
(1961) 01 MP CK 0030

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 226 of 1960

Bhopal Sugar Industries Ltd.

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 17-01-1961

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1961 MP 282 : (1961) J LJ 690 : (1961) 6 MPLJ 652

Hon'ble Judges : P.V. Dixit, C.J.; K.L. Pandey, J

Bench : Division Bench

Advocate : Kolha and Y.S. Dharmadhikari, for the Appellant; M. Adhikari, General, for the Respondent

Final Decision : Allowed

Judgement

Dixit, C.J.

This is an application under Article 226 of the Constitution of India by a Sugar Company having its registered office at Sehore challenging the constitutionality of the Bhopal State Agricultural Income Tax Act, 1953, on the ground that it is repugnant to Article 14 of the Constitution of India.

The petitioner-Company was incorporated in the former Bhopal State. It owns sugarcane farms located in the area which was formerly Bhopal State. In 1953 the quondam Bhopal State which was then a Part-C State, enacted the Bhopal State Agricultural Income Tax Act, 1953, "for the imposition of a tax on agricultural income". If extended to the whole of the Bhopal State. Section 2 of the Act defines "agricultural income" as meaning any rent or revenue derived from land which is used for agricultural purposes and either assessed to land revenue or is subject to a local rate assessed and collected by officers of the Government as such, and any income derived from such land by agriculture, or the sale by a cultivator or receiver of land-in-kind of the produce raised or received by him.

Section 3 of the Act is the charging section for the imposition of Income Tax and super-tax at the rates specified in the schedule to the Act. The Act was in force in the former Bhopal State till the date of the State's inclusion in the new State of Madhya Pradesh formed under the States Reorganisation Act, 1956. Even after the formation of the new State of Madhya Pradesh, the Act has continued to be in force in that area of Madhya Pradesh, comprising of the former Bhopal State.

Under the Madhya Pradesh Adaptation of Laws (State and Concurrent Subjects) Order, 1956, all laws in force in the States, which were included in the State of Madhya Pradesh, were with certain adaptations and modifications specified in the Order continued in force in these areas until altered, repealed or amended. Section 119 of the States Reorganisation Act, 1956, provides as follows:

"The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to an existing State shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day,"

The result of these provisions is that the Bhopal State Agricultural Income Tax Act, 1953, is today in force in the territory comprising of the former Bhopal State- There is no law imposing Income Tax and super-tax on agricultural income in any other part of the State of Madhya Pradesh. The contention put forward by Shri Kolah, learned counsel appearing for the petitioner-company, is that the Act applies only to what was prior to its inclusion the State of Bhopal; that the present State of Madhya Pradesh comprises of Bhopal and the territories of other States mentioned in Section 9 of the States Reorganisation Act, 1956; and that as the Act, as it stands, imposes tax on the agricultural income of persons in one area of the State and not the whole of it, it has become discriminatory and void. Learned counsel placed reliance on *The State of Rajasthan Vs. Rao Manohar Singhji*, .

No return has been filed on behalf of the State disputing these facts, or setting out the justification for the continuance of the impugned Act in the Bhopal region. Learned Advocate General did not dispute the facts averred by the petitioner-Company. He, however, urged that on the formation of the State of Madhya Pradesh the laws which were in force in the different regions of the State before the 1st November 1956 had to be continued On grounds of necessity and convenience; that all the laws operating in the different regions could not be unified overnight; that Article 14 of the Constitution was not violated by diversities of laws in the different regions of the State so long as there was equal protection of the laws to persons similarly placed in the same region; that the laws operating in different States included in the new State of Madhya Pradesh were continued in force after 1st November 1956 by the Legislature by enacting Section 119 of the States Reorganisation Act, 1956, and the Adaptation Order, 1956; that it must be presumed that the Legislature understood and correctly

appreciated the inconvenience that would be caused to the people of the different regions by a sudden change in the laws and knew the diversities in laws that would result by the continuance of the different State laws after 1st November 1956; and that consequently the discrimination, if any, was based on adequate grounds.

Learned Advocate General referred us to certain observations of Bradley J. in *Bowman v. Lewis* (1880) 101 US 22 in support of the proposition that diversities in laws in different parts of the same State were allowable on municipal consideration where a State was merged with another State to form a new State and the differentiation in the laws of the component States allowed to be continued would be one based not "on any respect of persons Or classes, but on municipal considerations alone." Learned Advocate General also referred us to *Tilakram Rambaksh Vs. Bank of Patiala and Others*, and *N.N. Ananthanarayana Iyer and Others Vs. Agricultural Income Tax and Sales Tax Officer and Others*, . He sought to distinguish the case of *The State of Rajasthan Vs. Rao Manohar Singhji*, by saying that there was no justification for continuing in one part of Rajasthan a law taking over the administration of jagirs, leaving the administration to the jagirdars in other parts of that State.

The validity of the Act has to be determined with reference to the principles which are now well settled by numerous decisions of the Supreme Court. They are that while Article 14 of the Constitution forbids class legislation, it does not prohibit a reasonable classification for purpose of legislation. In order to pass the test of permissible classification the two conditions that must be satisfied are that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and the differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases such as geographical, or according to objects or occupations and the like (see *Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others*, and *Moti Das Vs. S.P. Sahi, The Special Officer In Charge of Hindu Religious Trusts and Others*, .)

It has also been laid down in several decisions of the Supreme Court that there is a presumption in favour of the constitutionality of an enactment and the burden is upon the person challenging the validity to show that there has been a clear violation of the constitutional guarantee and that "it must be presumed that the Legislature understands and correctly appreciates the needs of its own people and its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds." At the same time, while good faith and knowledge of the existing conditions on the part of a Legislature are to be presumed, if ex facie there is nothing in the law or the surrounding circumstances to show the basis of classification, the presumption of constitutionality cannot be resorted to for holding that the "discrimination" is justified for some undisclosed and unknown reasons.

On these principles it is difficult to uphold the validity of the Bhopal State Agricultural Income Tax Act. The Act imposes a tax on income derived from land situated in the territory of the former Bhopal State and which is used for agricultural purposes. The tax is imposed on "persons", as defined in Section 2(9) of the Act, deriving income from land in the former Bhopal State which is used for agricultural purposes. The income derived from land situated in other parts of the State and which is used for agricultural purposes is not subject to any such tax.

There is no similar law in other parts of the State. The Act is thus violative of the equal protection clause of the Constitution in that income derived from land situated in the former Bhopal State and used for agricultural purposes is subject to a discriminatory treatment by imposition of a tax on it. There is nothing on the face of the law or in the surrounding circumstances to indicate the justification for the operation of such a law in that part of the State alone which was formerly the Bhopal State.

No attempt has been made by the opponent State to show that land in other parts of the State and used for agricultural purposes and persons deriving income from such land are not similarly situated and that the differences between such land and the land in the quondam Bhopal State are such as to justify a classification of the income from those lands in the matter of imposition of tax. The reasonable classification to sustain the validity of the Act cannot be found in the mere fact that after the formation of the new State of Madhya Pradesh the Act was continued by the M. P. Adaptation of Laws Order, 1956, or that Section 119 of the States Reorganisation Act enacted that for the purpose of the territorial extent of the laws in force in the component States no change in the territories would be deemed to have taken place.

Sections 119 and 120 of the States Reorganisation Act only defined the territorial extent of the laws in force immediately before the 1st November, 1956, in the component States and give to the Government the power to adapt laws already in force. They do not mean that if the operation of a law has been continued or that if it has been made the subject of an adaptation order, then that law ipso facto becomes valid even though its provisions conflict with the Constitution.

It is no doubt true that classification for the purposes of Article 14 may be based on geographical considerations and there may be different laws in different parts of a State, provided there is no infraction of Article 14. Therefore, the mere continuance after the 1st November 1956 of the laws in force in the component States would not by itself be sufficient to hit all such laws as give rise to differences and make them invalid under Article 14. Nor can their mere such continuance on the grounds of convenience and necessity, without any more, be regarded as not violative of Article 14 of the Constitution. The validity of any Act so continued must be determined not by the fact of continuance but by the nature of the law and the justification for the continuance of that law in one part of the State alone.

All the cases to which our attention was drawn were decided on this principle. In *The State of Rajasthan Vs. Rao Manohar Singhji*, the facts were that in the first State of Rajasthan which included the former State of Mewar, three Ordinances were passed in 1948 and 1949, the effect of which was that the management of Jagirs in these areas and the right to collect rent therefrom was taken over by the Government. This State of Rajasthan was later on amalgamated with the former States of Bikaner, Jaipur, Jodhpur etc. to form a bigger Rajasthan, also known as the United State of Rajasthan.

In the States with which the first State of Rajasthan was amalgamated, no law analogous to the Ordinances promulgated by the first State of Rajasthan existed, and the Jagirdars in these areas continued to manage their Jagirs and collect the rents also. After the formation of the larger Rajasthan in 1949 the said Ordinances remained in force in the part of the area which was formerly the first State of Rajasthan. The result was that the Jagirdars of one part of the State of Rajasthan were subjected to a disability in the matter of management of their Jagirs and the collection of rent while those in other areas remained unaffected.

The Supreme Court held that the provision operating in one part of the State of Rajasthan taking over the management of Jagirs and the right of collection of rent constituted a clear contravention of Article 14 of the Constitution and was void. After pointing out that when the bigger Rajasthan, was formed in 1949 the discrimination exhibited itself not by virtue of anything inherent in the Ordinances assailed but by reason of the fact that Jagirdars of one part of the State of Rajasthan were already subjected to a disability in the matter of management of their Jagirs while the other parts were wholly unaffected, the Supreme Court made the observations:

"This discrimination, however undesirable, was not open to any exception until the Constitution came into force on January 26, 1950, when Article 13 of the Constitution declared that

"all laws in force in the territory of India immediately before the commencement of this Constitution in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void". It becomes, therefore, necessary to see whether the impugned provision which is discriminatory on the face of it is hit by Article 14 which declares that

"the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India".

Such an obvious discrimination can be supported only on the ground that it was based upon a reasonable classification. It is now well settled by the decision, of this Court that a proper classification must always bear a reasonable and just relation to the things in respect of which it is proposed. Judged by this criterion it seems to us that the discrimination is based on no classification at all and is manifestly unreasonable and arbitrary. The classification might have been justified, if the State had shown that it was based upon a substantial distinction,

namely that the Jagirdars of the area subjected to the disability were in some way different to those of the other area of Rajasthan who were not similarly situated.

It was perfectly possible for the State to have raised a specific ground in order to get out of the mischief of Article 14, that the discrimination was based upon what the learned Attorney-General called geographical consideration, that the Jagirs of the particular area were governed by different laws of tenure and thus constituted a class by itself and that that was a good ground for differentiation. No such ground was ever put forward before the High Court, much less was any attempt made to substantiate such a ground. In the absence of any allegation supported by evidence we are unable to find in favour of the State that the Jagirdars of the particular area to which category the respondent belongs were differently situated to other Jagirdars".

It is plain from these observations that the Supreme Court struck down the provision impugned before them as discriminatory because there was no rational basis for any classification or differentiation between the Jagirs and Jagirdars of one area and those of the other parts of the State of Rajasthan.

Before the Supreme Court, the Attorney-General relied on the often-quoted observations of Bradley, J. in (1880) 101 US 22, namely:

"If a Mexican State should be acquired by treaty and added to an adjoining State or part of a State, in the United States, and the two should be erected into a new State, it cannot be doubted that such new State might allow the Mexican laws and judicature to continue unchanged in the one portion, and the common law and its corresponding judicature in the other portion. Such an arrangement would not be prohibited by any fair construction of the 14th Amendment. It would not be based on any respect of persons or classes, but on municipal considerations alone, and a regard to the welfare of all classes within the particular territory or jurisdiction".

With regard to this passage, the learned Judges of the Supreme Court expressed themselves thus:

"This passage which was strongly relied upon by the learned Attorney-General does not advance his case, for in the present case, there is no question of continuing unchanged the old laws and judicature in one portion and a different law in the other. As we have already said there is nothing to show that there was any peculiarity or any special feature in the Jagirs of the former State of Rajasthan to justify differentiation from the Jagirs comprised in the States which subsequently integrated into the present United State of Rajasthan. After the new State was formed, there was no occasion to take away the powers of Jagirdars of a disfavoured area and to leave them intact in the rest of the area". It will thus be seen that the Supreme Court did not find the fact that the Ordinances which were in force in the first State of Rajasthan were continued when the second State of Rajasthan was formed by itself furnishing a reasonable

classification or differentiation between the Jagirs and Jagirdars of one part of Rajasthan and those of another in the matter of management of Jagirs and collection of rents thereof. The provision which the Supreme Court had to consider was declared to be void as repugnant to Article 14 because the State of Rajasthan was unable to point out any good ground for the differentiation.

It must be noted that the case of (1880) 101 US 23 (supra) dealt with the question of diversity in the jurisdiction of several courts of a State as to subject matter, amount or finality of decision. It was held in that case that by the 14th Amendment of the Constitution of the United States a State was not prohibited from prescribing the jurisdiction of the several courts either as to territorial limits, or the subject-matter, or amount or finality of their respective judgments and decrees. It was while dealing with this question that Bradley, J. first said :

"It is the right of every State to establish such courts as it sees fit, and to prescribe their several jurisdictions as to territorial extent, subject-matter and amount, and the finality and effect of their decisions; provided it does not encroach upon the proper jurisdiction of the United States, and does not abridge the privileges and immunities of citizens of the United States: and does not deprive any person of his rights without due process of law, nor deny to any person the equal protection of the laws, including the equal right to resort to the appropriate courts for redress. The last restriction, as to the equal protection of the laws, is not violated by any diversity in the jurisdiction of the several courts as to subject-matter, amount or finality of decision, it" all persons within the territorial limits of their respective jurisdictions have an equal right, in like cases and under like circumstances, to resort to them for redress. Each State has the right to make political sub-divisions of its territory for municipal purposes, and to regulate their local government. As respects the administration of justice, it may establish one system of courts for cities and another for rural districts; one system for one portion of its territory and another system for another portion". The learned Judge then proceeded to say:

"The 14th Amendment does not profess to secure to all persons in the United States the benefit of the same laws and the same remedies. Great diversities in these respects may exist in two States separated only by an imaginary line. On one side of this line there may be a right of trial by jury, and on the other side no such right. Each State prescribes its own modes of judicial proceeding. If diversities of laws and judicial proceedings may exist in the several States without violating the equality clause in the 14th Amendment, there is no solid reason why there may not be such diversities in different parts of the same State. A uniformity which is not essential as regards different States cannot be essential as regards different parts of a State, provided that in each and all there is no infraction of the constitutional provision. Diversities which are allowable in different States are allowable in different parts of the same State. Where part) of a State is thickly settled, and another part has but few inhabitants, it may be desirable to have different systems of judicature for the two portions; trial by

jury in one, for example, and not, in the other. Large cities may require a multiplication of courts and a peculiar arrangement of jurisdictions. It would be an unfortunate restriction of the powers of the State Government if it could not, in its discretion, provide for these various exigencies.

Then he made the observations reproduced earlier with regard to the hypothetical case of annexation of a part of the Mexican State by the United States. These observations according to us do not mean that whenever there is annexation or merger then that fact itself affords a justification for the purposes of the 14th Amendment for the continuance of the laws of the component States. They only mean that in such circumstances it is permissible for the new State to allow the laws of the component States to continue on municipal considerations and having a regard to the welfare of all classes within the particular territory or jurisdiction.

This is clear from the observations of Bradley, J. at the end of the passage "that the differentiation would not be based on any respect of persons or clashes, but on municipal considerations alone, and a regard to the welfare of all classes within the particular territory or jurisdiction". That even in the case of an annexation or merger there must be a justification for the continuance of the laws of the component States is made further clear by what Bradley, J. said immediately after giving the illustration of annexation of Mexican State. He said:

"It is not impossible that a distinct territorial establishment and jurisdiction might be intended as or might have the effect of a discrimination against a particular race or class, where such race or class should happen to be the principal occupants of the disfavoured district Should such a case ever arise, it will be time enough then to consider it. No such case is pretended to exist in the present instance".

The conclusion reached in the case of (1880) 101 US 22 (supra) that the adjustment of appellate jurisdiction between the courts of Missouri was not forbidden by anything contained in the 14th Amendment thus rested on the power of the State to regulate the jurisdiction of its own tribunals for different portions of its territory in such manner as it thought fit subject to the limitations that

"it does not encroach upon the proper jurisdiction of the United States, and does not abridge the privileges and immunities of citizens of the United States, and does not deprive any person of his rights without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws in the same district".

The next case to be noted is Shri Kishan Singh and Others Vs. The State of Rajasthan and Others, where the validity of Sections 81 to 86 of the Marwar Land Revenue Act, 1949, was challenged. It was contended that these provisions were void as being repugnant to Article 14 of the Constitution inasmuch as the Act applied only to what was prior to its merger the State of Marwar and not to

the other States which had been merged to form the State of Rajasthan; and that consequently the Act was directed against the Jagirdars in one area of the State of Rajasthan and not the whole of it.

This was also a case of law of a component. State which was continued after the formation of the new State in which it was merged. The Supreme Court found the contention untenable. It was observed that what Article 14 of the Constitution prohibited was the unequal treatment of persons similarly situated; that the petitioners had neither alleged nor shown that the conditions which prevailed in the other area of the State of Rajasthan were similar to those obtaining in Marwar; that on the contrary it had been stated on behalf of the State of Rajasthan that the tenants in the Jagirs of Marwar were paid much more by way of rent and cesses than those in the Khalsa area of the State; that it was with a view to remove the inequality between the 2 classes, of tenants within the State that the impugned law was passed; that the other States had their own rent laws suited to their conditions; and that these special features formed a sufficient justification for a separate legislation for the area of the former Marwar State.

After referring to the decision in (1880) 101 US 22 (supra) the Supreme Court stated that classification might properly be made on territorial basis "if that was germane to the purposes of the enactment" (underlining (here in " ") is ours), and that having regard to the fact that the conditions of the tenants varied from locality to locality a tenancy legislation restricted to a portion of a State could not be held on this ground alone to contravene Article 14 of the Constitution. The validity of section 81 of the Marwar Land Revenue Act was thus upheld by the Supreme Court on the ground of reasonable classification and not on the ground that on the coming into existence of a new State by annexation or merger the laws of the component State or States concerned could be continued without regard to the considerations on which the validity of a statute can be sustained under Article 14.

It would be pertinent to refer here to two cases of the Rajasthan High Court. In *Raja Harisingh and Another Vs. State of Rajasthan and Others*, , the validity of Marwar Land Revenue Act, 1949, was challenged on grounds similar to those raised in the Supreme Court in (S) *Shri Kishan Singh and Others Vs. The State of Rajasthan and Others*, . Rejecting these grounds of attack Wanchoo, C, J., said that it was not necessary that the laws should be exactly the same; that so long as there were almost similar laws in other areas the discrimination could not be said to arise; that the Marwar Land Revenue Act was an ameliorative legislation; and that if similar progressive laws did not exist in some States which had been integrated to form the State of Rajasthan, it would be wrong to declare such progressive and ameliorative measures invalid.

The learned Chief Justice then quoted the illustration given by Bradley, J. in (1880) 101 US 22 (supra) and said that the impugned legislation being one for the welfare of all classes within the area which was formerly the State of Marwar

could be allowed to continue even if similar progressive laws did not exist in other parts of Rajasthan. The learned Chief Justice thus laid emphasis on the statement of Bradley, J. that the differentiation in laws besides being on municipal considerations should be with a "regard to the welfare of all classes within the particular territory or jurisdiction". The learned Chief Justice distinguished the case of Manohar Singh Ji Vs. State of Rajasthan, --which was considered in appeal by the Supreme Court in The State of Rajasthan Vs. Rao Manohar Singhji, --by saying that in that case there was no justification for merely taking over the administration of Jagirs in one part of the State and leaving them to the Jagirdars in the other parts of the State.

In Madan Singh v. Collector, Sikar AIR 1954 Raj 104, the validity of the Jaipur District Boards Act, 1947, which was continued in force in the former State of Jaipur after it had been merged to form the United State of Rajasthan, was upheld on similar grounds, namely, that it was for the welfare of all classes within the particular territory and there was no inequality before the law and the difference that arose was not based on any respect for persons or classes. In Madan Singh and Others Vs. Collector Sikar, also "Wanchoo, C. J. referred to the requirement stated by Bradley, J. in (1880) 101 US 22 (supra) as to the diversity being based with due "regard to the welfare of all classes within the particular territory or jurisdiction".

The decision in N.N. Ananthanarayana Iyer and Others Vs. Agricultural Income Tax and Sales Tax Officer and Others, does not support the contention advanced by the learned Advocate General. In that case when the Travancore-Cochin Agricultural Income Tax Act, 1950, was extended to the district) of Malabar which was transferred from the State of Madras to the State of Kerala on the Reorganisation of the States in 1956, certain persons who derived income from land situated in Malabar were assessed to tax under the Act.

They questioned the validity of this levy of tax under Article 14 contending that they had under the system prevailing in the Madras State already paid heavy land tax in respect of the lands in the Malabar area during the previous year in contrast to the nominal basic tax paid by the land-holders in the Travancore-Cochin area for the material period, and that therefore the charging as against them of agricultural income tax, though uniformly with the Travancore-Cochin area, imposed an unequal additional burden on them.

It was held by the Kerala High Court that the anomaly which was inevitable during the early stages after the integration had been obviated by the early steps taken by the State to introduce the system of basic tax as well to the area and that the chance incidence of prior taxation under the Madras State law had brought about the inequality, and to the extent that that situation was uniform throughout the Malabar area, there was nothing for the petitioners to complain.

It will be noticed that in this case the inequality was removed by the introduction of the system of basic tax into the Malabar area also and there was no

differentiation between the Malabar area and other parts of the Kerala State so far as the operation of the Travancore-Cochin Agricultural Income Tax Act was concerned. The Kerala High Court did not notice the decision of the Supreme Court in *The State of Rajasthan Vs. Rao Manohar Singhji*, . A reference was made to the illustration given by Bradley, J. in the case of (1880) 101 US 22 (supra) without indicating the principle deductible from that illustration.

The learned Judges of the Kerala High Court also referred to *Ramjilal Vs. Income Tax Officer, Mohindargarh*, . But, as pointed out by the Supreme Court in *The State of Rajasthan Vs. Rao Manohar Singhji*, , that case is distinguishable on the ground that it proceeded upon the principle that "pending proceedings should be concluded according to the law applicable at the time when the rights or liabilities accrued and the proceeding commenced was a reasonable law founded upon a reasonable classification of the assesseees which is permissible under the equal protection clause". We do not find anything in the decision of the Kerala High Court to support the contention of the learned Advocate General that the justification for the continuance of the impugned Act lay in the very fact of its continuance by the M.P. Adaptation of Laws Order, 1956, and Section 119 of the States Reorganisation Act, 1956, after the coming into existence of the new State.

In *Tilakram Rambaksh Vs. Bank of Patiala and Others*, which was also relied on by the learned Advocate General, the validity of the Patiala Recovery of State Dues Act, which was continued in force in the former State of Pepsu after its merger with the State of Punjab, was upheld on the ground that there was a sound reason for the operation of that Act to continue in Pepsu region. The learned Judges of the Punjab High Court found the justification in the fact that the Act was continued by virtue of Section 119 of the States Reorganisation Act, and that when this was done it must be assumed that Parliament was aware of the conditions prevailing in the two former States of Punjab and Pepsu and thought it wise to allow the laws previously in force to continue in operation even after the merger.

The learned Judges further said that starting with the presumption in favour of the constitutionality of an enactment and imputing to the legislature complete understanding of the needs of the people it was impossible to say that the classification contemplated by Section 119 of the States Reorganisation Act did not proceed on a rational basis. This reasoning no doubt supports the contention of the learned Advocate General. But what we have stated earlier is sufficient to indicate our disagreement with it.

The decisions of the Supreme Court) and the Rajasthan High Court considered above make it very clear that when several States merge to form a new State, the laws of the component States can be allowed to be continued without being hit by Article 14 provided there is some justification for the diversity in the laws and if such continuance is necessary for the welfare of all classes within a particular territory. As pointed out by the Supreme Court in (S) *Shri Kishan Singh*

and Others Vs. The State of Rajasthan and Others, , a classification can be made on territorial basis but it must be germane to the purposes of the enactment. The justification for the continuance of laws in such circumstances cannot be rested solely on the ground of convenience or on the fact that as a merger had taken place the laws of the component States had to be continued. There must be something in, the law itself or in the surrounding circumstances to constitute a sufficient justification for the continuance of the law. Here it cannot be urged with any degree of force that the Bhopal State Agricultural Income Tax Act, 1953, is a legislation meant for the amelioration of the people of the former Bhopal State, Or it was in their welfare that the law should continue to operate in the area which was formerly the Bhopal State.

The law is ex facie discriminatory and there are no materials to show that the conditions which prevailed in other areas of Madhya Pra-desh are so different and varied from those which obtain in the territory of the former Bhopal State ss to afford a sufficient justification for the continuance of the impugned Act in Bhopal region. Even if it be assumed that immediately on the formation of the new State of Madhya Pradesh, the laws of the component States had to be continued on grounds of convenience and necessity, such a justification should be of no avail for the continuance of the impugned Act in 1961 more than three years after the formation of the new State and after the enactment of the M.P. Extension of Laws Act, 1958, by which an attempt was made to unify the laws of the State and to remove the diversity in the laws of the component States which came into existence because of their continuance after the 1st November, 1956. The opponent State thus has had sufficient time and opportunity to decide whether the continuance of the Bhopal State Agricultural Income Tax Act in the Bhopal region would be consistent with Article 14 of the Constitution.

For all these reasons our conclusion is that the Bhopal State Agricultural income tax Act, 1953, is in clear contravention of the petitioner's right under Article 14 of the Constitution and must be declared void. The result is that this "petition is accepted and the opponent- State" is restrained from enforcing the provisions of the said Act against the petitioner the applicant-Company shall have costs of this application. Counsel's fee is fixed at Rs. 200/-. The outstanding amount of security deposit shall be refunded, to the petitioner.