

(1954) 10 AHC CK 0017

In the Allahabad High Court

Case No : Misc. Application No's. 141 and 181 of 1950

Murari Lal Solan

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 12-10-1954

Acts Referred:

Constitution of India, 1950 — Article 245

Uttar Pradesh (Temporary) Accommodation Requisition Act, 1947 — Section 1(5)

Citation : AIR 1955 All 48

Hon'ble Judges : Malik, C.J;V. Bhargava, J;Mukherji, J;M.L. Chaturvedi, J;Asthana, J

Bench : Full Bench

Advocate : R.S. Pathak and Nathoo Singh Singhal, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Disposed Of

Judgement

Malik, C.J.—On a difference of opinion between Mr. Justice Wali Ullah and Mr. Justice Agarwala a question of law was referred to a third Judge. The learned Judge to whom the question was referred in view of the decision of a Full Bench of this Court in the case of -- Ram Kishan Vs. State, , thought it necessary that the question should be decided by a Full Bench of five Judges, as in his opinion the decision in -- "State v. Ram Kishan", (A), needed reconsideration.

2. The question referred for consideration is as follows:

"Whether Section 1 (5) U. P. (Temporary) Accommodation Requisition Act, 25 of 1947, in so far as it authorises the Provincial Government to direct the extension of the life of the Act beyond one year from 1-10-1947, is "ultra vires" the U. P. Legislature?"

3. The U. P. (Temporary) Accommodation Requisition Act, 25 of 1947 (hereinafter called the Act) was passed, as its preamble shows, because of shortage of accommodation, which had become very acute due to the large influx of refugees

as a result of the partition of the country. The District Magistrate was empowered to requisition accommodation for the settlement of the refugees. How long it would take for the situation to come back to normal was not known. It was, however, anticipated that things might settle down in a year's time but the possibility of the provisions of the Act being needed even after the expiry of one year was also foreseen. The Legislature, therefore, provided in Sub-section (5) of Section 1 that:

"It (that is, the Act) shall cease to have effect on the expiration of one year from October, 1 1947, or if the Provincial Government so directs by notification in the Official Gazette, on the expiration of two years beginning with that date except as respects things done or omitted to be done before the expiration thereof, and Section 6 of the United Provinces General Clauses Act, 1904, shall apply upon the expiration thereof as if it had been repealed by an United Provinces Act."

The Act was, therefore, passed for a period of one year certain and it was left to the State Government, if in their opinion the exigencies of the situation so required it, to issue a notification, and then the Act was to continue to remain in force for a further period of one year.

4. Learned counsel for the applicant has urged that the power of extending the life of the Act by a further period of one year was delegated legislation which was not permissible under the law. He has relied on a decision of a Full Bench of this Court in *Ram Kishan Vs. State*, . In view of the later decisions of the Supreme Court that case can no longer be said to lay down correct law. In the "*Delhi Laws*" Case, *In Re. Article 143 Constitution of India and Delhi Laws Act (1912) etc.* AIR 1951 SC 332 (B)"; the question arose, before the Supreme Court, whether the Legislature could empower the Government to apply existing legislation to specified areas. This was challenged on the ground that it amounted to delegating legislative authority and was, therefore, invalid.

The President made a reference to the Supreme Court under Article 143 of the Constitution. The opinion expressed in that case by the learned Judges has been summarised in a recent decision of the Supreme Court,-- *Rajnarin Singh Vs. The Chairman, Patna Administration Committee, Patna and Another*, . If it was possible for the Legislature to empower the Govt. to consider the circumstances and decide whether the existing laws should or should not be applied to a particular area, it cannot be seriously challenged that the U. P. Legislature could leave it to the discretion of the State Government that, if things did not settle down and the problem of influx of refugees made it necessary, the Act should remain in operation for a further period of one year. The State Government could in that case issue a notification and thereby extend the life of the Act.

5. The argument generally advanced against delegation of legislative authority is that the Legislature cannot abdicate its functions in favour of any other person or body. There could in this case, be no question of the Legislature abdicating its powers. The Legislature enacted the law for a period of one year and foresaw the

possibility that it might be necessary to extend the life of the Act for a further period of one year. The State Government had only to examine the situation at the end of the year and decide whether the need for requisition of houses still existed. This point recently came up for decision in -- "Mt. Bhagwati Devi v. Sardar Balwant Singh", E. S. A. No. 1485 of 1951, D/- 169-1954 (All) (D), and it was held by the Full Bench that Section 1 (5) of the Act was not "ultra vires" the U. P. Legislature. In view of what has been said in that case it is not necessary for us to say anything more.

6. Our answer, therefore, to the question referred is that Section 1 (5) of the U. P. (Temporary) Accommodation Requisition Act, 25 of 1947, in so far as it authorises the Provincial Government to direct the extension of the life of the Act for a further period of one year after the expiry of the one year fixed by the Act, is not "ultra vires" the U. P. Legislature.