

(2010) 04 AHC CK 0125
In the Allahabad High Court

Deeptiman Logistics Pvt. Ltd. and Another	APPELLANT
Vs	
Union of India (UOI) and Others	RESPONDENT

Date of Decision : 12-04-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20
Constitution of India, 1950 — Article 226
Urban Land (Ceiling and Regulation) Act, 1976 — Section 20

Citation : (2010) 04 AHC CK 0125

Hon'ble Judges : Virendra Singh, J;Ashok Bhushan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.—Heard Sri Devol Banerjee, learned Senior Advocate, assisted by Sri Ashish Chakravarti and Sri Rahul Agarwal for the petitioners and Sri Vivek Singh, learned Counsel for the respondents.

2. Brief facts of the case necessary to be noted for deciding the writ petition are; the petitioner No. 1 is a registered company under the Companies Act, 1956 registered office of which is at Allahabad. The Government of India, Railway Board issued a scheme, namely, Wagon Investment Scheme (WIS) vide Circular No. 40 of 2005 dated 20th November, 2005 with an object to encourage public private partnership in procurement of wagons to meet with the anticipated incremental freight traffic in the coming years. Customers investing in Railway wagons were to be assured of supply of a guaranteed number of rakes every month based on the number of rakes procured and the turn round of the type of wagons with 10% concession in freight. Certain other benefits were contemplated to the investors. The said circular was issued to different railway zones including South East Central Railway, Bilaspur. The said scheme has been modified from time to time. The petitioners interested in availing of the benefit made two applications to the Chief Commercial Manager, South East Central Railway, Bilaspur dated 7th June, 2006 expressing its interest for inducting 4 Box-

N Type wagons. The application was approved by the Railway Board vide its letter dated 22nd December, 2006. The said approval was granted in reference to South East Central Railway, Bilaspur's letter dated 28th September, 2006 by which the petitioners' application was forwarded for consideration and approval. The loading stations and unloading stations were also approved, which were within the South East Central Railway. An agreement dated 28th May, 2007 was executed at Bilaspur between the Indian Railway and the petitioners providing for various terms and conditions. The petitioners made an application to South East Central Railway, Bilaspur praying for extension of further period of one year for supply of wagons. The said application was allowed and extension of one year beyond 31st December, 2007 was granted by Chief Commercial Manager, South East Central Railway. The petitioners again submitted a request for extension for further period of one year, which was allowed and period was extended up to 21st December, 2009. The petitioners also made a request for changing the loading station. The petitioners again wrote for changing of the loading station to the South East Central Railway. The petitioners again submitted letter dated 11th December, 2009 to the Chief Commercial Manager, South East Central Railway, Bilaspur praying for extending the delivery period of further one year i.e., up to 31st December, 2010. In response to the said letter, a letter dated 28th January, 2010 was received by the petitioners at his head office at Allahabad stating therein that for extension of time limit, the petitioners may approach the Railway Board along with the details of proof of financial commitment for procurement of rakes under the said scheme. In view of the aforesaid background of facts, the petitioners have filed the present writ petition praying for following relief:

(i) issue a writ, order or direction in the nature of mandamus directing the respondents to consider and decide the representations/reminders submitted by the petitioner No. 1, dated 20.7.2008, 22.7.2008, 11.12.2009 and 7.1.2010, praying for change of loading/unloading stations and for permission to transport iron ore on the basis of the same yardstick as has been applied by the respondents while granting similar permission to other firm by the name of M/s. Rashmi Metalics vide its letter No. 2006/TC(FM)/4/50 dated 5.6.2009;

(ii) issue a writ, order or direction in the nature of mandamus directing the respondent No. 3 to consider and decide the representation/reminder submitted by the petitioner No. 1 dated 11.12.2009 and 7.1.2010 praying for extension of the validity period for transport of wagons by the petitioner for a further period of one year in a time bound manner.

3. Learned Counsel for the petitioners in support of the writ petition contended that respondent No. 3 (Chief Commercial Manager, South East Central Railway, Bilaspur) on earlier occasion although has granted extension of period for supply of wagons twice but on the request made by the petitioners for further extension of period now the petitioners have been directed to approach the Railway Board. It is submitted that extension ought to have been granted by respondent No. 3 himself. In the alternative learned Counsel for the petitioners contended that

Railway Board (respondent No. 2) may be directed to consider the petitioners' request for extension of period for supply of wagons as well as for change of the loading station, which have already been prayed for with respondent No. 3.

4. Sri Vivek Singh, learned Counsel for the respondent, raised a preliminary objection regarding maintainability of the writ petition in this Court on account of lack of territorial jurisdiction. Sri Vivek Singh contended that in pursuance of the scheme floated by the Government of India, the petitioners have made an application to respondent No. 3 (Chief Commercial Manager, South East Central Railway, Bilaspur, State of Chhattisgarh) whose request was accepted and an agreement was entered at Bilaspur, State of Chhattisgarh. He submits that no cause of action arose in the State of Uttar Pradesh so as to enable the petitioners to file this writ petition at Allahabad High Court. It is submitted that mere fact that the head office of the Company of the petitioners is at Allahabad from where the applications were made or communication of letters by respondent No. 3 to the petitioners at Allahabad does not furnish any cause of action to the petitioners to institute this writ petition in this Court.

5. Sri Banerjee refuting the contentions of the respondents' counsel, contended that petitioners had received the communication dated 28th January, 2010 from respondent No. 3 at its head office at Allahabad, hence the part of cause of action arose within the territorial jurisdiction of this Court. He further contends that petitioners have made the application from its head office at Allahabad under the scheme and communications in this regard were received at its head office at Allahabad, hence this Court has territorial jurisdiction to entertain this writ petition.

6. Learned Counsel for the parties have referred to and relied on various judgment of the Supreme Court as well as this Court in support of their respective submissions, which shall be referred to while considering their submissions in detail.

7. The power under Article 226 Sub-clause (2) of the Constitution of India can be exercised by the High Court in relation to the territories within which cause of action, whole or in part, arises for exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. The High Court can exercise jurisdiction of issuing writs when the cause of action, whole or in part, arises within the territorial jurisdiction of the Court. The question to be considered in this writ petition is as to whether the cause of action, whole or in part, arises within the territorial jurisdiction of this Court or not.

8. The petitioners claim that part of cause of action has arisen within the territorial jurisdiction of this Court since the petitioners received all communications from Railway Board as well as from respondent No. 3 at its head office at Allahabad, which furnishes cause of action to the petitioners to approach this Court. The main plank of submission of the petitioners is based on receipt of

communications sent by the Railway Board as well as respondent No. 3 at its head office at Allahabad. The petitioners have filed copy of the letter of the Railway Board dated 22nd December, 2006, which was addressed to the General Manager, South East Central Railway, Bilaspur communicating the approval of the Ministry on the request of the petitioners dated 7th June, 2006 under the scheme. A copy of the said letter was sent to the petitioners at its head office at Allahabad. Another letter relied by the petitioners is the letter dated 28th January, 2010 sent by the Chief Commercial Manager, South East Central Railway, Bilaspur to the petitioners at its head office at Allahabad. Thus the question, which is to be answered in this case, is as to whether part of cause of action has arisen at Allahabad since it is not the case of the petitioners that the whole cause of action has arisen at Allahabad.

9. The phrase "cause of action" came for consideration before the Apex Court in several judgments. The classic definition of the expression, which has been quoted with approval by the Apex Court in several judgments is the definition given by Lord Brett in *Cooke v. Gill* (1873) 8 CP 107, which is to the following effect:

"cause of action" means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court.

10. The phrase "cause of action" has been considered in detail by the Apex Court in the case of *Om Prakash Srivastava Vs. Union of India (UOI)* and *Another*, Following was laid down in paragraphs 8, 9 and 10:

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

9. By "cause of action" it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit. (*See Bloom Dekor Limited Vs. Subhash Himatlal Desai and Others*,

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

11. From the above exposition of the phrase "cause of action", it is clear that cause of action means every fact which, if traversed, it would be necessary for

the plaintiff to prove in order to support his right to his judgment. The petitioners claim that part of cause of action has arisen within the territorial jurisdiction of this Court, is based on its pleading that communications were received at its head office at Allahabad. The issue, thus, boils down to the fact that whether in facts of the present case sending of communication at Allahabad by the Railway Board as well as by respondent No. 3 gives part of cause of action to the petitioner to invoke the territorial jurisdiction of this Court. The question as to whether receipt of communication or notice furnishes a cause of action, has been considered by the Apex Court and this Court on several occasions. It is necessary to refer to some relevant cases on the above subject to determine the issue raised.

12. In *State of Rajasthan and Others Vs. Swaika Properties and Another*, the Apex Court had occasion to consider the question as to whether the Calcutta High Court had territorial jurisdiction under Article 226 of the Constitution to entertain a writ petition, which was filed with regard to acquisition of certain properties under the Rajasthan Urban Improvement Act, 1959 at Jaipur. The proceedings for acquisition under the aforesaid Act were initiated by the State of Rajasthan. Notice under Sub-section (2) of Section 52 of the Act was received by the registered office of the respondent-Company at Calcutta. The writ petition was filed at Calcutta challenging the validity of the notification issued by the State of Rajasthan u/s 52(1) of the Act for acquisition of certain land. The writ petition was issued by Calcutta High Court against which an appeal was filed by the State of Rajasthan. Before the Apex Court the submission was made that since notice was issued at head office at Calcutta the part of cause of action had arisen within the territorial jurisdiction of Calcutta High Court. Following was laid down in paragraph 8 of the said judgment:

8. The expression "cause of action" is tersely defined in Mulla's Code of Civil Procedure:

The "cause of action" means every fact which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a Judgment of the Court.

In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. 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. The answer to the question whether service of notice is an integral part of the cause of action within the meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government u/s 52(1) of the Act became effective the

moment it was published in the official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur u/s 52(2) for the grant of an appropriate writ, direction or order under Article 226 of the Constitution for quashing the notification issued by the State Government u/s 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan u/s 52(1) of the Act by a petition under Article 226 of the Constitution, the remedy of the respondents for the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose.

13. Again the Apex Court had considered the issue of part of cause of action in context of Article 226(2) of the Constitution in *Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others*, In the said case Oil and Natural Gas Commission had a gas processing plant at Hazira in the State of Gujarat. Engineers India Ltd., acting as consultants for Oil and Natural Gas Commission (ONGC) issued an advertisement in leading newspapers inviting tenders for setting up of a Kerosene Recovery Processing Unit at Hazira. According to the advertisement the tenders containing offers were to be communicated to EIL at New Delhi. A company NICCO, having its registered office in Calcutta read the notice in the Times of India and submitted its tender. The Tender Committee after examination rejected the bid of the NICCO's at New Delhi. The NICCO submitted a representation which was also not favourably accepted. The contract was awarded to some other Company. A writ petition was filed at Calcutta for restraining from awarding the contract to any other party. The writ was issued by the Calcutta High Court against which Oil and Natural Gas Commission filed SLP before the Apex Court. In the Apex Court the NICCO contended that Calcutta High Court had jurisdiction since it came to know about the tender from the publication in Times of India at Calcutta, it submitted its tender from its registered office within the jurisdiction of Calcutta High Court. It was also contended that a fax message sent in answer to the NICCO's fax message was also received at Calcutta office. The Apex Court considered the submissions and held that Calcutta High Court lacked jurisdiction. Following was laid down in paragraphs 8 and 11:

8. From the facts pleaded in the writ petition, it is clear that NICCO invoked the jurisdiction of the Calcutta High Court on the plea that a part of the cause of action had arisen within its territorial jurisdiction. According to NICCO, it became aware of the contract proposed to be given by ONGC on reading the advertisement which appeared in the Times of India at Calcutta. In response thereto, it submitted its bid or tender from its Calcutta office and revised the rates subsequently. When it learnt that it was considered ineligible it sent representations, including fax messages, to EIL, ONGC, etc., at New Delhi, demanding justice. As stated earlier, the Steering Committee finally rejected the

offer of NICCO and awarded the contract to CIMMCO at New Delhi on 27-1-1993. Therefore, broadly speaking, NICCO claims that a part of the cause of action arose within the jurisdiction of the Calcutta High Court because it became aware of the advertisement in Calcutta, it submitted its bid or tender from Calcutta and made representations demanding justice from Calcutta on learning about the rejection of its offer. The advertisement itself mentioned that the tenders should be submitted to EIL at New Delhi; that those would be scrutinised at New Delhi and that a final decision whether or not to award the contract to the tenderer would be taken at New Delhi. Of course, the execution of the contract work was to be carried out at Hazira in Gujarat. Therefore, merely because it read the advertisement at Calcutta and submitted the offer from Calcutta and made representations from Calcutta would not, in our opinion, constitute facts forming an integral part of the cause of action. So also the mere fact that it sent fax messages from Calcutta and received a reply thereto at Calcutta would not constitute an integral part of the cause of action. Besides the fax message of 15-1-1993, cannot be construed as conveying rejection of the offer as that fact occurred on 27-1-1993. We are, therefore, of the opinion that even if the averments in the writ petition are taken as true, it cannot be said that a part of the cause of action arose within the jurisdiction of the Calcutta High Court.

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: (SCC p. 223, para 8)

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.

14. In National Textile Corpn. Ltd. and Others Vs. Haribox Swalram and Others, again the Apex Court examined the similar issue. It was contended in the said case that part of cause of action had accrued at Calcutta since the petitioners were carrying business at Calcutta, letters were sent by them at Calcutta and reply to the same has been received by them at Calcutta. The Apex Court held that receipt of reply to the correspondences made by the petitioners at Calcutta is not an integral part of cause of action. Following was laid down in paragraphs 9 and 12.1 of the said judgment:

9. Shri Kirit N. Raval, learned Solicitor General appearing for the appellants, has strenuously urged that no part of cause of action had accrued in Calcutta as the Textile Mills were situate in Bombay and supply was to be made ex-factory at Bombay and the alleged payment by the writ petitioners was also made at the said place. It has thus been urged that it is not a case where even a part of cause of action may have accrued in the State of West Bengal which could enable the Calcutta High Court to entertain the writ petition and to grant any relief to the writ petitioners. Shri G. C. Bharuka, learned senior counsel appearing for the respondents herein (writ petitioners) has submitted that the writ petitioners were carrying on business at Calcutta, the letters were sent by them from Calcutta and replies to the same had also been received by them at Calcutta and therefore part of cause of action had accrued in the State of West Bengal and consequently the view taken by the Division Bench of the High Court that it had jurisdiction to entertain the writ petition was perfectly correctly.

12.1. 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 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. In view of the above finding, the writ petition is liable to be dismissed. However, in order to avoid any further harassment to the parties and to put an end to the litigation, we would examine the matter on merits as well.

15. Learned Counsel for the petitioner has placed reliance on the judgment in Om Prakash Srivastava's case (supra). In the said case a writ petition was filed

before the Delhi High Court that the petitioner was being tried in several cases contrary to the extradition treaty. It was stated that petitioner was being kept in solitary confinement without proper medical aid in Central Jail in the State of U.P. The Delhi High Court dismissed the writ petition taking the view that Delhi High Court may have jurisdiction but the issues relating to conditions of prisoners in the State of U.P. can be more effectively dealt with by the Allahabad High Court. The judgment of the Delhi High Court was set-aside and it was held that Delhi High Court had territorial jurisdiction. In Om Prakash Srivastava's case (supra) the territorial jurisdiction of Delhi High Court was not even challenged, rather the Court while relegating the petitioner to Allahabad High Court had itself observed that Delhi High Court may have jurisdiction but the issues relating to conditions of prisoners in U.P. can be more effectively dealt with by the Allahabad High Court. The above judgment does not help the petitioner in any manner.

16. The judgment in the case of State of Rajasthan and Ors. v. Swaika Properties and Anr. has also been relied by the petitioner, which has already been noted above. In the said case it was held that service of notice u/s 52(2) of the Rajasthan Urban Improvement Act, 1959 at Calcutta does not give any part of cause of action at Calcutta to file a writ petition challenging the land acquisition proceedings at Jaipur.

17. The next cause relied by the petitioner is in the case of Navinchandra N. Majithia v. State of Maharashtra and Ors. reported in Navinchandra N. Majithia Vs. State of Maharashtra and Others, In the said case a writ petition was filed at Maharashtra High Court against the State of Maharashtra, State of Meghalaya, the Special Superintendent of Police, CID, Shillong and Mr. Malcrkode Subramaniam Jayaram praying to quash the complaint lodged by M/s. J.B. Holdings Ltd. or in the alternative to issue a writ of mandamus directing the State of Meghalaya to transfer the investigation being conducted by the officers of the CID at Shillong to the Economic Offences Wing, General Branch of the CID, Mumbai. The issue whether part of cause of action had arisen at State of Maharashtra was examined by the Apex Court. The High Court in the said judgment held that Maharashtra High Court had jurisdiction. The Apex Court itself in the said judgment had noted that large number of events have taken place at Bombay in respect of allegations contained in the first information report registered at Shillong, hence part of cause of action had arisen within the State of Maharashtra and the writ petition was maintainable. Following was laid down in paragraph 44 of the said judgment:

44. In the aforesaid situation it is almost impossible to hold that not even a part of the cause of action has arisen at Bombay so as to deprive the High Court of Bombay of total jurisdiction to entertain the writ petition filed by the petitioner. Even the very fact that major portion of the investigation of the case under the FIR has to be conducted at Bombay itself shows that the cause of action cannot escape from the territorial limits of the Bombay High Court.

18. Thus the said judgment was on its own facts and has no relevance in facts of

the present case. Another judgment relied by the petitioners is a judgment delivered by learned single Judge (by one of us Justice Ashok Bhushan) in Writ Petition No. 12411 of 1986 (Phool Singh Chauhan v. the Chief of the Army Staff) decided on 14th September, 2007. In the said writ petition the petitioner had challenge the order dated 13th March, 1980 of summary court martial and the order dated 28th April, 1980 by which sentence of three months of rigorous imprisonment was remitted but the punishment of dismissal was maintained and thirdly the order dated 20th May, 1986 by which the petitioner's representation to take back him in service was rejected. At the relevant time the petitioner was posted in State of Gujarat. He took leave to go to his native place to District Kanpur Nagar, State of U.P. from where he sent telegram for extension of leave. Ultimately in summary court martial proceedings he was punished. Subsequently on application the sentence was remitted but the dismissal was maintained. The petitioner sent an application to Chief of the Army Staff from Kanpur for taking him back in service by setting aside the summary court martial, which was refused and refusal was communicated vide letter dated 20th May, 1986 at Kanpur. This Court held that although there was no part of cause of action for challenging the punishment awarded by summary court material in the State of Uttar Pradesh but insofar as prayer for refusal to reinstate in service is concerned, the Allahabad High Court had territorial jurisdiction since the application was submitted from Kanpur on the basis of certain ground which was refused by the Chief of the Army Staff and refusal was communicated to the petitioner at Kanpur. Following was laid down in paragraph 12 of the said judgment:

In above view of the matter, it cannot be held that any part of cause of action arose within the territorial jurisdiction of this Court to challenge the punishment awarded by summary court martial dated 15th March, 1980. However, the submission much pressed by counsel for the petitioner is that since the petitioner has sent an application to the Chief of the Army Staff from District Kanpur for taking him back in service, which was rejected and communicated to the petitioner vide letter dated 20th May, 1986 at Kanpur (U.P.), the petitioner had cause of action to challenge the said decision of not taking him back in service before this Court. In the counter affidavit filed by the respondents the allegations made in paragraph 9 and 10 of the writ petition, i.e., representation of the petitioner to the Chief of the Army Staff for his reinstatement on 7th October, 1985, rejection of the said request and communication at Kanpur vide letter dated 20th May, 1986 has not been denied. Thus insofar as the prayer of the petitioner to quash the order dated 20th May, 1986 refusing reinstatement of the petitioner in service, it can be held that this Court has territorial jurisdiction since the representation was sent from Kanpur and the refusal of the same was also communicated at Kanpur. In support of the petitioner's prayer to quash the order dated 20th May, 1986 same submission is pressed by the petitioner, i.e., the punishment of dismissal as well as imprisonment of six months was not permissible within the meaning of Army Act, 1950 and the said punishment being

without jurisdiction, the petitioner was entitled to be reinstated.

19. The above case was on its own facts. The above was a case of Army soldier who made an application on certain ground for taking him back in service from his native place, which was turned down by the Army Chief and the said refusal was communicated from where he made the application for reinstatement. The above case was on its own facts and does not help the petitioners in facts of the present case.

20. Service of notice, communication of an order, when it form integral part of cause of action, the territorial jurisdiction may be at the place where notice is served or communication is received but when the said communication is only by way of sending information at the registered head office, which is not integral part of cause of action, the writ petition cannot be entertained at the place where the communication is said to be received. In the present case the challenge is to the decision of respondent No. 3 not to grant extension in the period of supply of wagons and further for not to accept the prayer for changing of loading station, which challenge cannot fall on non proving the fact of receiving the communication at head office at Allahabad. The decision of respondent No. 3 informing the petitioner 28th January, 2010 that petitioners may approach the Railway Board was taken at Bilaspur and the decision became effective as soon as it was taken. Even if the petitioners were not communicated the decision or even if the decision was not communicated or received by the petitioners, their cause of action is complete to challenge the action of respondent No. 3. Thus the receipt of communication at head office at Allahabad cannot be said to be an integral part of cause of action which furnished a cause of action to challenge the decision of South East Central Railway, Bilaspur at Allahabad.

21. In view of the foregoing decisions, we are of the view that preliminary objection raised by the respondents has substance and the writ petition for the relief as claimed in the writ petition cannot be entertained by this Court since no part of cause of action has arisen within the territorial jurisdiction of this Court to entertain the writ petition.

22. The writ petition is dismissed on the ground of lack of territorial jurisdiction. It is open for the petitioners to approach the Railway Board as advised by letter dated 28th January, 2010 of respondent No. 3 or to take such proceeding as may be advised in a court having territorial jurisdiction.