
(2007) 02 AP CK 0095

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13108 of 2006

G. Simhagiri

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 02-02-2007

Acts Referred:

Administrative Tribunals (Procedure) Rules, 1989 — Rule 11, 11(1), 11(4), 11(5), 11(8)

Andhra Pradesh Administrative Tribunal Practice Rules, 1995 — Rule 19, 20, 21

Andhra Pradesh Administrative Tribunals Act, 1985 — Section 15(1), 19, 19(1), 19(3), 22

Constitution of India, 1950 — Article 226, 227

Land Acquisition (Companies) Rules, 1963 — Rule 3

Citation : (2007) 5 ALD 171 : (2007) 4 ALT 72

Hon'ble Judges : Ramesh Ranganathan, J;B. Prakash Rao, J

Bench : Division Bench

Advocate : Abhinand Kumar Shavill, P. Balakrishna Murthy, M. Ratna Reddy and J.R. Manohar Rao, for the Appellant; G.P. and K.V. Satyanarayana and Srinivasa Baba, for the Respondent

Final Decision : Allowed

Judgement

Ramesh Ranganathan, J.—In these batch of writ petitions the orders of the Tribunal under challenge are those where O.As. filed by the respondent-applicants were allowed at the admission stage without notice to the Government or to the other respondents in the O.As. Aggrieved by these orders the State Government and other employees, who have sought leave to file writ petitions against the order of the Tribunal, have approached this Court.

2. While several contentions have been raised in these writ petitions, the main ground of challenge is to the inherent lack of jurisdiction of the Tribunal to allow the O.A. at the stage of admission. Since examination, of the other contentions raised, would depend on a decision on this question, we considered it appropriate to decide this question first. Elaborate arguments were advanced in this regard

by Sri K. Satyanarayana, learned Counsel for the respondent-applicants. Sri P. Balakrishnamurthy, Sri J.R. Manohar Rao, Sri M. Ratna Reddy, Sri Abinand Kumar Shavli and the learned Government Pleader for Services I, were heard on behalf of the petitioners.

3. Sri K. Satyanarayana, learned Counsel appearing on behalf of the respondent applicants, would submit that the question, as to whether the Tribunal could have allowed the O.A. at the stage of admission without notice to the parties, is a question of law and, since such questions of law are also required to be pleaded, and facts based on which they arise proved, in the absence of any such plea in the affidavits filed in support of the writ petitions, this Court would not take upon itself the task of examining this contention. learned Counsel places reliance on *Bharat Singh v. State of Haryana* AIR 1998 SC 2181 and *M/s. Larsen and Toubro Ltd. Vs. State of Gujarat and Others*, in this regard. learned Counsel would refer to the plea taken by the Government in W.P. No. 13350 of 2005 that the petitioners were not heard. learned Counsel would submit that the Tribunal, in its order, had specifically noted that the learned Counsel for the applicants and the learned Government Pleader were heard. learned Counsel would submit that statements of facts as to what transpired during the hearing, as recorded in the judgment of the Tribunal, are conclusive of the facts so stated and that no one could contradict such statements by affidavit or other evidence. learned Counsel would place reliance on *State of Maharashtra Vs. Ramdas Shrinivas Nayak and Another, , Assistant Commercial Taxes Officer v. Metha Opticians*, (2001) 9 SCC 309 and *Commissioner of Customs, Mumbai v. Bureau Veritas* 2005 (2) SCJ 245 : 2005 (2) Sup 82 in this regard.

4. learned Counsel would rely on *Sonachalam Pillai v. Kumaravelu Chettiar* AIR 1928 Madras 77 to submit that there is a presumption that the mandatory provisions of procedural law, and the rules and legal formalities, are complied with by the Tribunal while disposing of the Original Application filed before it and, in the absence of a specific plea of such violations, if any, no interference is called for.

5. learned Counsel would submit that, since the petitioners herein had neither filed any application before the Tribunal nor has any plea be taken in the affidavits filed in support of the writ petitions before this Court that they had not given consent for disposal of the O.A. at the stage of admission, it must be inferred that consent had been given for disposal of the O.A. at the stage of admission. He would place reliance on *Krishna Kumar Deb v. Atul Chandra Ghose* AIR 1924 Cal 1998 in this regard.

6. learned Counsel would submit that pursuant to the orders passed by the Tribunal in O.A. No. 6409 of 2004, (which is subject matter of challenge in W.P. No. 13109 of 2005), the Engineering-in-Chief, R & B had issued memo dated 13-12-2004. learned Counsel would submit that, in the absence of any challenge to the said memo dated 13-12-2004, it was not open to the petitioners herein to challenge the validity of order of the Tribunal, in O.A. No. 6409 of 2004, based

on which the subsequent memo dated 13-12-2004 was passed. learned Counsel would rely on *M. Purandara v. Mahadesha*. S.2005 (6) SCJ 521 : 2005 (6) SCALE 641 in this regard.

7. According to the learned Counsel the Tribunal, while allowing O.A. No. 6409 of 2004, by order dated 24-11 -2004, had not decided any rights of parties and had merely directed the government, in the Transport Roads & Buildings Department, to pass necessary orders on the representation filed by the respondent-applicants on 22-1-2004 duly taking into consideration the judgment rendered by the High Court in W.P. No. 17497 of 1999 and batch dated 21 -11 -2003 within a month from the date of receipt of a copy of the order and had observed that, in case the government was not able to issue orders within the prescribed time and if they intended to effect any promotions, the judgment of the High Court in W.P. No. 17497 of 1999 shall be applied to the applicants based on which their placement should be fixed and then only promotions be effected. learned Counsel would submit that, since the Engineering-in-Chief, in his memo dated 13-12-2004, had passed orders within one month from the date on which the O.A. was disposed of, the second limb of the order of the Tribunal did not apply and since the first limb of the order did not decide any rights of the parties, and was a mere direction to the government to pass orders on the representation filed by the respondent-applicants taking into consideration the judgment of the High Court in W.P. No. 17497 of 1999 and batch dated 21-11 -2003, the writ petition filed there against was not maintainable.

8. Sri P. Balakrishnamurthy, learned Counsel appearing on behalf of some of the petitioners, would submit that, since the Administrative Tribunal is an adjudicatory body created under the provisions of the Administrative Tribunals Act, 1985, it must act strictly in accordance with the provisions of the statute under which it was created. learned Counsel would submit that, since the Tribunal has not been conferred jurisdiction to allow the O.A. at the admission stage without notice to the parties, the impugned order of the Tribunal notice to the parties, the impugned order of the Tribunal suffers from inherent lack of jurisdiction and is ab initio void. learned Counsel would place reliance on Sections 4(1) & (2) and 19(1) & (3) of the Administrative Tribunals Act, 1985 and Rules 11(8) and 13 of the Administrative Tribunal (Procedure) Rules, 1989. learned Counsel would submit that the Tribunal did not have jurisdiction to allow the O.A. at the admission stage, even if the Government Pleader is presumed to have consented to such an order as consent cannot confer jurisdiction. learned Counsel would submit that, since Section 19(3) prohibits the Tribunal from allowing the O.A. at the stage of admission, the impugned order of the Tribunal is liable to be set aside. learned Counsel would place reliance on *Syed Kaja Moizuddin v. B. Narasimha Reddy* W.P. No. 20286/02 and Batch, dt. 10-10-2002.

9. Sri K. Satyanarayana, learned Counsel for the respondent-applicants would contend that, unlike in the present batch of writ petitions, in *SyedKaja Moizuddin* W.P. No. 20286/02 and Batch, dt. 10-10-2002 there was a specific plea regarding

lack of jurisdiction of the Tribunal to dispose of the O.A. at the stage of admission. On being asked as to whether this Court was not entitled to examine this jurisdictional aspect, even if it were to be held that there was no specific plea in this regard, learned Counsel would place reliance on M. Purandara (8 supra), to submit that it was not open to the High Court to enlarge the issue and examine matters which had not been specifically pleaded.

10. Sri J.R. Manohar Rao, learned Counsel for the petitioners, would submit that the petitioners in W.P. No. 26818 of 2005 had raised an objection, to such a manner of disposal, in the affidavit filed in support of the writ petition and would invite this Court to peruse paragraph 4 of the said affidavit.

11. Sri Abinand Kumar Shavli, learned Counsel for the petitioners, would refer to Rules 19 and 20 of the A.P. Administrative Tribunal Practice Rules, 1995 and submit that the Original Application, after scrutiny, is placed before the Tribunal for orders on admission and the only option for the Tribunal is either to issue notice before admission or after admission of the O.A. learned Counsel would submit that, while Section 19 of the A.P. Administrative Tribunals Act enables the Tribunal to dismiss the O.A. at the stage of admission, the O.A. can only be allowed after hearing and, since Rule 20 contemplates a notice of not less than 14 days to be issued to the respondents before the date fixed for hearing, it is only after notices have been served on the respondents, and a minimum period of 14 days has lapsed since then, can the O.A. be finally heard and it is only after the O.A. is finally heard can it be allowed.

12. Learned Government Pleader for Services would submit that O.A. No. 6409 of 2004 was filed on 23-11-2004, it came up for admission on 25-11-2004 and the Tribunal, on the same day i.e., on 25-11-2004, had passed orders allowing the O.A. Learned Government Pleader would submit that a specific plea has been taken in this regard in W.P. No. 13350 of 2005, and would refer to page 10 of the affidavit filed in support thereof. Learned Government Pleader would refer to Section 19(3) of the A.P. Administrative Tribunals Act to contend that, on receipt of an application under Sub-section (1), the Tribunal makes necessary enquires as to whether the application is a fit case for adjudication or trial by it, and based on such enquiry admits such an application. Learned Government Pleader would submit that any assistance rendered by the Government Pleader, during the course of such an enquiry, cannot be construed as an opportunity of hearing having been given to the respondents. Learned Government Pleader would request this Court to declare the order of the Tribunal, allowing the O.A. at the stage of admission, as an order passed without jurisdiction.

13. u/s 4(2) of the A.P. Administrative Tribunals Act, 1985, the jurisdiction exercised by the Administrative Tribunal, constituted for the State, is that which is conferred on it by or under the Administrative Tribunals Act. u/s 15(1), the State Administrative Tribunal shall exercise jurisdiction as was exercised by all Courts prior thereto. The Tribunal is, therefore, required to exercise jurisdiction in the manner and to the extent required by or under the Administrative

Tribunals Act, for it is well settled that the powers of a statutory body are always subject to the statute which has constituted it, and must be exercised consistently with the statute. *S.R. Tewari Vs. District Board Agra and Another*,

14. Sub-section (1) of Section 19 enables a person aggrieved, by any order pertaining to any matter within the jurisdiction of a Tribunal, to make an application to the Tribunal for the redressal of his grievance. Under Sub-section (3), on receipt of such an application, if the Tribunal is satisfied, after such enquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, it may admit such application, and where it is not so satisfied, it may summarily reject the application after recording its reasons. The enquiry contemplated u/s 19(3) is limited only to a determination as to whether the application is a fit case for adjudication or trial by the Tribunal and, if it is satisfied that it is a fit case, it may admit the application. Neither Section 19 nor any other provision of the Administrative Tribunals Act, either expressly or by necessary implication, confers jurisdiction on the Tribunal to allow an application at the admission stage without notice to the respondents.

15. Section 22 provides that the Tribunal shall not be bound by the procedure laid down under the CPC but shall be guided by principles of natural justice and of any rules made by the Central Government. Section 22(1) also enables the Tribunal to regulate its own procedure. Section 30 provides that all proceedings before the Tribunal are judicial proceedings and Section 22(1) requires the Tribunal to be guided by principles of natural justice, to the rules made by the Central Government and to the rules which it has framed to regulate its procedure, the question as to whether the Tribunal has been conferred jurisdiction to allow an application at the stage of admission, without notice to the respondents in the O.A., must be examined in the context of the relevant rules also.

16. Under Rule 11(1) of the A.P. Administrative Tribunal (Procedure) Rules, 1989, any notice to be issued by the Tribunal may be served on the respondents in any of the modes prescribed thereunder. Sub-rule (4) of Rule 11 empowers the Tribunal to direct service of notices on the Standing Counsel appointed as such by the State Government or any Department of the State Government. Under Sub-rule (5), such a notice is required to be accompanied by a copy of the application and a copy of the paper-book. Under the proviso to Rule 11, no application shall be heard unless notice of the application has been served on the State Government where it is a respondent. Under Rule 12(1) every respondent, intending to contest the application, shall file its reply with the Registry of the Tribunal within one month of service of notice of the application. Clause (5) of Rule 12 enables the Tribunal to allow a reply to be filed even after expiry of the prescribed period. Under Rule 13, the Tribunal is required to notify the parties regarding the date of hearing of the application. Rule 18 provides for *ex parte* hearing and it is only when, on the date fixed for hearing of the application, or on

any other date to which the hearing is adjourned, if the applicant appears and the respondent does not appear that the Tribunal may, in its discretion, either adjourn the hearing or hear and decide the application ex parte.

17. Rule 20 of the A.P. Administrative Tribunal (Practice) Rules, 1995 requires the notice to be served not less than fourteen days before the date fixed for hearing. Rule 21 provides that notices shall ordinarily be sent by Registered Post with Acknowledgement Due.

18. The distinction between an "enquiry" u/s 19 of the Act and a "hearing" under the A.P. Administrative Tribunal (Procedure) Rules 1989 and the A.P. Administrative (Practice) Rules, 1995 must not be lost sight of. The "enquiry", provided for u/s 19(3), is only to determine as to whether the application as filed is a fit case for adjudication or trial. Such an enquiry precedes admission of the application. The enquiry is summary in nature and is based solely on the application filed and the documents annexed thereto, without the benefit of a reply being submitted by the respondents to the application. On the other hand, a "hearing" takes place only after notice is served on the respondents in the mode prescribed under Rule 11 (1) of the 1989 Rules and Rule 21 of the A.P. Administrative Tribunal (Practice) Rules, 1995. While Rule 12 of the 1989 Rules requires the respondent to file its reply within one month of service of the notice and Rule 13 requires the Tribunal to notify to the parties the date and hearing of the application, Rule 20 of the A.P. Administrative Tribunal (Practice) Rules 1995 prescribes that the notice shall be served not less than fourteen days before the date fixed for hearing. The minimum period before which an application can be finally heard is fourteen days from the date on which notice has been served on the respondent and after the date and place of hearing of the application is notified by the Tribunal. It is only after the application is "heard" can it be allowed.

19. A conjoint reading of the provisions of the Administrative Tribunals Act, the 1989 Rules and the 1995 Rules, make it clear that the Tribunal has no jurisdiction to allow the Original Application at the stage of admission without notice being served on the respondents and without giving them an opportunity of being heard. The opportunity of a hearing being given to a Government Pleader, (No. 1 appearing on behalf of the State Government), at the stage of admission is only for the purposes of an enquiry as to whether the application is a fit case for adjudication or trial and not for the purposes of allowing the O.A. at the stage of admission. The A.P. Administrative Tribunals Act, 1985 and the Rules made thereunder do not confer jurisdiction on the Tribunal to allow the application at the stage of admission, without notice to the respondents in the O.A. On the other hand the Rules prohibit an O.A. being heard and allowed before a notice is served on the respondents, without giving them an opportunity of filing their reply to the O.A., and of being heard. Principles of natural justice, which the Tribunal is required to be guided by, would necessitate that the respondents are put on notice of the application, being given an opportunity to

submit their reply thereto as also an opportunity of being heard. Allowing the O.A. at the admission stage, without notice to the respondents and without giving them an opportunity of being heard, would be in violation of principles of natural justice.

20. In *Syed Kaja Moizuddin* (9 supra), the order of the Tribunal, in allowing the O.A. at the stage of admission, was the subject matter of challenge before this Court. The Division Bench observed:

...A plain reading of Sub-section (3) of Section 19 of the Act would make it clear that if the Tribunal is satisfied after hearing and making such enquiry as it may deem necessary at the admission stage shall admit such application filed by the aggrieved person and in case if the Tribunal is not satisfied it may summarily reject the application after recording its reasons. So far as the admission is concerned no reasons are required to be recorded. But when the Tribunal is not satisfied with the application filed by the aggrieved person it may reject the same summarily and in case of such rejection reasons are to be recorded. It appears to us that the Tribunal cannot dispose of/allow the application itself at the admission stage particularly in case where such orders are likely to result in some serious civil consequences against such individuals who are not impleaded as parties and who are not heard by the Tribunal. Such a course is impermissible.

In other words, the principles of natural justice requires that no order shall be passed adversely affecting the rights of any individual without putting the individual on notice and providing a reasonable opportunity of being heard....

(emphasis supplied)

21. At the stage of Admission, the Tribunal is required to consider whether the averments in the application entitle the applicant to seek the relief prayed for and whether such a relief can be granted. If the Tribunal is of the opinion that a prima facie case is made out for granting the relief sought for in the O.A., notice is issued calling upon the person or persons against whom the relief is sought to show cause why such relief should not be granted. If, however, the Tribunal finds that no such prima facie case is made out, the O.A. may be dismissed without issuing notice to the person or persons against whom the relief is sought. The object is to ensure that an O.A., which is frivolous in nature or in which no relief can be granted by the Tribunal, is dismissed at the threshold. *Union of India and Another Vs. S.P. Anand and Others*, *Smt. Gunwant Kaur and Others Vs. Municipal Committee, Bhatinda and Others*, . More often than not a request for disposal of the O.A. at the admission stage is acceded to by Courts/ Tribunals, without notice being issued to the respondents, on the premise that the relief sought for is innocuous, when a detailed examination of the matter would belie such an assumption. In *State of M.P. and others Vs. Makers Development Service Pvt. Ltd.*, and another, the Supreme Court remanded the matter back to the High Court, in view of the wholly unsatisfactory manner in which the writ petition had

been disposed of as the Division Bench of the High Court had disposed of the writ petition before it, even before issuing notice to and calling upon the State Government to file its counter-affidavit.

22. It is apparent from the record, and is also not in dispute, that O.A. No. 6409 of 2004 filed before the Tribunal on 23-11 -2004 came up for admission on 25-11 -2004 and on the same day i.e., on 25-11 -2004 the Tribunal passed orders allowing the O.A.

23. The Tribunal has recorded in its order that the learned Counsel for the applicant and the learned Government Pleader were heard. As has been held by Supreme Court in *Ramdas Srinivas Nayak* (3 supra) and *Bureau Veritas* (5 supra), statements recorded in judgments, as to what transpired in Court, must be accepted. We must therefore proceed on the premise that the learned Government Pleader was heard. The question, however, is not whether the Government Pleader was in fact heard or not, but the scope and extent of hearing afforded to him at the stage of admission of an Original Application. The enquiry made by the Tribunal at the stage of admission, as is clear from Section 19(3) of the Administrative Tribunals Act, is only to satisfy itself that the application is a case fit for its adjudication or trial, in which event the Tribunal would admit the application. At that stage, the Government Pleader could have only been heard in relation to the admission of the application by the Tribunal, as no notice had been served on the respondents, they were not afforded an opportunity to file their reply to the O.A., and were not given an opportunity of being heard. While it is true, as has been held in *Sonachalam Pillai* (6 supra), that in the absence of any evidence to the contrary, Courts must presume that the mandatory provisions of procedural law and rules and legal forms have been complied with by the Tribunal, while passing its order, a perusal of the order of the Tribunal would, by itself and without any further examination, establish that neither the procedural requirements of Section 19(3) of the Administrative Tribunals Act, 1985, nor those under the A.P. Administrative Tribunal (Procedure) Rules, 1989 and the A.P. Administrative (Practice) Rules, 1995 had been complied with, before the Original Applications were allowed.

24. The contention that this Court must presume that the learned Government Pleader had given his consent to the O.A. being allowed at the stage of admission and that such consent must be inferred from the fact that no plea to the contrary has been taken in the affidavit filed in support of the writ petition, does not merit acceptance. As has been held by the Supreme Court in *Ramdas Srinivas Nayak* (3 supra) and *Bureau Veritas* (5 supra), statements of facts as to what transpired during the hearing, as recorded in judgment of Courts, are conclusive of the facts so stated. The Tribunal, in its order in O.A. No. 6409 of 2004 dated 25-11 -2004, has not recorded that the Government Pleader has consented to the O.A. being allowed at the stage of admission. It cannot, therefore, be said that Government Pleader had consented to the O.A. being allowed at the stage of admission. As it is apparent from the order itself, that no

such consent was given by the Government Pleader, it is unnecessary for us to examine the submission of Sri P. Balakrishnamurthy, learned Counsel for the petitioner, that even if the Government Pleader had given his consent, the Tribunal did not have jurisdiction to allow the O.A. at the stage of admission without notice to the respondents.

25. Can this Court examine the question, regarding inherent lack of jurisdiction of the Tribunal to allow the O.A. at the stage of admission, in the absence of a plea in the writ petition or where the pleadings in this regard are insufficient?

26. In its affidavit, filed in support of W.P. No. 13356 of 2005, the State Government has specifically pleaded that the Tribunal had rendered the judgment at the admission stage without hearing the respondents and the likely to be effected parties which was had in law and that, if notice had been given, and the Government or any of the affected parties heard, they would have appraised the A.P.A.T. about the position that the judgment of the High Court in W.P. No. 17497 of 1999, which related to the irrigation department, was not relevant to the R & B department. Similarly in W.P. No. 26818 of 2006, a specific plea has been taken that the Tribunal had disposed of the O.A. at the admission stage without examining as to whether the judgment of the Tribunal, as confirmed by the High Court, relating to the irrigation department was applicable to the R & B department. In both the affidavits, filed in support of W.P. No. 13356 of 2005 and W. P. No. 26818 of 2006, a specific plea has been taken that the O.A. was disposed of at the admission stage without examining as to whether the judgment of the High Court, in W.P. No. 17497 of 1999 and batch dated 21-11-2003 which related to the irrigation department, could be applied to the R & B department. The fact that notice was not given either to the government or to any of the affected parties has also been specifically pleaded.

27. In the light of these specific pleas, that the O.A. was disposed of at the admission stage without notice to the Government, the contention raised before us, that the Administrative Tribunals Act and the rules made thereunder did not empower the Tribunal to allow the O.A. at the admission stage without notice to, and without hearing, the respondents, can certainly be examined, for it cannot be said that the required pleadings in this regard are lacking.

28. Even otherwise, the question as to whether the Administrative Tribunals Act and the rules made thereunder confer power on the Tribunal to allow the O.A. at the stage of admission without notice to the respondents in the O.A., related to the construction and interpretation of statutory provisions and, being a pure question of law, can be raised at any stage. A point relating to a pure question of law, not involving any investigation of facts and which goes to the root of the matter, may be permitted by the Court to be taken even though not raised earlier. *Tarini Kamal Pandit and Others Vs. Prafulla Kumar Chatterjee (Dead) by Legal Representatives*, . A pure question of law arising from the record or where it relates only to the construction of a statute can be gone into even though it was never raised nor argued earlier. *State of Uttar Pradesh and others Vs. Dr.*

Anupam Gupta, etc., and T.C. Appanda Mudaliar (Dead) by L. Rs. Vs. State of Madras, .

29. Now the judgments relied upon on behalf of the respondent-applicants.

30. In Bharat Singh (1 supra), the Supreme Court held:

...As has been already noticed, although the point as to profiteering by the State was pleaded in the writ petitions before the High Court as an abstract point of law, there was no reference to any material in support thereof nor was the point argued at the hearing of the writ petitions. Before us also, no particulars and no facts have been given in the special leave petitions or in the writ petitions or in any affidavit, but the point has been sought to be substantiated at the time of hearing by referring to certain facts stated in the said application by HSIDC. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the Court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the CPC and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it....

(emphasis supplied)

31. A point which is ostensibly a point of law and is required to be substantiated by facts must be pleaded and proved by evidence either in the writ petition or in the counter-affidavit. In the case on hand it is apparent from the record itself that O.A. No. 6409 of 2004 was allowed on the same day when it came up for admission on 25-11 -2004. The question which we are called upon to examine is as to whether the Administrative Tribunals Act and the rules made thereunder enable the Tribunal to do so. The question of law raised herein does not require to be substantiated by facts, as the aforesaid facts are apparent from the record. The judgment in Bharat Singh (1 supra) is therefore of no assistance.

32. In Larsen and Toubro Ltd. (2 supra), the Supreme Court observed:

...In the absence of any allegation that Rule 3 had not been complied and there being no particulars in respect of non-compliance of Rule 4 also, it is difficult to see as to how the High Court could have reached the finding that statutory requirements contained in these Rules were not fulfilled before issuance of notification u/s 4 and declaration u/s 6 of the Act. The High Court did not give any reason as to how it reached the conclusion that Rules 3 and 4 had not been complied in the face of the record of the case. Rather, it returned a finding which

is unsustainable that it was not possible on the basis of the material on record to hold that there was compliance with Rules 3 and 4....

...We do not think it is necessary for us to set out in any detail as to how requirements of Rule 4 have been complied with when in presence of the relevant record it was difficult for the respondent to contend otherwise. It was conceded that there was no specific averment relating to Rule 3. Even otherwise, we find that stipulations contained in Rule 3 were fully observed....

...It is not enough to allege that a particular rule or any provision has not been complied with. It is a requirement of good pleading to give details, i.e., particulars as to why it is alleged that there is non-compliance with a statutory requirement. Ordinarily, no notice can be taken on such an allegation which is devoid of any particular. No issue can be raised on a plea the foundation of which is lacking. Even where rule nisi is issued, it is not always for the department to justify its action when the Court finds that a plea has been advanced without any substance, though ordinarily the department may have to place its full cards before the Court....

(emphasis supplied)

33. The contention raised in *Larsen & Tourbro Ltd.* (2 supra), was that Rule 3, of the Land Acquisition (Companies) Rules, 1963, had not been complied with. It is in this context that the Supreme Court observed that it was not sufficient to allege that a particular rule had not been complied with and that particulars ought to have been furnished as to why it was alleged that there was non-compliance with the statutory requirements. The Supreme Court held that no notice could be taken of such an allegation which was devoid of any particulars. In the present batch of cases, even Sri K. Satyanarayana, learned Counsel for the respondent-applicants, does not dispute that the O.A. was allowed on the same day on which it came up for admission. The question which we are called upon to examine is whether the Administrative Tribunals Act and the rules made thereunder enable the Tribunal to do so. The only plea required to be taken, to examine this contention, is that the O.A. was allowed at the stage of admission without notice to the respondents. Such a plea has, indeed, been taken. "

34. In *M. Purandara* (8 supra), the Supreme Court held:

...We find that the writ petitioners had not questioned the selection of the persons who are affected by the High Courts impugned order. They were not applicants before the Tribunal, on the contrary they questioned correctness of the view expressed by the Tribunal allowing the original applications filed by some of the respondents. Therefore, the subject-matter of adjudication before the High Court could not have been enlarged by the High Court at the instance of the writ petitioners.

In *V.K. Majotra v. Union of India* (2 supra), this Court observed as under: (SCC p.45, Para 8)

No. 1 for the parties are right in submitting that the point on which the writ petition has been disposed of was not raised by the parties in their pleadings. The parties were not at issue on the point decided by the High Court.

In *State of Maharashtra v. Jalgaon Municipal Council* (3 supra), this Court observed as under: (SCC p.758, Para 33).

In the absence of any challenge having been laid, the constitutional validity of the amendment cannot be gone into.

Recently, in *President, Poornathrayisha Seva Sangham v. K. Thilakan Kavenal* (4 supra), in para 9, it was observed as under: (SCC pp.691-92)

Above being the position, we feel that nothing further remains to be done in this appeal except noticing that certain observations made, as regards the functioning of the appellant Society and its credibility were unnecessary. For the purpose of adjudication of the dispute before the High Court which only related to the permission granted to use the Oottupura, other observations and views expressed by the Division Bench are, therefore, treated as inoperative. Since disputed facts were involved, the High Court should not have gone into them even in respect of the primary grievances of the writ petitioner.

The aforesaid position was recently highlighted in *Secy. To the Govt. v. M. Senthil Kumar* (5 supra).

Therefore, the direction given for filing affidavits and the consequential action to be taken thereon cannot be maintained and are vacated. We make it clear that we have not expressed any opinion on the correctness or otherwise of the view expressed by the High Court. We have interfered only on the ground that such an issue was not before the Tribunal and nobody had questioned in this regard before the Tribunal....

(emphasis supplied).

35. In *M. Purandara* (8 supra), the contention raised before the Supreme Court was that the High Court had adjudicated an issue which was not the subject matter of challenge before the High Court and that, in any event, persons who were effected by the decision were not impleaded as parties. A notification was issued inviting applications to fill up posts of Assistant Masters/Primary School Teachers in Mandya District. Pursuant to the selections, a provisional list of selected candidates was prepared and published. Since the Karnataka High Court had declared that awarding of 10% weightage to rural candidates was unconstitutional, clarification was issued on 23-5-2000 to the effect that the candidates in the provisional list would be entitled to the benefit of rural weightage but those who had applied subsequent to the decision in the writ petition were not entitled thereto. The final selection list was published on 4-7-2000. Questioning the clarificatory order dated 23-5-2000, and the select list published, several O.As. were filed. The relief sought for was to re-do the selection process considering all the applicants by awarding rural weightage,

invite objections and thereafter publish the final seniority list. The Tribunal held that the clarification dated 23-5-2000 was contrary to the Division Bench judgment of the Karnataka High Court and was without authority of law. The selecting authority was directed to prepare a fresh provisional list, call for objections and thereafter publish the final select list. On a challenge to the order of the Tribunal, the High Court noted two questions as arising for its consideration. (1) The question of rural weightage; and (2) whether the provisional seniority list published on 14-6-1999 was treated as a final list. However, before the High Court, it was urged by the petitioners that the selection process was vitiated and some persons, who were otherwise ineligible, had been selected and their names had been placed in the select list. It was urged on behalf of the respondents before the High Court that such a plea was not raised before the Tribunal and this was a fresh cause of action emanating from the final selection and had nothing to do with the controversy before the Tribunal. While finding justification in the objections, the High Court held that in the broader interest of justice, keeping in view the need to avoid litigation, certain directions were necessary to be given to do complete justice. In the present case the jurisdiction of the Tribunal, to allow the application at the stage of admission without notice to the respondents, is in issue. Such a contention could not have been raised earlier before the Tribunal, it could only have been put in issue in writ proceedings under Article 226 of the Constitution of India. Such a contention has been raised on behalf of the petitioners and it is this contention which we have been called upon to examine. The judgment in *M. Purandara* (8 supra), is also of no assistance to the respondent-applicants herein.

36. The contention that, in view of the subsequent proceedings dated 13-12-2004 not having been challenged, the order in O.A. No. 6409 of 2004 could not have been challenged must only be noted to be rejected. The proceedings of the Engineering-in-chief dated 13-12-2004 was in purported compliance of the order of the Tribunal in O.A. No. 6409 of 2004. Since the order of the Tribunal, in O.A. No. 6409 of 2004, is itself under challenge in these batch of writ petitions, failure to challenge the consequential proceedings dated 13-12-2004 is of no consequence.

37. The contention that the order of the Tribunal did not decide the rights of parties does not necessitate detailed examination. The power and duty of the High Court under Article 226/227 of the Constitution of India is essentially to ensure that Courts and Tribunals, inferior to it, have done what they are required to do in law. The High Court would, ordinarily, interfere in cases where the subordinate Courts or Tribunals have acted contrary to law, erroneously assumed or have acted beyond their jurisdiction or where the orders have resulted in manifest injustice. *Achutananda Baidya Vs. Prafulla Kumar Gayen and others*, ; *State of Andhra Pradesh Vs. P.V. Hanumantha Rao (D) thr. Lrs. and Another*, . In the present case the Tribunal has acted contrary to the provisions of the Administrative Tribunals Act and the rules made thereunder in allowing the O.As. at the admission stage without notice to the respondents and without giving

them an opportunity of submitting their reply to the application and of being heard thereafter.

38. The impugned orders of the Tribunal, allowing the O.As. at the stage of admission without notice to the respondents, are accordingly set aside and the matters are remanded to the Tribunal for its consideration afresh in accordance with law.

39. The writ petitions, are allowed. However, in the circumstances, without costs.