


Landmark Judgement

Case Study: Government of NCT of Delhi v. Union of India (2023) | Delhi Government Controls "Services" Other Than Land, Police, and Public Order

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GOVERNMENT OF NCT DELHI VS UNION OF INDIA (20

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The crucial case "Case Analysis: Government of NCT of Delhi v. Union of India (2023)" addresses the preservation of the legislative and executive authority of the Union Territories. The lawsuit specifically addresses the National Capital Territory of Delhi and the ongoing oddity over the transfer of legislative and executive responsibilities to the Legislative Assembly, the LG, and the Parliament.

Case Title: Government of NCT of Delhi v. Union of India

Court: Supreme Court of India

Citation: Civil Appeal No 2357 of 2017

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Judges: Dr. D.Y. Chandrachud, C.J., M.R. Shah, Krishna Murari, Hima Kohli and P.S. Narasimha, J.J

Date: 11th May 2023

The case's facts

The following sequence of events that preceded the current case must be understood in order to comprehend the facts involved in this case. Let's understand the same: The **Union Ministry of Home Affairs published a notification on May 21, 2015**, stating that the Lieutenant Governor (LG) was to use all authority that the President has occasionally granted him. This pertained to specific topics such "services, public order, police, and land." LG may, at his discretion, seek the Chief Minister's opinions.

A number of petitions challenging the legitimacy of this notification were filed before the High Court. "The matters connected with 'Services' fall outside the purview of the Legislative Assembly of NCT of Delhi," the Delhi High Court declared in its favor. However, on February 15, 2017, the Delhi High Court's two-judge panel referred the question of Article 239AA interpretation to a Constitution panel following an appeal.

The appeals were sent to a normal bench after the Constitution Bench's interpretation of Article 239AA on July 4, 2018. The dispute was once more referred for review to a three-judge bench after the two-judge bench reached differing opinions regarding whether "services" are excluded from the legislative and executive domain of GNCTD in light of Article **239AA(3)(a)**. **The three-judge panel concluded that the constitution bench's 2018 interpretation order had neglected to address the following two issues:**

(i) "insofar as any such matter is applicable to Union Territories"; and (ii) **"subject to the provisions of this Constitution."**

The Constitution Bench was then asked to decide these two issues. The current case, **Government of NCT of Delhi v. Union of India**, addresses this narrow issue. As a result, the current case addresses the "scope of legislative and executive powers of the Center and NCTD with respect to the term "Services."

Problems Involved

It is clear from the above facts that the question in this case is whether the Union government or the NCTD has legislative and executive power over "services."

The "scope of legislative and executive powers of the Center and NCTD with respect to the term "Services"" has been clarified by the Constitution Bench.

Applied Laws

Article 239AA, which addresses "Special provisions with respect to Delhi," is a key component of the pertinent legislation that apply in this situation. Section 7(5) of the GNCTD Act, Section 3(58) of the General Clauses Act, the States Reorganization Act of 1956, and the Government of Union Territories Act of 1963 are additional legislation that have been used during the arguments and the ruling.

Decision/Judgment

Following a lengthy debate that examined every aspect of the Constitution Bench's 2018 ruling and made an effort to understand other elements like the non-unitary form of the Constitution, inclusive interpretations of **Article 239AA**, and the balancing of local and national interests, among other things. The goal was to determine the extent of the Union's and the NCTD's legislative and executive authority. As a result, the following conclusions were determined and taken from the Constitution Bench's ruling:

The existence of a homogenous class of Union Territories with comparable governance arrangements has been rejected by the Constitution Bench.

NCTD is distinct from the other Union Territories due to a unique status known as "**sui generis**."

With respect to NCTD's authority, all entries found in Lists II and III are under its purview, with the exception of those that have been specifically omitted. On the other hand, the Parliament has sole authority over topics included in List I as well as all topics listed in Lists II and III that are not under the GNCTD's jurisdiction.

It has been said that NCTD's legislative and administrative powers are "**co-extensive**." **This implies that the NCTD will have executive power** over any issues that fall under its legislative purview.

Regarding List II and the Union of India's authority over its subject issues, NCTD is not given

any authority at all.

The NCTD's executive authority over subjects included in Lists II and III will be subject to the executive authority specifically provided to the Union by the Constitution or any laws passed by the Parliament.

The Constitution Bench has explained in detail how the wording "insofar as any such matter is applicable to **Union Territories**" in **Article 239AA (3)** cannot be interpreted as excluding NCTD powers (except from those that have been expressly excluded).

Subject to the provisions of this Constitution" in Article 239AA (3) has been interpreted to suggest that NCTD's legislative authority shall not be restricted but shall instead be directed by the principles and provisions of the Constitution. This is another language that has to be defined by the current case.

NCTD has been given legislative and executive authority in relation to "Services" (Entry 41 of List II, Seventh Schedule).

As a result, **the Constitution Bench's order from May 6, 2023**, addressed the outstanding problems that had been assigned to it for limited adjudication with the aforementioned reasoning.