CASE COMMENT: FATEHCHAND HIMMATLAL & OTHERS V. STATE OF MAHARASHTRA

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INTRODUCTION

Excessive levels of debt have consistently impeded the progress and development of India. This burden of debt particularly affects individuals involved in the agricultural sector, as evidenced by the alarming increase in farmer suicides directly linked to rural indebtedness.

The origins of this issue can be traced back to the colonial era; when various legislations enacted by provincial assemblies still persist today. However, since gaining independence, there has been an ongoing conflict between the central government and state governments regarding the authority to legislate on matters of debt relief. While rural indebtedness and money lending fall within the jurisdiction of the state governments (as per Entry 30, List II)[1], certain areas affected by debt waivers, such as banking, come under the purview of the central government.

The conflict between the central government (Union) and state governments arises when the states impose restrictions on interest rates with the intention of providing relief from agricultural indebtedness. This clashes with the jurisdiction of the central government, which holds exclusive authority over areas such as banking

To resolve conflicts between the Centre and the State, the courts have consistently adopted a lenient and practical interpretation of the entries listed in Schedule VII. They have affirmed the state government’s authority to legislate on matters concerning money lending by employing the doctrine of pith and substance. Consequently, laws addressing agricultural indebtedness, which fall under the State list, are safeguarded from being invalidated due to legislative incompetence.

In the case of Fatehchand Himmatlal[2], the Supreme Court went so far as to assert that even if there is a conflict between the Debt Relief Act in Maharashtra (a state law) and the Gold Control Act enacted by the Union (a central law), the state law will take precedence. The

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[1] THE CONSTITUTION OF INDIA, 1950,Entry 30, List II

[2] *Fatehchand Himmatlal v State of Maharashtra*, AIR [1977] SC 1825.

Court reasoned that both acts fall within the Concurrent List as they pertain to contract law, and since the President has given assent, the state law shall prevail in accordance with Article 254(2).

FACTS OF THE CASE

A group of lawyers, led by Shri Nariman and supported by Shri B. Sen, challenged the Maharashtra Debt Relief Act of 1976 (referred to as the Debt Act). This legislation aimed to offer assistance to financially vulnerable segments of society who were burdened with debts owed to exploitative moneylenders. The act was one among several measures proposed by a prominent committee appointed by the Maharashtra government to tackle the issue of rural and urban indebtedness. The challenge against the act was based on concerns regarding its legal validity and the legislative authority under which it was enacted.

The respondents argued that the money lending involved in the present case should not be considered a trade. Even if it is deemed as trade, they claimed that the restrictions imposed by the statute are reasonable. They argued that the State Legislature has the constitutional authority and jurisdiction to pass the Debt Act and address the issues of rural indebtedness and money lending within its territory. They argued that the doctrine of occupied field is not applicable in this case. They stated that the Gold Control Act[3] and the Impugned Act address different situations and do not conflict with each other.

Finally, they maintained that there is no inconsistency between the provisions of the two Acts.

<u>LEGAL ISSUES</u>

1. Whether the Debt Act passes the test of validity under Article 301 of the Constitution of India, which safeguards the freedom of trade, commerce, and intercourse throughout the country.
2. Whether the Debt Act is within the legislative jurisdiction of the State legislature.
3. Whether the Debt Act conflicted with the Gold Control Act of 1968.
4. Whether the freedom of trade is an absolute right.
5. Whether money-lending to individuals such as little peasants, landless tillers, bonded laborers, pavement tenants, and slum dwellers can be considered a trade.

[3] Gold Control Act, 1968

6. Whether every systematic profit-oriented activity, regardless of its nature (sinister, suppressive, socially diabolic), can be categorized as trade.
7. Whether the test of reasonableness should be applied in isolation or in the context of real-life circumstances.

OBSERVATION OF SUPREME COURT

The Court made a noteworthy observation that Article 301, guaranteeing the freedom of trade, commerce, and intercourse, holds more significance than being a mere platitude or a declaratory statement. The Court emphasized that Article 301 embodies a principle of utmost significance, signifying the critical interdependence between the economic unity of the country and the stability and progress of its political and cultural unity. The Court emphasized that this perspective should guide the interpretation of Article 301. Social solidarity is a tangible reality and not just a constitutional principle, and an economic system that avoids exploitation, as outlined in Article 38, forms the foundation of a contented and united society. Social disorder poses a significant threat to commerce and trade.

In the case of Atiabari Tea Co.,[4] the Court made observations regarding the roots of Article 301. The Court observed that the framers of the Constitution were fully cognizant of the importance of economic unity for ensuring the stability and progress of the federal system adopted in the country. They understood that while political freedom and unity were significant achievements through the Constitution, economic unity played a crucial role in strengthening and sustaining these ideals.

The Court stressed the crucial significance of the free movement and exchange of goods across India's territory, highlighting that it is indispensable for the nation's economy and plays a vital role in sustaining and enhancing the country's living standards.

The Court reiterated that the Debt Act was considered valid under Article 301 of the Constitution of India, which safeguards the freedom of trade, commerce, and intercourse across the entire nation. The Court acknowledged that while the freedom of trade is wide, it is not absolute. Article 304(b) adds a caveat to the freedom of commerce by subjecting it to the test of reasonableness and permits the imposition of limitations on the freedom of trade, commerce, and intercourse under specific circumstances.

[4] *Atiabari Tea Co. Ltd. vs The State of Assam & Ors*. [1961] 1 SCR 809.

The Court emphasized the Debt Act was enacted with the aim of promoting social justice, social order, and better conditions for the business of fair moneylending. It recognized that the Act was intended to address the issue of agrarian indebtedness and urban usurious practices, ultimately aiming to provide relief to the weaker sections of society.

The Court also noted that the Debt Act was within the legislative authority and competence of the State legislature. The Court noted that one of the main objectives of the Debt Act was to eliminate private debts, which constituted capital assets for moneylenders. This objective did not fall under any specific legislative list. However, the Court recognized that the Debt Act was a temporary measure targeted at addressing the dire conditions of certain sections of society. The Court emphasized that policy decisions made by the legislature could not be deemed perverse and struck down by the judiciary.

The Court also determined that there was no conflict between the Debt Act and the Gold Control Act of 1968. The Court acknowledged that the Gold Control Act covered certain aspects of dealing with gold, including pledging. However, the Court held that this did not prevent the State from enacting the impugned act (Debt Act). The Court clarified that the doctrine of "Occupied Field" comes into play when there is a collision or conflict between laws enacted by the central government and those passed by the state government within an area of shared jurisdiction. In this case, as there was no conflict between the two acts, the doctrine of "Occupied Field" did not apply.

Justice Krishna Iyer, in the judgment, expressed the view that while money lending may be considered ancillary to commercial activity and beneficial in its effects, it can also have negative consequences when it does not contribute to trade, commerce, or business growth. In such cases, where money lending stagnates the rural economy, oppresses borrowers, and has malignant repercussions, it may not be considered a trade.

This perspective places money lending outside the extent of protection provided by Article 19(1)(g) of the Constitution, which safeguards the right to engage in any profession, occupation, trade, or business by invoking the doctrine “res extra commercium.” However, the doctrine does not apply to the dealings of banks and other financial institutions, which are exempted. This exemption is considered reasonable because the modern commercial credit system does not exploit debtors and is connected to trade in some manner.

DECISION

The Supreme Court, in its ruling, dismissed the appeals and writ petitions and declared the Debt Act to be valid and within the constitutional authority and legislative competence of the State Legislature. The Court also determined that there was no conflict between the Debt Act and the Gold Control Act of 1968.

The Court emphasized the necessity for legislative measures to address agricultural indebtedness and the oppressive practices associated with urban usurious bondage. It highlighted the importance of promoting social justice, maintaining social order, and improving conditions for fair moneylending practices. The Court recognized that the Debt Act aimed to put an end to exploitative lending in rural and urban areas, particularly targeting the vulnerable segments of society. It considered this aspect of the legislation as a validating virtue when viewed from a constitutional standpoint.

ANALYSIS AND CONCLUSION

The judgment of the Court was delivered by Justice Krishna Iyer. The Court recognized the gap between societal realities and constitutional interpretations, which often poses challenges in determining the validity of statutes. In the present batch of certified appeals and writ petitions, this forensic quandary is evident. The Court emphasized the importance of considering the close connection between rural and urban economics and social relief legislation, urging a departure from mere verbal obsessions in legal construction.

A constitution represents the collective beliefs and fundamental principles of a nation, providing directions for their realization. Therefore, an organic approach to interpretation, rather than a pedantic one, should guide the judicial process. The Court highlighted the significance of harmonious construction rather than engaging in the tempting game of hair-splitting, as it promotes the proper functioning of the rule of law. With these preliminary observations in mind, the Court proceeded to address the common subject matter of the appeals and writ petitions

Money lending is characterized as a countryside incubus that oppresses debtors rather than a trade that contributes to the country's prosperity. This reasoning has led to the consideration of regulating money lending practices as a "reasonable restriction" under Article 301(b) of the Constitution. The courts have recognized the constitutional concern for the weaker sections of society who have been neglected by institutional credit systems. Consequently, the states have been granted the power to regulate such harmful activities, aiming to protect and empower these vulnerable groups.

In essence, money lending, particularly in rural areas, is often oppressive and detrimental to debtors, rather than being a trade that contributes to the country's prosperity. The regulation of money lending practices is considered a reasonable restriction under Article 301(b), and the courts have upheld the constitutional concern for the welfare of weaker sections of society. States have been granted the power to regulate and address these harmful activities, aiming to protect and empower vulnerable individuals.