

(1973) 04 KAR CK 0004
In the Karnataka High Court
Case No : Writ Petition No. 6573 of 1969

B.V. Mokashi

APPELLANT

Vs

Mysore State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 13-04-1973

Acts Referred:

Penal Code, 1860 (IPC) — Section 21
Road Transport Corporations Act, 1950 — Section 19 (5), 34

Citation : (1974) 1 LLJ 153 : (1973) 2 MysLJ 76

Hon'ble Judges : A. Narayana Pai, C.J.;V.S. Malimath, J;G.K. Govinda Bhat, J

Bench : Full Bench

Judgement

Narayana Pai, C.J.—The question referred for the opinion of the Full Bench is :

"Whether the Mysore State Road Transport Corporation is a "State" within the meaning of Art. 12 of the Constitution ?".

The referring Bench observes that the orders of this Court in two writ petitions, viz., V. H. Gokhale v. MSRTC, W.P. 2113/67, and Ramachandriah v. General Manager, MSRTC, W.P. 1258/67, which take the view that the Mysore State Road Transport Corporation cannot be regarded as a State for purposes of Art. 14 of the Constitutions in view of the principles enunciated by the Supreme Court in the case of Indian Airlines Corporation Vs. Sukhdeo Rai, were made without nothing the two other orders which appeared to take the contrary view. Those orders are, N. B. Siddiah v. State of Mysore, W.P. 4345/68, and C. Puttaraju v. MSRTC, W.P. 173/72.

2. Of the two earlier orders mentioned above, the one made in N. B. Siddiah v. State of Mysore (supra) was pronounced before the decision of the Supreme Court in the case of Indian Airlines v. Sukhdeo Rai (supra). The decision in C. Puttaraju v. MSRTC (supra) was, however, pronounced subsequently and follows the decision in Siddiah's case, W.P. 4345/68, and tries to reconcile it with the ruling of the Supreme Court in the Indian Airlines case (supra).

3. Before examining whether there is in fact conflict between the decisions of this Court in W.P. Nos. 2113/67 and 1258/67 on the one hand and those in W.P. Nos. 4343/68 and 173/72 on the other, it is necessary for us to study and ascertain the effect of two rulings of the Supreme Court which have a direct bearing on the question, which statutory bodies can be regarded as a "State" for purposes of Art. 12 of the Constitution. Those rulings are reported in *Rajasthan State Electricity Board, Jaipur Vs. Mohan Lal and Others*, and *Indian Airlines v. Sukhdeo Rai* (supra).

4. In the case of *Electricity Board, Rajasthan v. Mohanlal* (supra), the question related to the claims of one of its employees for consideration for promotion the failure to concede which claim was characterised by him as a violation of Arts. 14 and 16 of the Constitution which directly raised the question whether the Electricity Board was a State within the meaning of Art. 12 of the Constitution. Article 12 which is the first article in part III dealing with fundamental rights reads :

* * * *

The discussion in the judgment of the Supreme Court turns upon the question whether Rajasthan State Electricity Board would come within the scope of the expression "other authorities" occurring in Art. 12. Pointing out that it is not possible or correct in the context of Art. 12 to invoke the application of the ejusdem generis rule, their Lordships discussed the position in Paragraphs 5 and 6 of the judgment. As much of the argument was concentrated on the language these paragraphs, we copy the same below :

"The meaning of the word "authority" given in Webster's Third New International Dictionary, which can be applicable is "a public administrative agency or corporation having quasi-governmental powers and authorised to administer a revenue-producing public enterprise". This dictionary meaning of the word "authority" is clearly wide enough to include all bodies created by a statute on which powers are conferred to carry out governmental or quasi-governmental functions. The expression "other authorities" is wide enough to include within it every authority created by a statute and functioning within the territory of India, or under the control of the Government of India; and we do not see any reason to narrow down this meaning in the context in which the words "other authorities" are used in Art. 12 of the Constitution."

5. In *Ujjam Bai v. State of U.P.* AIR 1962 S.C. 1621, Ayyangar, J., interpreting the words "other authorities" in Art. 12, held :

"Again, Art. 12 winds up the list of authorities falling within the definition by referring to "other authorities" within the territory of India which cannot obviously be read as ejusdem generis with either the Government and the Legislatures or local authorities. The words are of wide amplitude and capable of comprehending every authority created under statute and functioning within the territory of India or under the control of the Government of India. There is no

characterisation of the nature of the "authority" in this residuary clause and consequently it must include every type of authority set up under a statute for the purpose of administering laws enacted by the Parliament or by the State including those vested with the duty to make decisions in order to implement those laws."

6. In *K.S. Ramamurthi Reddiar Vs. The Chief Commissioner, Pondicherry and Another*, this Court, dealing with Art. 12, held :

"Further, all local or other authorities within the territory of India include all authorities within the territory of India whether under the control of the Government of India or the Governments of various States and even autonomous authorities which may not be under the control of the Government at all.

Those decisions of the Court support our view that the expression "other authorities" in Art. 12 will include all constitutional or statutory authorities on whom powers are conferred by law. It is not at all material that some of the powers conferred may be for the purpose of carrying on commercial activities. Under the Constitution, the State is itself envisaged as having the right to carry on trade or business as mentioned in Art. 19(1)(g). In Part IV, the State has been given the same meaning as in Art. 12 and one of the Directive Principles laid down in Art. 46 is that the State shall promote with special care the educational and economic interests of the weaker sections of the people. The State, as defined in Art. 12, is thus comprehended to include bodies created for the purpose of promoting the educational and economic interests of the people. The State as constituted by our Constitution is further specifically empowered under Art. 298 to carry on any trade or business. The circumstance that the Board under the Electricity Supply Act is required to carry on some activities of the nature of trade or commerce does not, therefore, give any indication that the Board must be excluded from the scope of the word "State" as used in Art. 12. On the other hand, there are provisions in the Electricity Supply Act which clearly show that the powers conferred on the Board include power to give directions, the disobedience of which is punishable as a criminal offence. In these circumstances, we do not consider it at all necessary to examine the cases cited by Mr. Desai to urge before us that the Board cannot be held to be an agent or instrument of the Government. The Board was clearly an authority to which the provisions of part III of the Constitution were applicable."

7. In the *Indian Airlines* case (*supra*), the question arose whether a civil Court could make a declaration that an employee of the Indian Airlines Corporation dismissed by it continued in service because the order dismissing him was null and void. The effect of the decree was actually to direct reinstatement. The Supreme Court held that no such decree could have been passed in the case. After pointing out in paragraph 10 of the judgment that the Court had already laid down that there were only three well recognised exceptions to the general rule under the law of master and servant where such a declaration could be

issued, viz., (1) case of public servants falling under Art. 311(2) of the Constitution, (2) cases falling under the industrial law, and (3) cases where acts of statutory bodies are in breach of a mandatory obligation imposed by a statute, and after discussing several earlier decisions of the Court, the Court summarised the law as follows in paragraph 12 of its judgment :

"Nor can counsel derive any aid from the decision in *Dr. Indramani Pyarelal Gupta Vs. W.R. Nathu and Others*, where the Court was dealing with a bye-law made by the Central Government under powers conferred on it by the Forward Contracts (Regulation) Act, 1952 which compulsorily amended the bye-laws of the Association recognised under the Act and which vested certain powers on authorities external to the Association. The bye-laws in question was not limited in its application to the members of the Association but to all those who entered into forward contracts and were governed by its bye-laws. But all rules and regulations made by authorities in pursuance of a power under a statute do not necessarily have the force of law. In *Kruse v. Johnson* (1898) 2 Q.B 91 , while considering the validity of a bye-law made by a County Council, Lord Russell described a bye-law having the force of law as one affecting the public or some section of the public imposed by some authority clothed with statutory powers ordering something to be done or not be done and accompanied by some sanction or penalty for its non-observance. If validly made such a bye-law has the force of law within the sphere of its legitimate operation. The function of such bye-laws is to supplement the general law by which the Legislature delegates its own power to make them. In *Rajasthan State Electricity Board, Jaipur Vs. Mohan Lal and Others*, where this Court held the Board, set up under the Electricity (Supply) Act, 54 of 1948, was a State within the meaning of Art. 12 of the Constitution against which mandamus could issue under Art. 226, emphasised the fact that the Act contained provisions which empowered the Board to issue directions, the disobedience of which was punishable as a penal offence. As observed earlier, under Ss. 8(2) and 20, the appellant-Corporation has been given the power to employ its own officers and other employees to the extent it thinks necessary on terms and conditions provided by it in regulations made under S. 45. The regulations contain the terms and conditions which govern the relationship between the Corporation and its employees. Though made under the power conferred by the statute, they merely embody the terms and conditions of service in the Corporation but do not constitute a statutory restriction as to the kind of contracts which the Corporation can make with its servants or the grounds on which it can terminate them. That being so, and the Corporation having undoubtedly the power to dismiss its employees, the dismissal of the respondent was within the jurisdiction, and although it was wrongful in the sense of its being in breach of the terms and conditions which governed the relationship between the Corporation and the respondent it did subsist. The present case, therefore, did not fall under any of the three well recognised exceptions and, therefore, the respondent was only entitled to damages and not to the declaration that his dismissal was null and void."

8. The argument strongly pressed on behalf of the petitioner by Mr. Rama Jois is that principles or considerations on which one could decide whether or not a particular statutory body is an authority or a State within the meaning of Art. 12 of the Constitution are all those stated in the judgment of the Supreme Court in the case of Rajasthan Electricity Board (supra) and that nothing stated in the judgment of the Supreme Court in the Indian Airlines case (supra) can be depended upon to abridge restrict what is stated in the previous case. According to him, as stated in the earlier case, the words "other authorities" must be given a wide amplitude and regarded as capable of comprehending every authority created under a statute. According to him, the fact that the majority judgment in the Rajasthan Electricity Board's case (supra) did lay down such a wide proposition is also clear from the separate judgment of Shah. J. in which it is said, "I am unable, however, to agree that every constitutional or statutory authority on whom powers are conferred by law is "other authority" within the meaning of Art. 12". But, if we may say so with respect the effect of a judgment is not to be ascertained from a single sentence therein but from a comprehensive understanding of so much of the judgment as may be regarded as containing the exposition of the law by the Court. Nor is it open to us to ignore or leave out of account an interpretation by the Supreme Court itself in a later judgment of one of its previous judgments.

9. The judgment in the case of Rajasthan Electricity Board (supra) itself, while citing previous judgments in support of the view that the expression "other authorities in Art. 12 will include all constitutional or statutory authorities on whom powers are conferred by law does contain an indication of the nature of the power which, when conferred on a statutory body, would make it a State within the meaning of Art. 12 of the Constitution. After pointing out that it is not at all material that some of the powers conferred may be for the purpose of carrying on commercial activity in view of Art. 298 of the Constitution and the State in Art. 12 may also include bodies created for the purpose of promoting educational or economic interests of the people in view of the Directive Principles laid down in Art. 46, the Court concludes the discussion by observing :

"The circumstances that the Board under the Electricity Supply Act is required to carry on some activities of the nature of trade or commerce does not, therefore, give any indication that the Board must be excluded from the scope of the word "State" as used in Art. 12. On the other hand, there are provisions in the Electricity Supply Act which clearly show that the powers conferred on the Board include power to give directions, and disobedience of which is punishable as a criminal offence"

One of the passages cited from the earlier decisions also indicates that an authority to be a State must be one set up under a statute for the purpose of administering laws or vested with the duty to make decisions in order to implement those laws; implementation of laws obviously means, effective implementation, i.e., by making disobedience of such decisions punishable as an

offence.

10. Shelat J., who was among the majority of Judges on whose behalf Bhargava, J. delivered the judgment in the case of Rajasthan Electricity Board, delivered the judgment in the case of Indian Airlines and according to his Lordship's interpretation of the judgment in the case of Rajasthan Electricity Board (supra) the said judgment emphasised the fact that the Act contained provisions which empowered the Board to issue directions the disobedience of which was punishable as a penal offence.

11. Another aspect referred to in paragraph 12 of the judgment in the Indian Airlines case (supra) is that rules laying down service conditions made by a statutory body in exercise of the rule-making power conferred by the relevant statute are merely in the nature of terms or conditions of a contract of service between the statutory body as employer and its servants as its employees and bring about no more than a contract of service, but that any provision of the statute itself which controls the liberty of the statutory body of entering into such contract of service by way of for example, insisting upon certain conditions to be necessarily inserted, would bring about not a mere contract, but an enforceable rule of law. The distinction is not without significance if it is remembered that one of the essential aspects of a State is the power to make laws and enforce obedience to those laws. The very first provision of Part III contained in Art. 13(2) of the Constitution is one that imposes restriction on the law-making power of the State and sub-article (3) of the same article defines "law" as inclusive of a rule or a regulation.

12. It is not possible, therefore, to accept the argument that the interpretation of the judgment by the Supreme Court in the case of Rajasthan State Electricity Board (supra) contained in the later judgment in the case of Indian Airlines should not be given effect to or acted upon the ground that the same did not or could not directly arise for consideration in the later case.

13. In our considered opinion, therefore, the effect of the judgment of the Supreme Court in the case of Rajasthan State Electricity Board as explained and interpreted in the subsequent judgment of the Supreme Court contained in the Indian Airlines case is that a body set up under a statute would fall within the scope of the expression, "other authorities" occurring in Art. 12 of the Constitution and, therefore, within the definition of the "State" in the said article when there is conferred on it the power to give directions the disobedience of which is punishable as criminal offence and that if it is given such power, it does not cease to be a "State" for reason only of the fact that it is also given some other powers including power to carry on trade or commerce or promote educational or economic activities in the interests of the public.

14. Applying the said test it is indisputable that the Mysore State Road Transport Corporation established by the State Government of Mysore under S. 3 of the Road Transport Corporation Act, 1950 (Central Act 64 of 1950) does not have

conferred on it any power to issue any directions the disobedience of which is punishable as an offence and is, therefore, not a "State" within the definition contained in Art. 12 of the Constitution.

15. This is the basis for the decisions of this Court in *V. H. Gokhale v. MSRTC* (supra) and *Ramachandriah v. General Manager, MSRTC* (supra). The order in *Siddiah v. State of Mysore* (supra) was pronounced before the decision of the Supreme Court in the *Indian Airlines Corporation* case was available. The previous decision in the case of *Rajasthan State Electricity Board* was, however, cited in support of the view that the Transport Corporation was a State, as against which it was contended that the Corporation being an independent entity, the same principles as apply to ordinary companies incorporated under the Companies Act should be applied as in the case of *The Praga Tools Corporation Vs. Shri C.A. Imanuel and Others*, and other similar cases. Actually, no final pronouncement was made on the question whether the Mysore State Road Transport Corporation was State or not. But a mandamus was issued on the principle that mandamus would lie against a company constituted under a statute for purpose of fulfilling its public responsibility, considering that the case related to an alleged disobedience of the rules of recruitment and in view of the decision of the Supreme Court in *Mysore State Road Transport Corporation Vs. Gopinath Gundachar Char*, wherein it has been pointed out that the conjoint effect of Ss. 14(3)(b), 34 and 45(2)(c) of the Road Transport Corporation Act, 1950, is that the appointment of officers and servants and their conditions of service must conform to the directions, if any, given by the State Government under S. 34 and the regulations, if any, framed under S. 45(2)(c).

16. The order in *Puttaraju v. MSRTC* (supra) dealing with the question of promotion related to settlement of inter-State seniority lists, followed an earlier decision of this Court in W.P. 1687 of 1966 decided on 3rd March, 1971. It however, referred to the decision in W.P. 4343 of 1968 and observed that the matter may be brought within the scope of the decision of the Supreme Court in *Life Insurance Corporation of India Vs. Sunil Kumar Mukherjee and Others*, dealing with the effect of S. 11(2) of the Life Insurance Corporation Act referred to in Paragraph 11 of the judgment of the Supreme Court in the case of *Indian Airlines Corporation*. The Court proceeded on the footing that there was an order or direction by the State Government under S. 34 of the Road Transport Corporation Act governing the case.

17. We are not, therefore, persuaded that there is any real conflict between the two sets of decisions; should there be any possibility of suggesting such a conflict, we are of the opinion that it should be settled in favour of the view that the Mysore State Road Transport Corporation is not a State within the definition of Art. 12 of the Constitution.

18. Mr. Rama Jois has pursued two other lines of approach with a view to controvert this position.

19. One of them is to make out that even on the footing that some aspect of governmental power or spark of sovereignty may be necessary to constitute a statutory body into a State within the meaning of Art. 12, the Mysore State Road Transport Corporation does possess at least one aspect of governmental power, viz., that related to what is described as eminent domain involving or including the power of compulsory acquisition of citizen's property.

20. Section 19 of the Road Transport Corporation Act, which enumerates the powers of the Corporation, after stating its general nature in sub-s (1) to be to operate road transport services in the State and in any extended area and to provide for any ancillary service, states in sub-s. (2) that subject to the provisions of the Act, the powers conferred by sub-s. (1) shall include those enumerated therein, one of which, described in clause (c), is :

"to prepare schemes for the acquisition of an acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the State concerned and with such procedures as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that State or any extended area."

Sub-section (5) of the same section referring to the same topic reads :

"Where a Corporation acquires the whole or any part of an undertaking of any person, the Corporation shall, in appointing its officers and servants, take into consideration the claims of employees employed in that undertaking."

Section 40, dealing with the determination of compensation for acquisition of road transport undertakings, provides procedure therefore and reads :

"Whenever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation, compensation the amount of which shall be determined in the manner and in accordance with the procedure hereinafter set out, that is to say, -

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance, with such agreement.

(b) where no such agreement can be reached, the amount shall be determined by an Arbitration Tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to the State concerned;

(c) an appeal shall lie to the High Court against the decision of the Tribunal and the order of the High Court on such appeal shall be final."

21. The argument based on these provisions is that there is express power specifically conferred on the Corporation to acquire compulsorily any undertaking of any person operating road transport services, which is a power exclusively

appertaining to the eminent domain of a State and that, therefore, the Corporation which has such a power must necessarily be regarded as a State.

22. But the essential point overlooked in this argument is that the Corporation could do so only in accordance with the law of acquisition for the time being in force in the State concerned and that there is nothing in the Act which authorises the Corporation itself to make that law. In the first place a Corporation being a fictitious legal person, it is necessarily to be conferred with all powers necessary to carry out the functions for which it is intended. Secondly, so far as compulsory acquisition is concerned, which in effect is deprivation of property of a citizen, no such deprivation is possible according to Art. 31 of the Constitution save by authority of law, and no property can be compulsorily acquired save for a public purpose and save by authority of a law which provides for acquisition of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law. Hence the necessity of such separate law complying with the directions of the Constitution in Art. 31 is inescapable. It is impossible to say, therefore, that S. 19(2)(C) confers any part of the eminent domain of the State on the Corporation. The only reasonable view to take is that it is an enabling provision and nothing more.

23. The power of entry given in S. 42 is of little assistance, because it is subject to previous permission of a District Magistrate. The provisions of S. 43 that members, officers and servants of the Corporation, when acting or purporting to act in pursuance of the Act, shall be deemed to be public servants within the meaning of S. 21 of the I.P.C., is equally unhelpful because the very necessity for a deeming provision indicates that in reality they are not public servants.

24. The second approach is that the Corporation may be regarded as a local authority within the meaning of Art. 12 and, therefore, a State as defined by the said article. Reliance is placed on a decision of this Court in *Channaveerappa v. State of Mysore* (1968) 1 Mys. L.J. 300, in which this Court held that a District School Board incorporated under the Bombay Primary Education Act, 1947, is a local authority and not a company for purposes of the Land Acquisition Act. The decision of the Supreme Court in the case of *Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others*, was cited before the Court in which it has been held that the Bombay State Road Transport Corporation (also a Corporation established under the Road Transport Corporation Act, 1950) is not a local authority for purposes of the Land Acquisition Act. In both the cases, it was pointed out that for purposes of the Land Acquisition Act, the definition of local authority is the one given in clause (31) of S. 3 of the General Clauses Act, which reads :

""Local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control of management of a municipal or local fund."

25. In Valjibhai's case (supra), the Supreme Court expressly held that the Corporation is certainly not a department of the Government but a separate legal entity and that, therefore, any money coming out of public revenue, whether invested, loaned or granted to it, would change their original character and become the funds or assets of the Corporation when they are invested in or transferred loaned to it, and with reference to the definition in the General Clauses Act, observed :

"It will be clear from the definition that unless it is shown that the State Transport Corpn. is an "authority" and is legally entitled to or entrusted by the Govt. with control or management of a local fund, it cannot be regarded as a local authority. No material has been placed before the from which it could be deduced that the funds of the Corpn. can be regarded as local funds. It was no doubt submitted by the learned Attorney General that the Corporation was furnished with funds by the Government for commencing its business; but even if that were so, it is difficult to appreciate how that would make the funds of the Corporation local funds."

26. This Court in the case of Channaveerappa (supra) distinguished the decision of the Supreme Court on the ground that no material had been placed before the Supreme Court to make out that any local fund was entrusted to the Corporation, and held that the District School Board which was concerned in the said case, was so entrusted in view of the definition of "local fund" contained in clause (17) of Rule 2 of the Mysore Financial Code, 1958, which reads :

"17 Local Fund means. -

(1) the revenue administered by bodies which come under the control of Government by law or rule having the force of law whether in regard to the proceedings generally or to specific matters such as the sanctioning of their budgets, sanction to the creation or filling up of particular appointment, the enactment of leave, pension, or similar rules; and

(2) the revenues of any body which may be specifically notified by the Government of Mysore as such."

27. Now, whatever may be the position so far as a District School Board is concerned, the direct decision of the Supreme Court is that the funds of a Road Transport Corporation, from whatever source they may come, become the funds of the Corporation itself which is a separate legal entity and not capable of being described as a local fund.

28. But, Mr. Rama Jois states that if the definition contained in the Mysore Financial Code is applied, it will be seen that the Corporation is a body which comes under the control of the Government in regard to several matters, such as sanctioning of budgets, sanction to the creation of filling up of particular appointments, enactment of leave, pension or similar rules, by virtue of Ss. 5, 8, 14, 18, 34, 32, 38, 39 etc.

29. Now the difficulty in the way of accepting this argument is two-fold.

30. In the first place, as already stated, it is opposed to the direct decision of the Supreme Court in Valjibhai's case (supra).

31. Secondly, under Art. 367 of the Constitution, the General Clauses Act applies for interpretation of the Constitution unless the context otherwise requires. Article 12 refers to local and other authorities within the territory of India and such authorities under the control of the Government of India. It is well established that the control by the Government of India is a test only in respect of authorities situated or functioning outside the territory of India, and that within the territory of India even autonomous authorities may come within the scope of Art. 12. Such authorities within the territory of India are classified under the article as local authorities and other authorities. Most of the public sector Corporations or statutory bodies, are subject to control either by the Central Government or by a State Government, both in the matter of appointment to its Board of Management or staff as well as financial matters, and, therefore, all of them could be brought in as local authorities would be practically superfluous. Further, as stated by the Supreme Court in Valjibhai's case (supra) a body must first be an authority before it could be called a local authority. All authorities entrusted with local self-Government are undoubtedly authorities because they are empowered to issue orders and directions, disobedience of which is punishable as an offence; but all other bodies need not necessarily have such power so as to make it correct to call them an authority within the meaning of Art. 12 of the Constitution. The better view, therefore, in our opinion to take in the context of Art. 12 is to limit the expression "local authority" to authorities entrusted with local self-Government and understand the expression "other authorities"; as authorities other than "local authorities"; that is to say, authorities which may be regarded as a State, not because they are entrusted with any powers of local self-Government, but because they are entrusted with the power of issuing directions, disobedience of which is punishable as an offence, whether or not their activities are limited to a locality within a State or the entire territory of a State or even beyond the boundaries of a State.

32. We do not, therefore, agree with the argument that the Mysore State Road Transport Corporation is a local authority.

33. Our answer to the question referred to the Full Bench is :

"The Mysore State Road Transport Corporation is not a State within the meaning of Art. 12 of the Constitution."