
(2007) 11 J&K CK 0004
In the Jammu And Kashmir High Court

Atal Bihari

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-11-2007

Acts Referred:

Army Act, 1950 — Section 164
Border Security Force Act, 1968 — Section 114, 118, 46, 52
Civil Procedure Code, 1908 (CPC) — Section 21
Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 354
Urban Land (Ceiling and Regulation) Act, 1976 — Section 20

Citation : (2008) 1 JKJ 53

Hon'ble Judges : J.P. Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

J.P. Singh, J.—Petitioner has filed this writ petition seeking quashing of, Order No. Estt/89/Bn/SSFC-AB/352/2006/8000-360 dated

18.07.2006 of Commandant 89 BN, BSF Govindpur, Raiganj (WB), dismissing him from service, and respondent No. 2's order No.

06/63/2006/SP/BSF/CLO (DNL)/10560-64 dated 07.11.2006, rejecting his statutory petition against the order passed by the Commandant as

Summary Security Force Court.

2. While serving as Constable at Daspara, near Border observation post, Makarhat, the petitioner was accused of committing a civil offence of

using criminal force to a women with intention to outrage her modesty, punishable u/s 354 of the Indian Penal Code. He was later tried by

Summary Security Force Court and dismissed from service. The sentence of the Summary Security Force Court was promulgated on 18.07.2006

and the Summary Security Force Court trial proceedings were countersigned by D.I.G, B.S.F, Kishanganj where after these were submitted to

Chief Law Officer/DIG LAW Branch, BSF, New Delhi. Petition preferred by the petitioner against the finding of Summary Security Force Court

was dismissed by Director General, Border Security Force vide order dated 7.11.2006.

3. Petitioner has raised various grounds to question the orders passed by respondent Nos. 2 and 3.

4. Union of India, while meeting the grounds urged by the petitioner in his writ petition, has raised various preliminary objections to the

maintainability of the petition. One of the objections so raised is that no cause of action having accrued to the petitioner within the jurisdiction of the

Court, the writ petition may not be maintainable. In support of their contentions, the respondents say that the petitioner had committed the offence

u/s 46 of the Border Security Force Act at Govindpur, Raiganj (West Bengal), and the orders impugned in the writ petition had been

passed/issued by the respondents outside the jurisdiction of the Court so neither any cause of action nor any part thereof had accrued to the

petitioner to maintain the writ petition in this Court.

5. Learned Counsel for the parties have been heard on the preliminary objection raised by the respondents that this Court may not have the

jurisdiction to entertain the writ petition.

6. Learned Counsel for the petitioner submits that as the decision of the appeal/statutory petition of the petitioner had been conveyed to him at

Kishtwar (Jammu and Kashmir) so this Court will have jurisdiction to entertain the petition because a part of the cause of action had accrued to

him within the jurisdictional limits of this Court. Learned Counsel refers to Brig. Narinder Singh Mehta v. Union of India reported as 2996 KLJ

382 besides Alchemist Limited and Another Vs. State Bank of Sikkim and Others, .

7. Learned Counsel for the respondents, on the other hand, refers to Lt. Col. Khajoor Singh Vs. The Union of India and Another, , Bodh Raj

Sharma v. Union of India and Anr. reported as 1976 KLJ 45, Mohan Lal Dhar v. The State Bank of India and Ors. reported as 1971 KLJ 305,

Manjeet Singh v. The Collector of Customs and Ors. reported as 1986 KLJ 360,

Rajendra Kumar Mishra v. Union of India and Ors. reported as

2005 LABIC 2229 FBO Allahabad. He has placed reliance on Alchemist Limited and Another Vs. State Bank of Sikkim and Others, , too.

8. I have considered the submissions of learned Counsel for the parties. Before dealing with issue as to whether or not the Court has jurisdiction to

entertain petitioner's writ petition, reference needs to be made to the provisions of the Constitution of India, as it was applicable to the State of

Jammu and Kashmir.

9. Clause (1-A) of Article 226 of the Constitution of India as it was applied to the State of Jammu and Kashmir by Presidential order dated

24.08.1979, reads thus:

The power conferred by Clause (1) to issue directions, orders or 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.

10. Perusal of the above quoted Article of the Constitution of India, makes it explicitly clear that the power conferred on the High Courts may also

be exercised by it if it was shown that the cause of action, whether wholly or in part, had arisen within its territorial limits and if the cause of action

had not so arisen within its territorial jurisdiction, the Court may not have jurisdiction to exercise power conferred on it under Article 226 of the

Constitution of India.

11. To decide the question as to whether the petitioner can invoke the jurisdiction of the Court to entertain his petition, questioning the orders

passed by Commandant 89 BN, BSF, Govindpur Raiganj (West Bengal) and Director General, Border Security Force, New Delhi, it needs to be

ascertained whether the cause of action or any part of it had arisen within the territorial jurisdiction of the Court and for this purpose, one has to

understand the true meaning and concept of the expressions 'cause of action', and 'wholly or in part', appearing in Article 226 of the Constitution of

India, as is applicable to the State of Jammu and Kashmir.

Cause of action:

12. Cause of action implies a right to sue. The material facts which are imperative for a suitor to allege and prove so as to get a decree, judgment or order in its favour, constitutes the cause of action. The expression, 'cause of action' has not been defined in any statute. It has, however, been interpreted many times, inter alia, to mean that every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment of the Court, would constitute cause of action. In other words, cause of action would mean those things, which, if not proved, would give the suitor's adversary, a right, to judgment.

13. Before finding as to whether any cause of action or part thereof had accrued to a suitor within the territorial jurisdiction of a Court, it needs to be borne in mind that the entire bundle of facts pleaded by a suitor need not constitute a cause of action because what is necessary to be proved, before a suitor may obtain a judgment, decree or order in his favour, is the ""material facts"" or the ""integral facts"" as one may call them. The case of the petitioner is thus required to be considered in the background of aforementioned position of law.

14. The facts pleaded by the petitioner in his writ petition, which alone are relevant to determine as to whether any cause of action may be said to have arisen within the jurisdiction of the Court, are these:

1. Petitioner was serving at Govindpur, Raiganj (West Bengal) on 10.7.2006 when he was accused of using criminal force to a women with intention to outrage her modesty.

2. = The Commandant 89 Bn, BSF, under whom he had been serving, had issued him a charge sheet on 18.7.2006 at Govindpur, Raiganj (West Bengal).

3. = Summary Security Force Court was constituted and the petitioner was tried by it in Govindpur, Raiganj (West Bengal).

4. = The statutory petition preferred by the petitioner against his conviction and sentence by the Summary Security Force Court was rejected by

Directorate General, Border Security Force New Delhi, on 7.11.2006 and intimation thereof was given to him at his village Pandit gaon, Tehsil

Kishtwar District Doda, J&K.

15. Learned Counsel appearing for the petitioner, submitted that the decision of the Directorate General, Border Security Force, rejecting

petitioner's statutory petition had been conveyed to the petitioner in the State of Jammu and Kashmir; part of cause of action, had thus accrued to him within the jurisdictional limits of this Court.

16. Mr. Ajay Sharma, learned Counsel for the respondents, on the other hand, submits that mere communication of the order of the Directorate

General, Border Security Force to the petitioner in the State would not amount to accrual of cause of action or any part thereof to the petitioner

within the jurisdiction of the Court. According to him, the offence having been committed and the petitioner having been tried and punished within

the jurisdiction of Calcutta High Court, cannot maintain the writ petition in this Court, when he had filed the statutory petition from a place outside

the Jammu and Kashmir State and the decision on the statutory petition of the petitioner too had been taken outside the jurisdiction of the Court.

17. The question which thus falls for consideration is as to whether communication of the decision of Directorate General, Border Security Force,

regarding the rejection of the statutory petition of the petitioner, in the State of Jammu and Kashmir, would provide any cause of action to the

petitioner to maintain his writ petition in this Court.

18.1 will first deal with the judgment referred by the petitioner's counsel reported as Brig. Narinder Singh Mehta v. Union of India and Ors.

reported as 1996 KLJ 382, where, while dealing with the question a learned Single Judge of this Court held as follows:

Applying all this to the facts and circumstances of the present case, it would first require to be examined as to what is the nature of the post-

confirmation petition made by an aggrieved person u/s 164 of the Army Act. And if it transpires that such a petition had a statutory character and

was filed in exercise of a legal right, its acceptance or rejection would certainly assume crucial importance.

According to the scheme of the Army Act, a finding and sentence recorded by a court martial does not become final unless it is confirmed. The

statute provides some domestic remedies against such finding and sentence and Sec, 164 postulates that an aggrieved person can file a petition

against such order, finding or sentence before it is confirmed and after its confirmation to the appropriate authorities mentioned therein. It is

necessary to extract the text of the Section for our purpose. However, relevant

portion of Army regulation 365 requires to be extracted to make matters clear. It reads thus:

Article 365:- Petitions against Orders, Findings or Sentence of Courts Martial:

(a) A person subject to the Army Act who considers himself aggrieved by any order, finding or sentence of a Court Martial has a legal right under

Army Act Section 164 to submit a petition against such order, finding or sentence. A petition may only be addressed by an aggrieved person either

personally, or if he is no longer in service. Through a representative appointed by him through a power of attorney.

A plain reading of this Army Regulation leaves no manner of doubt that an aggrieved person has a legal right u/s 164 of the Army Act to submit a

petition against an order, finding or sentence of the Court Martial before or after its confirmation. In other words, the provisions of the Army Act

and Regulation confer statutory right to make such a petition. Consequently, making of such a petition surrounds the order, finding and sentence of

the Court Martial with uncertainty, and, as a result, makes it liable to be reversed, modified, varied or up-held. That being so, the principle

embodied in the doctrine of merger comes into play and where an order, finding or sentence recorded by the Courts Martial is upset, modified,

varied or upheld in the post confirmation petition, such order becomes an operative order.

This finds support from the principle of merger applicable to the court decrees. Just as the decree and order of the lower court merges with the

decree of appellate court, similarly the order of original authority like, the G.C.M merges with the order of competent authority accepting or

rejecting the post confirmation petition u/s 164 of the Army Act. There can be no doubt that where such remedy is provided by the statute, a post-

confirmation petition partakes the character of an appeal and any order passed in such a petition becomes an operative order (Section Collector of

Customs, Calcutta Vs. East India Commercial Co. Ltd., .

It is a common ground that petitioner had made a post-confirmation petition u/s 164 of the Army Act on 23.10.94 from within the territorial

jurisdiction of this court, rejection whereof had been conveyed to him on 31.8.96 within those limits. Therefore, proceeding on the premise that the

order of conviction and sentence recorded by the G. C. M had merged with the

order of rejection by the govt. of India in the post-confirmation petition, which order had become the operative order, it can be safely held that the exercise undertaken by the petitioner constituted an integral part of his cause of action which had accrued partially to him when he filed the post-confirmation petition from within the territorial jurisdiction of this court. The filing of the post-confirmation appeal and its rejection is one of those essential facts which required to be proved by him to secure an order from the court. But for this, his cause before the court would be incomplete. As such, if this fact occurred within the State, the jurisdiction of the court could not be excluded because all other things had taken place outside in Rajasthan. This is not a case where a mere decision was communicated to the petitioner within the territorial limits of J&K state and as such, the ratio of State of Rajasthan and Others Vs. Swaika Properties and Another, would not be attracted. On the other hand, this is a case where petitioner had exercised his legal right of filing a post-confirmation petition within the territorial limits of J&K state which had led to the rejection of his petition by the govt. of India which was conveyed to him again within such limits.

On this parity of reasoning, I hold that cause of action had accrued to the petitioner partially within the territorial limits of J&K state and, accordingly, this court possessed jurisdiction to entertain and to dispose of this petition.

19. This judgment may not be of any help to the petitioner because the findings and sentence of the Summary Security Force Court do not require confirmation as such, and may be carried out forthwith. The only rider in carrying out the sentence of a Summary Security Force Court contemplated by Section 114 of the Border Security Force Act, is when the officer holding the trial is of the rank of Superintendent of Police, or of a lower rank, in which case, the sentence awarded by the Summary Security Force Court, may require approval of an officer not below the rank of Deputy Inspector General before the findings and sentence of Summary Security Force Court may be carried out.

20. The person holding the trial in the present case was admittedly above the rank of Superintendent of Police, the sentence awarded to the petitioner could thus be carried out without the approval of the Deputy Inspector

General of Police.

21. That apart, the records produced by Mr. Ajay Sharma, learned Counsel for the respondents, indicates that the approval of the Deputy

Inspector General of Police was there in the present case and, in that view of the matter, the findings and sentence of the Summary Security Force

Court had been carried out, at a place which is outside the jurisdiction of this Court.

22. The Border Security Force Act does not provide any right to an accused to prefer a pre-confirmation or post-confirmation statutory petition

against the findings, sentence and order of a Summary Security Force Court. It is only Section 118 of the Border Security Force Act, which

contemplates power of annulment of proceedings of any Security Force Court including a Summary Security Force Court. That being the case, the

principle of merger projected in the judgment cited by learned Counsel for the petitioner may not thus be applicable to the facts of the present case

because the findings, sentence and order of the Summary Security Force Court were not subject to confirmation by the superior authority and nor

any statutory right of filing a pre-confirmation or post-confirmation petition was available to the petitioner. Power exercised by the Director

General, on petitioner's petition, may thus be traced to the power vested in him u/s 118 of the Act.

23. The decision of the Director General u/s 118 of the Act would not thus attract the principle of merger propounded in the judgment.

24. Be that as it may, the decision of Director General Border Security Force, in exercise of the power vested in him u/s 118 of the Act, having

been taken beyond the jurisdiction of this Court, may not provide any cause of action to the petitioner to file the petition in this Court merely

because the decision of the Director General had been conveyed to the petitioner in the State of Jammu and Kashmir. This is so because

communication of the decision of the Director General of Border Security Force, regarding rejection of petitioner's statutory petition, would not

constitute an integral part of the cause of action. Communication of the decision of Directorate General of Border Security Force to the petitioner

within the jurisdiction of this Court is not a material fact which would entitle the petitioner to a judgment in his favour. All those things which are

required to be proved by the petitioner to get a judgment in his favour having happened beyond the territorial jurisdiction of this Court, the

additional factor of communication of decision of Director General of BSF, cannot be said to have provided the cause of action or part thereof to

the petitioner within the territorial jurisdiction of the Court.

25. The question as to whether the communication of an order would amount to integral or material fact necessary to constitute cause of action,

had fallen for consideration of Hon'ble Supreme Court of India in its various judgments. Reference to some of these judgments thus becomes

necessary.

In State of Rajasthan and Others Vs. Swaika Properties and Another, , it was opined that mere service of notice would not give rise to any cause

of action unless service of notice was integral part of action.

Aligarh Muslim University v. Vinay Engineering Enterprises Ltd., (1994) 4 SCC 710 Hon'ble Supreme Court of India observed as follows:

We are surprised, not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction.

The contracts in question were executed at Aligarh, the construction work was to be carried out at Aligarh, even the contracts provided that in the

event of dispute the Aligarh Court alone will have jurisdiction. The arbitrator was from Aligarh and was to function there. Merely because the

respondent was a Calcutta-based firm, the High Court of Calcutta seems to have exercised jurisdiction where it had none by adopting a queer line

of reasoning. We are constrained to say that this is a case of abuse of jurisdiction and we feel that the respondent deliberately moved the Calcutta

High Court ignoring the fact that no part of the cause of action had arisen within the jurisdiction of that Court. It clearly shows that the litigation filed

in the Calcutta High Court was thoroughly unsustainable.

26. In National Textile Corpn. Ltd. and Others Vs. Haribox Swalram and Others, , it was held as follows:

As discussed earlier the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was

received at Calcutta, is not an integral part of Action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and

the view to the contrary taken by the Division Bench cannot be sustained. In

view of the above finding the writ petition is liable to be dismissed.

27. In *Union of India and Others Vs. Adani Exports Ltd. and Another*, Hon'ble Supreme Court of India opined as under (SCC p. 233):

It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case,

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. It is clear from the above judgment that each and

every fact pleaded by the respondents in their application does not ipso facto lead to conclusion that those facts give rise to a cause of action within

the court's territorial jurisdiction unless those facts pleaded or 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. If we apply this

principle then we see that none of the facts pleaded in paragraph 16 of the petition, in our opinion, fall into the category of bundle of facts which

would constitute a cause of action giving rise to a dispute which could confer territorial jurisdiction on the courts at Ahmedabad.

As we have noticed earlier, the fact that the respondents are carrying on the business of export and import or that they are receiving the export and

import orders at Ahmedabad or that their documents and payments for exports and imports are sent/made at Ahmedabad, has no connection

whatsoever with the dispute that is involved in the application. Similarly, the fact that the credit of duty claimed in respect of exports that were

made from Chennai were handled by the respondents from Ahmedabad have also no connection whatsoever with the actions of the appellants

impugned in the application. The non-granting and denial of credit in the pass-book having an ultimate effect, if any, on the business of the

respondents at Ahmedabad would not also, in our opinion, give rise to any such cause of action to a court at Ahmedabad to adjudicate on the

actions complained against the appellants.

28. Similar view was taken by Hon'ble Supreme Court of India in *Oil and Natural Gas Commission (ONGC) v. Utpal Kumar Basu and Ors.*

reported as (1994) 4 SCC 711, where it was held as under:

11. Strong reliance was placed on the decision of this Court in the State of Rajasthan case by the learned Counsel for ONGC. The facts of that case reveal that the respondent-company having its registered office at Calcutta owned a large chunk of land on the outskirts of Jaipur. The Special Officer, Town Planning Department, Jaipur, at the instance of the Improvement Trust, Jaipur issued a notice intimating that the State Government proposed to acquire a large part of the said parcel of land for a public purpose, namely, implementation of a development scheme. The said notice was duly served on the respondents at their Calcutta office. The respondents thereafter participated in the inquiry and contended that they proposed to use the land for constructing a three star hotel. The Special Officer, however, felt that the alleged need of the respondents was just a pretence and the land was not needed bona fide by them, but the real object was to get the land released from acquisition. Consequently, the requisite final notification for the acquisition of the land was issued. Thereafter an attempt was made to seek exemption in regard to the notified land u/s 20 of the Urban lands (Ceiling and Regulation) Act, 1976, but in vain. Having failed to get the land released from acquisition, the respondents filed a writ petition under Article 226 of the Constitution in the High Court of Calcutta challenging the acquisition wherein rule nisi was issued and an ad interim ex parte prohibitory order was granted restraining taking of possession of the acquired land, etc. The question which arose for consideration in the backdrop of the said facts was whether the High Court of Calcutta had jurisdiction to entertain the petition and grant ex parte ad interim relief. This Court observed that upon the said facts, the cause of action neither wholly nor in part arose within the territorial limits of the Calcutta High Court and therefore the learned Judge had no jurisdiction to issue rule nisi or to grant the ad interim ex parte prohibitory order. After extracting the definition of the expression ""cause of action"" from Mulla's Code of Civil Procedure, this Court observed as under:

The mere service of notice u/s 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land u/s 52(1) of the Act arose within the State of

Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench.

12. Pointing out that after the issuance of the notification by the State Government u/s 52(1) of the Act, the notified land became vested in the State

Government free from all encumbrances and hence it was not necessary for the respondents to plead the service of notice u/s 52(2) for the grant of

an appropriate direction or order under Article 226 for quashing the notification acquisition the land. This Court, therefore, held that no part of the

cause of action arose within the jurisdiction of the Calcutta High Court. This Court deeply regretted and deprecated the practice prevalent in the

High Court of exercising jurisdiction and passing interlocutory orders in matters where it lacked territorial jurisdiction. Notwithstanding the strong

observations made by this Court in the aforesaid decision and in the earlier decisions referred to therein, we are distressed that the High Court of

Calcutta persists in exercising jurisdiction even in cases where no part of the cause of action arose within its territorial jurisdiction. It is indeed a

great pity that one of the premier High Courts of the country should appear to have developed a tendency to assume jurisdiction on the sole

ground that the petitioner before it resides in or carries on business from a registered office in the State of West Bengal. We feel all the more

pained that notwithstanding the observations of this Court made time and again, some of the learned Judges continue to betray that tendency. Only

recently while disposing of appeals arising out of SLP Nos. 10065-66 of 1993, Aligarh Muslim University v. Vinay Engineering Enterprises (P)

Ltd., this Court observed:

We are surprised, not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction.

In that case, the contract in question was executed at Aligarh, the construction work was to be carried out at Aligarh, the contracts provided that in

the event of dispute the Aligarh court alone will have jurisdiction, the arbitrator was appointed at Aligarh and was to function at Aligarh and yet

merely because the respondent was a Calcutta-based firm, it instituted proceedings in the Calcutta High Court and the High Court exercised

jurisdiction where it had none whatsoever. It must be remembered that the image and prestige of a court depends on how the members of that

institution conduct themselves. If an impression gains ground that even in cases which fall outside the territorial jurisdiction of the court, certain

members of the court would be willing to exercise jurisdiction on the plea that some event, however trivial and unconnected with the cause of action

had occurred within the jurisdiction of the said court, litigants would seek to abuse the process by carrying the cause before such members giving

rise to avoidable suspicion. That would lower the dignity of the institution and put the entire system to ridicule. We are greatly pained to say so but

if we do not strongly deprecate the growing tendency we will, we are afraid, be failing in our duty to the institution and the system of administration

of justice. We do hope that we will not have another occasion to deal with such a situation.

13. The submission of the learned Counsel for NICCO based on Section 21 of the CPC that even if this Court comes to the conclusion that the

High Court of Calcutta had no jurisdiction, this Court should, in the absence of proof of prejudice, refuse to interfere with the decision of the High

Court unless it is otherwise found to be erroneous. While the spirit of Section 21 of the CPC may support such a submission, we are afraid, the

discretion cannot be used in favour of a party which deliberately invokes the jurisdiction of a court which has no jurisdiction whatsoever for ulterior

motives. That would only encourage such type of litigation;

The objection underlying the provision in Section 21 is not to encourage such litigants but to avoid harassment to litigants who had bona fide and in

good faith commenced proceedings in a court which is later found to be wanting in jurisdiction. In the instant case, we are convinced, beyond

doubt, that NICCO did not act bona fide in moving the Calcutta High Court and, therefore, the submission based on Section 21 must fail.

29. Recapitulating the law on the subject, as to what the expression 'cause of action' would mean, while referring to its earlier judgments, Hon'ble

Supreme Court of India in *Alchemist Limited and Another Vs. State Bank of Sikkim and Others*, , held as follows:

36. Allowing the appeal and setting aside the order of the High Court, the Supreme Court held that none of the facts pleaded by A constituted a

cause of action. "Facts which have no bearing with the lis or dispute involved in the case, do not give rise to a cause of action so as to confer

territorial jurisdiction on the court concerned.

37. In *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*, , the appellant was a Company registered under the Indian

Companies Act having its Head Office at Mumbai. It obtained a loan from the Bhopal Branch of the State Bank of India. The bank issued a notice

for repayment of loan from Bhopal under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act,

2002. The appellant Company filed a writ petition in the High Court of Delhi which was dismissed on the ground of lack of territorial jurisdiction.

The Company approached this Court and contended that as the constitutionality of a Parliamentary legislation was questioned, the High Court of

Delhi had the requisite jurisdiction to entertain the writ petition.

38. Negating the contention and upholding the order passed by the High Court, this Court ruled that passing of a legislation by itself does not

confer any such right to file a writ petition in any Court unless a cause of action arises therefor. The Court stated; ""A distinction between a

legislation and executive action should be borne in mind while determining the said question.

39. Referring to *ONGC*, it was held that all necessary facts must form an 'integral part' of the cause of action. The fact which is neither material nor

essential nor integral part of the cause of action would not constitute a part of cause of action within the meaning of Clause (2) of Article 226 of the

Constitution.

40. In *National Textile Corpn. Ltd. and Others Vs. Haribox Swalram and Others*, , referring to earlier cases, this Court stated that:

the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is

not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to

the contrary taken by the Division Bench cannot be sustained.

41. From the aforesaid discussion and keeping in view the ratio laid down in catena of decisions by this Court, it is clear that for the purpose of

deciding whether facts averred by the petitioner-appellant, 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.

42. In the present case, the facts which have been pleaded by the Appellant Company/ in our judgment, cannot be said to be essential, integral or material facts so as to constitute a part of 'cause of action' within the meaning of Article 226(2) of the Constitution. The High Court, in our opinion, therefore, was not wrong in dismissing the petition.

30. For all what has been said above, the communication of Director General's decision, to the petitioner in the State of Jammu and Kashmir would not constitute an integral part of the cause of action entitling him to challenge the orders of the Commandant and the Director General, in this Court.

31. The preliminary objection as to the maintainability of the writ petition, therefore, prevails and it is held that this Court would not have any jurisdiction to entertain petitioner's writ petition, which is accordingly, rejected.