(2010) 09 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1 of 2002

Som Distilleries Pvt. Ltd. and Another — APPELLANT

Vs

State of Rajasthan and Another — RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 301
Rajasthan Municipalities (Amendment and Validation) Act, 2000 — Section 130A, 3
Rajasthan Municipalities Act, 1959 — Section 104

Citation : AIR 2011 Raj 6 : (2011) 2 RLW 1671

Hon'ble Judges : Satya Prakash Pathak, J;Arun Mishra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Arun Mishra, J.—The writ petition has been filed by the Petitioners assailing the constitutional validity of the Rajasthan Municipalities (Amendment and Validation) Act, 2000 (Act No. 17 of 2000) (hereinafter referred as the Amendment and Validation Act) amending the Rajasthan Municipalities Act, 1959 (hereinafter referred to as the Act) and validating the recovery of octroi as per Section 3 of the Amendment and Validation Act.

2. The facts in short are that the Petitioners earlier had preferred a writ petition out of which, DB Civil Special Appeal No. 101/95 arose. The same was decided by the judgment dated 2-4-1998 along with other matters. In the previous writ petition, questions were raised that whether it is the sale simpliciter which attracts the levy of octroi or the octroi becomes leviable when sale is for the purpose of consumption or use, competence of the State to levy octroi merely on sale and if the goods are brought within the limits of the Municipality to be detained temporarily for some period and subsequently re-exported outside the limit, without consumption or use the octroi realised on these goods become liable to be refunded or not. The decision was rendered by the Division Bench of this Court. This Court observed while considering the provisions of the Act and

the Rajasthan Municipalities (Octroi) Rules, 1962 that the Rules only help in the working of the Act. They deal with the procedure only. If the Act provides that octroi can be levied on goods brought on sale to be followed by consumption or use, then the Rules will not make the trader helpless in getting the refund where the goods have not been consumed or used within the limit of that Municipality. Rules are only an aid in the working of the Act. Non-compliance or omission to comply with the provisions of the Rules which is only procedural, will not take away the legal right of refund of octroi which was not leviable as the goods have been re-exported without consumption or use. The object and scheme behind these rules is to identify and quantify the goods re-exported outside the municipal limits without use or consumption. These rules have to be read and applied harmoniously in such a way that they do not come in conflict and are not inconsistent with the object of the Act. Rules cannot defeat the provisions of the Act. If the rules is to be given a very strict interpretation, that will not be conducive in the free trade and commerce. The burden lies upon the Petitioners to establish that the goods brought in have been re-exported without consumption or sale. Municipal Boards were directed to enter into exercise whether the goods have been re-exported without consumption or sale or use within its area. Thereafter the State Government has enacted the Validation Act inserting Section 130A after existing Section 130. Section 3 has also been enacted validating the octroi levy charged before commencement of the Validation Act and any action taken or thing done before such commencement. Thus, Section 130A has been inserted with retrospective effect.

3. The validity of the Act No. 17 of 2000 of the Amendment and Validation Act has been assailed by way of filing the instant writ petition contending that recovery made upto 31-1-1994 of a sum of Rs. 4,66,596/- which was ordered to be refunded in previous writ petition, SLP against which was dismissed by the Apex Court, ought to have been refunded by the Municipal Corporation. It is submitted that the Validation Act is violative of Articles 14, 21, 301 of the Constitution of India. Contempt petitions were also filed which were disposed of as having become infructuous due to aforesaid enactment. Blanket power has been used so as to get rid of the order passed by the Court.

4. In the return filed by the Respondent No. 1, though it has been styled as reply on behalf of Respondents, it is contended that the Validation Act is a valid piece of legislation. Lack of provision was the main reason for previous decision which led to incorporation of Section BOA. It is open to the legislation to enact such a provision. No effort has been made to encroach upon the functioning of the judiciary. It cannot be said to be a fetter created upon free flow of trade and commerce. No return has been filed on behalf of Respondent No. 2.

5. Shri Nitin Jain, learned Counsel appearing on behalf of Petitioners, has submitted that it is not permissible to get rid of the judgment passed by the Court by way of enactment with retrospective effect taking away the vested right. Thus, Validation Act be declared ultra vires. He relied upon the decisions

rendered in T.R. Kapur and Others Vs. State of Haryana and Others, Bannari Amman Sugars Ltd. Vs. Commercial Tax Officer and Others, Sarbananda Sonowal Vs. Union of India (UOI), and Division Bench decision of this Court in State of Rajasthan v. Bajrang Lal Sharma and Ors. 2010 (2) WLC 133 : (2010 Lab IC 2631.

6. Shri G.S. Bapna, learned Advocate General appearing on behalf of State, has supported the Amendment and Validation Act, 2000". He has contended that to meet basis of the previous judgment, the amendment has been made with retrospective effect and such an amendment and validation is permissible under the law. Previously, the declaration was required to be submitted under Rules, There was no provision in the Act. No fetter has been created on free flow of trade and commerce by enacting the aforesaid provision. In support of his submission, he has placed reliance upon the decisions in Hari Singh and Others Vs. The Military Estate Officer and Another, : Hari Singh and Others Vs. The Military Estate Officer and Another, , I.N. Saksena Vs. State of Madhya Pradesh, and Bakhtawar Trust and Others Vs. M.D. Narayan and Others, : Bakhtawar Trust and Others Vs. M.D. Narayan and Others, and has also referred to Entry 52 of List-II of 7th Schedule of the Constitution of India so as to point out that the State has authority to levy octroi. Shri Shyam Arya, learned Counsel appearing on behalf Respondent No. 2 Municipal Corporation has supported the submissions raised by the learned Advocate General.

7. Section 104 of the erstwhile Rajasthan Municipalities Act, 1959 provided for obligatory taxes to be levied. Section 104(2) provided for levy of octroi on goods and animals brought within the limits of the municipality for consumption or use or sale therein. The State has competence to impose tax on entry of goods into a local area for consumption, use or sale therein uder Entry-52 of List II of 7th Schedule of the Constitution of India. Section 130 provided for power to examine and search for articles liable to octroi. Section 131 dealt with presentation of bill for octroi. Section 132 dealt with penalty for evasion of octroi duty. Section 133 dealt with power to keep current account with firm or public body in lieu of levying octroi on introduction of goods. The Rules were also framed called Rajasthan Municipalities (Octroi) Rules, 1962. Rule-3 of the said Rules provided for establishment of octroi outposts. Rule-5 provided for stoppage of vehicles and conveyances at octroi outposts. Rule-6 provided for payment of octroi duty. Rule-9 dealt with declaration of goods brought into the Municipal limits. Rule 9(1) provided that every person bringing within the Municipal limits goods liable to payment of octroi shall produce such goods at the octroi outpost and shall declare whether goods are intended-- (i) for consumption, use or sale within the Municipality, or (ii) for immediate transportation outside the Municipality, or (iii) for temporary detention within Municipal limits and eventual transportation outside Municipal limits. Rule-9(2) provided that declaration under Clause (i) of Sub-rule (1) may be oral and declarations under Clauses (ii) and (iii) shall be in writing in Form No. 1 and shall be tendered to the in-charge of the octroi outpost at the time of bringing the goods within the Municipality. If no such declaration is

made, the goods shall be treated as having been brought within the Municipal limits for consumption, use or sale therein. Rule-9 is relevant and the same is quoted below:

9. Declaration of goods brought into the Municipal limits.-- (1) Every person bringing within the Municipal limits goods liable to payment of octroi shall produce such goods at the octroi outpost and shall declare whether goods are intended-

(i) for consumption, use or sale within the Municipality, or

(ii) for immediate transportation outside the Municipality, or

(iii) for temporary detention within Municipal limits and eventual transportation outside Municipal limits.

(2) Declaration under Clause (i) of Sub-rule (1) may be oral and declaration under Clauses (ii) and (iii) shall be in writing in Form No. 1 and shall be tendered to the in-charge of the octroi outpost at the time of bringing the goods within the Municipality. If no such declaration is made, the goods shall be treated as having been brought within the Municipal limits for consumption, use or sale therein.

8. Rule-10 provided for procedure of levy of octroi duty. Rule-13 provided for facilities for current accounts, holders of which were entitled to claim refund as per procedure provided under the Rule. As per proviso to Sub-rule (4) of Rule 10, in computing the octroi duty payable, the goods transported outside the Municipal limits shall be lessened only if such goods have not been sold within the Municipal limits and that if they have been exported out of such limits within a period of six months from the date of their import in such limits.

9. It is not in dispute on the facts that the requisite declarations were not furnished as per Rule-9 of the Rules of 1962 at the time when the goods were brought within the Municipal limits at the relevant time. The Division Bench of this Court in the decision dated 2-4-1998 rendered in the case of Petitioner Som Distilleries and other matters has held that "on a harmonious construction of the Act and Rules, we are of the view that the Rules only help in the working of the Act. They deal with the procedure only. If the Act provides that octroi can be levied on goods brought on sale to be followed by consumption or use, then the Rules will not make the trader helpless in getting the refund where the goods have not been consumed or used within the limit of that Municipality. Rules are only an aid in the working of the Act. Non-compliance or omission to comply with the provisions of the Rules which is only procedural, will not take away the legal right of refund of octroi which was not leviable as the goods have been re-exported without consumption or use. The procedure prescribed under the Rules have been framed to ensure the refund of octroi on the goods re-exported unused or unconsumed." The Division Bench has further held that "following the view expressed by the Supreme Court in the case of Telco, we are of the opinion that if the Rules have not been followed strictly or not followed at all, it will not

make any difference. The object and scheme behind these rules is to identify and quantify the goods re-exported outside the municipal limits without use of consumption in order to verify the exact amount of octroi initially charged which became subsequently refundable on account of re-export. Through the Rules, it has to be re-ascertained the goods imported for consumption, use or sale in the municipal area and a portion of that goods which has temporarily been retained in the limits of the municipality and then re-exported from its limit.

These rules have to be read and applied harmoniously in such a way that they do not come in conflict and are not inconsistent with the object of the Act. If the rule is to be given a very strict interpretation that will not be conducive in the free trade and commerce. Ultimately, it would not be in the interest of the State.

In order to facilitate the working of the Municipality, the Petitioner is expected to follow the procedure and comply with it. But, even if it has not been strictly followed and it can establish that the goods imported were subsequently re-exported without consumption or use and they become entitled to the refund of the octroi tax paid by them. The burden lies on the Petitioners to establish the quantity of goods re-exported from the limits of the municipality in order to get refund keeping in view the limitation prescribed under the Rules which should be normally followed. But not following the Rules will not extinguish the right of refund of octroi provided under the Act.

10. The Division Bench further held that "Even if the Rules have not been followed but the Petitioners are able to establish that the goods brought within the limit of the Municipality and subseqently re-exported without consumption or use, they become entitled for the refund of the octroi paid on such goods. Of course, the burden lies on them to establish that the goods brought in have been re-exported without consumption or use. Non-compliance of the Rules will not take away the legal right of refund of the octroi provided under the Act. If the octroi was illegally realised it became liable to be refunded and the Rules cannot defeat the provisions of the Act". Direction was made to see whether the goods were exported without consumption or sale within the Municipal limits.

11. It appears from the judgment that the Rules were held to be aid in working of the Act. There was no provision in the Act of 1959 at the relevant time like Section 130A.

12. The Amendment and Validation Act, 2000 is quoted below:

The Rajasthan Municipalities

(Amendment And Validation)

ACT, 2000

(Act No. 17 of 2000)

(Received the assent of the Governor on the 18th day of November, 2000)

An

Act

further to amend the Rajasthan Municipalities Act, 1959 and to validate the levy and collection of octroi by the Municipal Corporation of Jaipur and Municipal Council of Alwar and to provide for matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the fifty first year of the Republic of India, as follows:

1. Short title and commencement.-- (1) This Act may be called the Rajasthan Municipalities (Amendment and Validation) Act, 2000.

(2) It shall come into force at once.

2. Insertion of new Section 130A, Rajasthan Act No. 38 of 1959.-- After the existing Section 130 and before Section 131 of the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959), hereinafter referred to as the principal Act, the following new section shall be inserted and shall be deemed to have always been inserted, namely:

130A. Production of the goods and making a declaration.-- (1) Every person bringing within the Municipal limits goods liable to payment of octroi shall produce such goods at the octroi outpost and shall declare whether goods are intended,--

(i) for consumption or use or sale within the municipal limits, or

(ii) for immediate transportation outside the municipal limits, or

(iii) for temporary detention within the municipal limits and eventual transportation outside municipal limits.

(2) Declaration under Clause (i) of Sub-section (1) may be oral and declarations under Clauses (ii) and (iii) of Sub-section (1) shall be in writing in Form No. 1 appended to the Rajasthan Municipalities (Octroi) Rules, 1962 and shall be tendered, to the in-charge of the octroi outpost at the time of bringing the goods within the municipal limits and if no such declaration is made, the goods shall be deemed as having been brought within the municipal limits for consumption or use or sale therein.

3. Validation.-- Notwithstanding any judgment, decree, order or decision of any Court or other authority to the contrary, any octoi levied, charged or collected or purporting to have been levied, charged or collected before the commencement of this Act and any action taken or thing done before such commencement in relation to such assessment, re-assessment, levy, charge or collection under the provisions of the principal Act and the rules made thereunder shall be deemed to be as valid and effective as if such assessment, re-assessment, levy, charge or collection or action or thing had been made, taken or done under the principal

Act as amended by this Act and the rules and bye-laws made thereunder and accordingly:

(a) all acts, proceedings or things done or taken by the Municipal Corporation of Jaipur and Municipal Council of Alwar or by the officers of the Municipal Corporation of Jaipur and Municipal Council of Alwar or by any other authority in connection with assessment, re-assessment, levy-charge or collection of such tax or octroi shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any Court or before any authority for the refund of any such tax or octroi and the proceedings, if any, before any authority or Court shall stand abated;

(c) no fresh proceedings for the refund of any such tax or octroi shall be maintainable before any Court or authority; and

(d) no Court shall enforce any decree or order directing the refund of any such tax or octroi.

Sd/-

Secretary to the Government.

13. It is apparent from the Act of 2000 that Section 130A has been inserted which provides the provisions alike Rule 9 of the Rules of 1962. In case no such declaration is made, the goods shall be deemed as having been brought within the municipal limits for consumption or use or sale therein. The provision has been inserted with retrospective effect. Validation has been made by virtue of Section 3 of the Act of 2000, with respect to octroi levied, charged or collected or purporting to have been levied, charged or collected before the commencement of this Act and any action taken or thing done before such commencement in relation to such assessment, re-assessment, levy, charge or collection under the provisions of the principal Act notwithstanding any judgment, decree, order or decision of any Court or other authority. Whether such an amendment and validation is permissible has been considered by the Apex Court in Hari Singh and Others Vs. The Military Estate Officer and Another, . The Apex Court has observed that the meaning of the Validation Act is to remove the causes for ineffectiveness or invalidity of actions or proceedings which are validated by a legislative measure. Thus, a validating law is upheld first by finding out whether the legislature possess competence over the subject-matter and secondly, whether by validation the legislature has removed the defect which the Courts had found in the previous law.

14. The Apex Court has also considered the effect of validation retrospectively changing the law and rendering the adverse decision ineffective while deciding the constitutionality of the provisions so enacted. Their Lordships have laid down distinction between the legislative and judicial function. Their Lordships have held in Hari Singh and Others Vs. The Military Estate Officer and Another, as

under:

18. The distinction between West Ramnad Electric Distribution Co. Ltd. Vs. State of Madras, case and Durga Nath Sarma''s AIR 1968 SC 394 case is this. In the West Ramnad Electric Distribution Co. Ltd. case (supra) the 1954 Act validated actions and proceedings under the earlier Act by a deeming provision that acts or things were done by virtue of the provisions of the 1954 Act. The 1954 Act was not found to have any constitutional infirmity. On the other hand Durga Nath Sarma''s case (supra) validated by the 1960 Act acquisition under the 1955 Act. The acquisition was not by or under the 1960 Act. The acquisition was under the 1955 Act. The 1955 Act was constitutionally invalid. Therefore, there was no validation of earlier acquisition.

19. The question of legislative competence to remove discrimination by a retrospective legislation came up for consideration before this Court in The State of Mysore and Another Vs. D. Achiah Chetty, etc., There were two Acts in Mysore for acquisition of private land for public purposes. One was the Mysore Land Acquisition Act, 1894. The other was the City of Bangalore Improvement Act, 1945. A notification under the 1894 Act was issued for acquisition of Chetty''s plots in Bangalore. Chetty challenged the acquisition on the ground that using the provisions of the Land Acquisition Act was discriminatory because in other cases the provisions of the Improvement Act were applied. The High Court accepted Chetty''s contention. During the pendency of appeal to this Court the Bangalore Acquisition of Lands (Validation) Act, 1962 was passed. It validated all acquisitions made, proceedings held, notifications issued or orders made under the Land Acquisition Act before the 1962 Validation Act came into force. The 1962 Validation Act was challenged on the ground that the two Acts prescribed two different procedures. It was also said that the Improvement Act was a special law, and, therefore, the Acquisition Act was to give way to the special law. The validating section in the Mysore case (supra) provided that every acquisition of land for the purpose of improvement, expansion or development of the City of Bangalore by the State acting or purporting to act under the Mysore Land Acquisition Act shall be deemed to have been validly made, held or issued. The validating section was impeached on the ground that there were still two Acts which covered the same field but prescribed two different procedures. It was also said that the Acquisition Act was a more prejudicial procedure and was discriminatory. This Court found that the legislature retrospectively made a single law for the acquisition of these properties. It was contended that an acquisition hit by Article 14 or anything done previously could not be validated unless the vice of unreasonable classification was removed. The 1962 Validation Act was impeached on that ground. This Court did not accept the submission and said "if two procedures exist and one is followed and the other discarded, there may in a given case be found discrimination. But the Legislature has still the competence to put out of action retrospectively one of the procedures leaving one procedure only available, namely, the one followed and thus to make disappear the discrimination. In this way a Validating Act can get over discrimination. Where,

however, the legislative competence is not available, the discrimination that if there is legislative competence the legislature can put removed (sic) by a legislature having power to create a single procedure out of two and not by a legislature which has not that power.

20. The Mysore case The State of Mysore and Another Vs. D. Achiah Chetty, etc., is an authority for the proposition that if there is legislative competence the legislature can put out of action retrospectively one of the procedures leaving one procedure only available and thus removing the vice of discrimination. That is exactly what has happened in the 1971 Act in the present appeals. The 1958 Act was challenged on the ground that there were two procedures and the choice of either was left to the unguided discretion of the Estate Officer. The 1971 Act does not leave any such discretion to the Estate Officer. Under the 1971 Act there is only one procedure. The deeming provision contained in Section 20 of the 1971 Act validates actions done by virtue of the provisions of the 1971 Act.

21. The meaning of a Validation Act is to remove the causes for ineffectiveness or invalidity of actions or proceedings which are validated by a legislative measure. This Court in Shri Prithvi Cotton Mills Ltd. and Another Vs. Broach Borough Municipality and Others, dealt with the Gujarat Imposition of Taxes by Municipalities (Validation) Act, 1963. u/s 73 of the Bombay Municipal Boroughs Act, 1925 a municipality could levy a rate on building or lands or both situate within the municipality. This Court held in Patel Gordhandas Hargovindas Vs. Municipal Commissioner, Ahmedabad, that the term ''rate'' must be confined to an impost on the basis of annual letting value and it could not be validly a levy on the basis of capital value. Because of this decision the Gujarat Legislature passed the Gujarat Imposition of Taxes by Municipalities (Validation) Act, 1963. The 1963 Act provided that past assessment and collection of ''rate'' on lands and buildings on the basis of capital value or a percentage of capital value was declared valid despite any judgment of a Court or Tribunal to the contrary. The earlier decision of this Court was applicable to the meaning of the word ''rate'' occurring in the 1925 Act. The Validation Act gave its own meaning and interpretation of the law under which the tax was collected. It was also said by this Court that a tax declared illegal could be validated if the ground of illegality was capable of being removed. Therefore, a validating law is upheld first by finding out whether the legislature possesses competence over the subject-matter, and, secondly, whether by validation the legislature has removed the defect which the Courts had found in the previous law.

22. The legislature had legislative competence to enact the 1971 Act. It means that it could legislate on the subject of providing a speedy procedure for eviction of persons in unauthorised occupation of public premises. The legislature has power to pass laws with retrospective operation. The challenge to the 1971 Act is that the 1958 Act is unconstitutional, and, therefore, there cannot be validation of anything done under an unconstitutional Act. The fallacy of the Appellants'' submission is in overlooking the crucial provisions in the 1971 Act that the 1971

Act is effective from 16 September, 1958 and the action done under the 1958 Act is deemed to be done under the 1971 Act. There is no vice of discrimination under the 1971 Act. There is only one procedure under the 1971 Act.

15. In Bakhtawar Trust and Others Vs. M.D. Narayan and Others, the Apex Court has laid down the law, principle to the similar effect.

16. Coming to the first requirement as observed in the Hari Singh and Others Vs. The Military Estate Officer and Another, as per Entry 52, List II of 7th Schedule of the Constitution of India, the State has competence to levy octroi. Second question is whether the State Government has tried to get rid of the previous judgment or has removed the defect which the Court has found in the previous decision. The answer is that it has removed the defect in the statute by inserting Section 130A with retrospective effect. Earlier it was the observation of this Court that provisions of the Act cannot be get rid of by the Rules like Rule-9. There was no such provision in the Act, now, by inserting the provision that requisite declaration u/s 130A has to be furnished in case goods are intended for consumption or use or sale within the municipal limits, or for immediate transportation outside the municipal limit, or for temporary detention within the municipal limits and eventual transportation outside municipal limits and effect of not furnishing declaration has already been provided u/s 130A. No such declaration has been made that goods were not for consumption or use or sale therein. Section 130A(2) provides for such declaration. There was similar provision under Rule-9 of the Rules of 1962. By virtue of Section 3 of the Validation Act, the levy has been validated. There was failure to submit such a declaration. It cannot be said that the Amendment and Validation Act was simply to get rid of the decision rendered by this Court., It has removed the defect of want of provision in the Act itself and Section 130A enabled the Municipal Corporaton to levy the octroi in case of failure to furnish such declaration. The law has been enated with retrospective effect.

17. Coming to the submission that the provision causes undue fetter on free flow of trade and, commerce. This submission cannot be accepted. No such fetter has been caused. If a person proposes to take the goods outside the municipal limits immediately or after temporary detention, he is required to furnish declaration and that was not done as provided under the relevant Rules. By enacting Section. 130A of the Act and by validation provision in Section 3 of the Amendment and Validation Act, the aforesaid Act of recovery of octroi has been validated, which is permissible to a legislature.

18. The learned Counsel appearing on behalf of Petitioners has relied upon the decisions in T.R. Kapur and Others Vs. State of Haryana and Others, and contended that the rules cannot be made retrospective and benefit under the existing rules cannot be taken away. The decision pertains to the conditions of service and is in different context. In the instant case, no vested right has been taken away. He has also relied upon the decision in the case of Bannari Aman Sugars Ltd. v. Commercial Tax Officer and Ors. (supra) in which the Apex Court

dealt with the policy of the Government and while changing the policy, opportunity of hearing was not necessary to be given but, it should be fair and not arbitrary. The decision is pertaining to Article 14 of the Constitution of India. We do not find any arbitrariness in the amendment in the Validation Act in question. Learned Counsel has also relied on the decision n Sarbananda Sonawal (II) v. UOI AIR 2007 SC 1372 (supra). In the said case, the question was as to whether the legislature has tried to nullify the decision rendered by the Court. Relying on the decision in Sonawal (I) Sarbananda Sonowal Vs. Union of India (UOI) and Another, it was held by Their Lordships that the special treatment sought to be meted out to Assam is not justified and the extending of Special Act to that territory alone was discriminatory. The same reasoning applies on all fours to the removing of the 1964 Order from the scene. The decision is altogether different context, Reliance has also been placed on the decision in State of Rajasthan v. Bajrang Lal Sharma and Ors. 2010 Lab IC 2631 (Raj) (supra) in which the Division Bench of this Court dealt with the question of taking over the vested right dealing with the case of seniorty and promotion relying on the judgment of B.L. Sharma''s case and the decision of the Apex Court in Shri Ram Prasad Etc. Etc. Vs. Shri D.K. Vijay and Others Etc. Etc., This decision is also not applicable in the facts of the instant case.

19. For the aforesaid reasons, we hold that the provisions of Section 130A of the Rajasthan Municipalities Act, 1959 and Section 3 of the Rajasthan Municipalities (Amendment and Validation) Act, 2000 cannot be said to be ultra vires and unconstitutional.

20. Resultantly, we find the writ petition without merit. It is hereby dismissed. No costs.

