

ITEM NO.24

COURT NO.1

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Original Suit (s). No(s). 6/2021

THE STATE OF PUNJAB

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(FOR ADMISSION and IA No.159833/2021-STAY APPLICATION and IA No.180621/2022-APPLICATION FOR REJECTION OF THE PLAINT)

Date : 22-01-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRAFor Petitioner(s) Mr. Gurminder Singh, Advocate General
Ms. Jaspreet Kaur, Sr. Adv.
Mr. Shadan Farasat, A.A.G.
Ms. Rooh-e-hina Dua, AOR
Mr. Harshit Khanduja, Adv.
Mr. Harshit Anand, Adv.
Mr. Umang Mehta, Adv.For Respondent(s) Mr. Tushar Mehta, Solicitor General
Mr. K M Nataraj, A.S.G.
Mr. Reeta Vasishta, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Gaurang Bhushan, Adv.
Mr. Ketan Paul, Adv.
Mr. Arvind Kumar Sharma, AOR**UPON hearing the counsel the Court made the following**
O R D E R

- 1 We have heard Mr Gurminder Singh, Advocate General appearing on behalf of the State of Punjab and Mr Tushar Mehta, Solicitor General appearing on behalf of the Union of India.

2 Draft issues have been exchanged between the parties.

- 3 The following issues are drawn up :
- (i) Whether the impugned notification dated 11 October 2021, increasing the jurisdiction of the Border Security Force from 15 kilometers to 50 kilometers in the State of Punjab constitutes an arbitrary exercise of power by the Defendant under Section 139(1) of the Border Security Force Act, 1968;
 - (ii) Whether the increase of the jurisdiction of the Border Security Force to 50 kilometers is beyond the “local limits of areas adjoining the borders of India” under Section 139(1) of the Border Security Force, 1968;
 - (iii) Whether all States have to be treated alike for the purpose of determining the “local limits of areas adjoining the borders of India” under Section 139(1) of the Border Security Force Act, 1968;
 - (iv) What are the factors which have to be taken into account in determining the meaning of the phrase “local limits of areas adjoining the borders of India” under Section 139(1) of the Border Security Force Act, 1968;
 - (v) Whether the impugned notification dated 11. October 2021 amounts to an unconstitutional interference in the legislative domain of the State under Entry 1 and Entry 2 of the Seventh Schedule (as contended by the plaintiff) or is relateable to Entries 1, 2, 2A and other Entries of List I (as contended by the defendant);
 - (vi) Whether the constitutional validity of the notification dated 11 October 2021 can be challenged in an Original Suit under Article 131 of the

Constitution in view of the decision in the ***State of Madhya Pradesh vs Union of India***¹; and

(vii) What relief and costs?

4 On the request of the Union of India, which is not opposed, liberty to file a supplementary written statement within two weeks from today.

5 Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

6 Counsel for the parties agree that no oral evidence would be adduced by either side.

7 Mr Harshit Anand, counsel instructing the Advocate General and Mr Kanu Agrawal, counsel instructing the Solicitor General shall act as nodal counsel. They shall prepare a joint compilation of documentary material and precedents and other provisions of law which are sought to be relied upon in support of the respective cases of the contesting parties. The compilation shall be prepared in terms of the Circular dated 23 August 2023 and be filed on or before 31 March 2023.

8 The joint compilation shall also be sent through email at email ID cmvc.dyc@gmail.com.

9 List the Original Suit for final disposal on a non-miscellaneous day on 16 April 2024.

1 (2011) 12 SCC 268

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR