principal Bench at Bangalore, the Principal

Bench at Bangalore has jurisdiction to entertain the Writ Petition. Similarly because the petitioner was working and residing at Bidar coming within the jurisdiction of Gulbarga Bench and an order is passed keeping him under suspension, even if it is to be held that the case is arising from out of Bidar, the petitioner is entitled to challenge the said orders both at the principal bench at Bangalore and bench at Gulbarga. The choice is that of the petitioner. Therefore, the Writ Petition filed before this Court challenging the order passed by the KAT is maintainable.

44. The High Court registry under the guise of scrutinizing the Writ Petition cannot raise an objection regarding maintainability of the Writ Petition and call upon the petitioner or his advocate to take back the papers and present it before the Benches at Dharwad or Gulbarga. When we have held that neither the Hon"ble Chief Justice nor the Full Court of the High Court has the jurisdiction to decide whether any particular Bench in the High Court of Karnataka has the jurisdiction to entertain the Writ Petition and that the said issue has to be decided in an individual case by the Judge or Judges hearing the matter, the High Court office cannot raise such an objection and ask the petitioner or his advocate to comply with the same. The party or his advocate are not expected to convince the High Court registry on this aspect. Assuming that the High Court registry is of the view that the Writ Petition is not maintainable in any particular Bench, what they are expected to do is to put up a note in the order sheet, bringing the said fact to the notice of the learned Judge and list the Writ Petition before the Court for preliminary hearing. It is the learned Judge alone who has the jurisdiction to decide the question of maintainability of the Writ Petition. The learned Judge may in his or her discretion decide the question either before ordering notice or after the appearance of the respondent. Therefore, the Registry cannot raise the said office objection and call upon the petitioner to satisfy them before the Writ Petition is listed for preliminary hearing. Hence, the office objection is unsustainable in law and accordingly, it is over ruled.

We place on record our appreciation for the able assistance given by the learned Advocate General Prof. Ravivarma Kumar as well as Sri Udaya Holla, learned senior counsel, in rendering this judgment.