

(1996) 07 SC CK 0140

In the Supreme Court Of India

Case No : Civil Appeal No's. 552-53 and 1366 of 1975

State of U.P.

APPELLANT

Vs

Banaras Electricity Light and Power Co. and Others

RESPONDENT

Date of Decision : 09-07-1996

Acts Referred:

Citation : (2001) 9 SCC 180

Hon'ble Judges : S. Saghir Ahmad, J;N. P. Singh, J;M. M. Punchhi, J;M. K. Mukherjee, J;Kuldip Singh, J

Bench : Full Bench

Final Decision : Allowed

Judgement

Kuldip Singh,; M.M. Punchhi,; N.P. Singh,; M.K. Mukharji and; S. Saghir Ahmad, JJ.-The question before the High Court was whether Section 3 of the U.P. Electricity (Temporary Powers of Control) Act, 1947, was repugnant to Sections 57 and 57-A of the Electricity (Supply) Act, 1948, as amended by the Amending Act 101 of 1956 and Section 22-B of the Indian Electricity Act, 1910, as amended by Central Act 32 of 1959. The High Court answered the question in the affirmative on the following reasoning:

"The two legislations are, in our view, "in respect of the same matter" within the meaning of Article 254(2) of the Constitution. The two legislations provided a different approach and a different kind of a solution to the problem of fixing fair prices. Even though they do not, strictly speaking, collide with each other in the sense that one asks for something to be done, which the other may prohibit, yet they being in respect of the same matter, both cannot remain in operation (see State of Orissa v. M.A. Tulloch & Co.¹ One will have to fall, under Article 254(2) of the Constitution. Since the Parliament Act of 1956 was not an earlier law in relation to the Temporary Act of 1947, it will prevail, and the offending provisions of the 1947 Act will stand repealed. In view of the repugnancy, clause (aa) of Section 3(2) and the overlapping part of Section 3(1) of the Temporary Act of 1947 must be deemed repealed by implication. The various orders passed by the

State Government under that provision were without the authority of law."

2. We see no ground to interfere with the reasoning and the conclusions reached by the High Court. The appeals are dismissed. Consequently CA No. 1368 of 1975 is also dismissed. No costs.