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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12231/2022**

ATMARAM SARAOGI

..... Petitioner

Through: **Mr. D.N. Goburdan, Sr. Advocate
with Mr. Hemant Raj Phalpher, Mr.
Shivam Pundhir, Advocates**

versus

UNION OF INDIA

..... Respondent

Through: **Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Ms. Shreya V.
Mehra, Advocates**

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Date of Decision: 19th December, 2023

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

1. The present Public Interest Litigation ('PIL') has been filed with prayer that directions be issued to the Union of India to use the expression "Union Government" instead of "Central Government" or "Centre". The petitioner also prays for declaring Section 3(8)(b) of the General Clauses Act, 1897 as ultra vires the Constitution of India ("Constitution").
2. Learned counsel for the petitioner contends that usage of the word "Centre" signifies that the "Central Government" is the centre of authority giving the wrong impression that the State Governments are subservient or subordinate to the Union Government. The term "Union" depicts the corrects constitutional theme signifying that the Government of India is a



Union of States, and not per se a superior Central Authority having power over and above the States.

3. Attention of this Court has been drawn to Articles 1, 76, 79, 246, 300 and Seventh Schedule of the Constitution of India, wherein the word “Union” has been used. Reference has also been made to the One Hundred Twelfth Report of the Department-Related Parliamentary Standing Committee presented in the Parliament of India, Rajya Sabha to contend that it is clear that the founding fathers of the Constitution treated the three wings viz. the Union Executive, the Union Legislature and the Union Judiciary, as constituents of the Union.

4. Per contra, learned standing counsel for the respondent opposes the present petition.

5. Having heard learned counsel for the parties, this Court notes that though the expressions “Union” and “Union of India” have been used extensively in the Constitution, however, the expressions “Government of India” as well as “Central Government” have also been used largely in the Constitution at various places. Thus, Articles 243ZH, 243ZR, 279A and 342A use the expression “Central Government”. Similarly, the expression “Government of India” has been used extensively in various Articles in the Constitution, viz. Articles 8, 12, 58, 66, 73, 77, 102, 110, 112, 131, 138, 148, 191, 243-ZE, 256, 257, 258, 260, 266, 268, 269, 269A, 270, 273, 275, 283, 284, 287, 292, 293, 294, 295, 296, 299, 300, 312A, 316, 319, 320, 323-A, 361 and 371A.

6. Accordingly, it is manifest that the Constitution itself has used various expressions to indicate the Government which is the Government of the country viz. the Union of India, the Central Government or the Government



of India. This fact becomes all the more clear by reference to Article 300 of the Constitution which categorically states that “Government of India” may sue or be sued by the name of Union of India. Article 300 of the Constitution reads as under:

“300. Suits and Proceedings.-(1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by an Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.”

7. Reading of Article 300 of the Constitution clearly demonstrates that it is the “Government of India” which is being referred as the “Union of India”.

8. Reference to Article 73 of the Constitution makes it evident that the expression “Union” includes the “Government of India”. Article 73 of the Constitution stipulates that the executive power of the “Union” shall extend to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India. Thus, Article 73 of the Constitution reads as under:



“73.Extent of executive power of the Union.- —(1) *Subject to the provisions of this Constitution, the executive power of the Union shall extend—*

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State [* *] to matters with respect to which the Legislature of the State has also power to make laws.*

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.”

9. Government of India is the Government which is at the Centre, therefore, as noted above, the Constitution also uses the expression “Central Government”. Therefore, in Article 342A of the Constitution, the expression “Central Government” has been used to refer to the Government at the Centre, which is essentially the “Government of India” or the “Union of India”. Accordingly, there is no bar to use the expression “Central Government”, “Government of India” and “Union of India” interchangeably.

10. The contention of the petitioner that use of the expression “Central Government” gives the wrong impression that State Governments are subordinate to the Union Government, is totally unacceptable. The Federal Structure of the Constitution of our country is one of the essential and basic features of the Constitution. Federalism, which is the basic structure of our Constitution, cannot be said to be diluted or violated in any manner by use



of the expression “Central Government”. Basic structure of our Constitution is the foundation on which the governance of our country is rooted.

11. It may also be noted that the expression “Central Government” has been defined in the General Clauses Act, 1897 in Section 3(8) as follows:

“3. Definitions.-.....

(8) “Central Government” shall,—

(a) in relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General-in-Council, as the case may be; and shall include,—

(i) in relation to functions entrusted under sub-section (1) of Section 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section; and

(ii) in relation to the administration of a Chief Commissioners' Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of Section 94 of the said Act; and

(b) in relation to anything done or to be done after the commencement of the Constitution mean the President; and shall include,

(i) in relation to functions entrusted under clause (1) of Article 258 of the Constitution to the Government of a State, the State Government acting within the scope of the authority given to it under that clause; [* * *]

(ii) in relation to the administration of a Part C State [before the commencement of the Constitution (Seventh Amendment) Act, 1956], the Chief Commissioner or the Lieutenant-Governor or the Government of a neighbouring State or other authority acting within the scope of the authority given to him or it under Article 239 or Article 243 of the Constitution as the case may be;][and

(iii) in relation to the administration of a Union territory the administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution;]”

12. Perusal of the aforesaid makes the intent of the legislature very clear in that the expression “Central Government” includes the “Government of India”, which expression includes “Union of India”. It may also be noted



that the expression “Central Government”, “Union of India” as well as “Government of India” have been used vastly in various statutes and connote the Government of the country in interchangeable expressions. Thus, when the Constitution as well as other Statutes have applied various expressions to connote the Government of the country, this Court will not enter into the arena of legislation, which is not within the domain of this Court.

13. In view of the aforesaid detailed discussion, no merit is found in the present petition. The same is accordingly dismissed.

ACTING CHIEF JUSTICE

MINI PUSHKARNA, J

DECEMBER 19, 2023
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