

Universities not maintained but aided by the State. But it was not discussed whether such Universities were exercising any statutory powers. In later cases, *Lucy v. Adams* (6), and *Florida v. Board of Control* (7), the American Supreme Court has held that the Fourteenth Amendment is applicable to aided Universities, if they are vested with statutory powers.”

Krishan Gopal
"Panjab University
and another
Grover, J.

Mr. Wasu, however, admits that the American decisions on which Basu has relied do not support the statement made by him that the Fourteenth Amendment is applicable to aided Universities if they are invested with statutory powers.

After giving the whole matter due consideration, I am of the opinion that the decision of the Madras Court must with respect, be followed, with the result that any challenge under Article 14 to an act of the respondent University cannot be sustained. The petition, therefore, fails and it is dismissed, but in the circumstances there will be no order as to costs.

S. S. DULAT, J.—I agree.
B R. T.

Dulat, J.

REVISIONAL CIVIL

Before Inder Dev Dua, J.

KARNAIL SINGH AND OTHERS,—*Petitioners*

versus

BALWANT SINGH DHILLON,—*Respondent*

Civil Revision No. 540 of 1963.

Payment of Wages Act (IV of 1936)—S. 17—Order of District Judge acting as appellate authority—Whether revisable under S. 115, C.P.C. or Article 227 of the Constitution—Constitution of India—Article 227—Scope of—Order of Commissioner rejecting Claim on point of jurisdiction—Whether appealable—Importance of citizens' confidence and faith in judicial process—Duty of judicial and quasi-judicial Tribunals and of the High Court to strengthen such faith.

1965
March, 19th.

(6) (1955) 350 U.S. 1.

(7) (1956) 351 U.S. 413.

Held, that even if the order of the District Judge passed in appeal under section 17 of the Payment of Wages Act, 1936, be not open to revision by the High Court, it can be scrutinized by the High Court under Article 227 of the Constitution. The ultimate basic purpose and object of section 115 of the Code of Civil Procedure, 1908 and of Article 227 of the Constitution is not materially different, for they are both designed to clothe the High Court with power to set right the orders of the subordinate Tribunals and Courts if there is *inter alia* a jurisdictional infirmity resulting in failure of justice.

Held, that it is undoubtedly true that the power conferred on the High Court by Article 227 of the Constitution has, as a rule in practice, to be most sparingly exercised and only in exceptional cases of grave dereliction of duty and is not intended to be used merely for the purpose of correcting errors of fact or of law. If an error of law apparent on the face of the record is grave and material and has occasioned manifest failure of justice, then the High Court is not only competent, but indeed is duty-bound to interfere.

Held, that even in a case where the Commissioner rejects the claim on the ground of jurisdiction, an appeal before the District Judge is competent.

Held, that the importance of citizens' confidence and faith in the judicial process for the civilized and orderly preservation of the society cannot be overemphasised because it is this confidence and faith which restrains them and keeps them away from drift towards defiant thinking. It is accordingly for the judicial and quasi-judicial Tribunals and ultimately for the High Court to see that this faith and confidence is strengthened and not shaken and nothing is done to contribute towards the weakening of such faith.

Petition under section 115, C.P.C., for revision of the order of Shri Sewa Singh (District Judge), Appellate Authority, under the payment of Wages Act, Bhatinda, dated the 16th May, 1963, affirming that of Shri Rattan Dev, Tehsildar, Mansa, Authority, under section 15 of the Payment of Wages Act, 1936, dated the 11th December, 1962, and directing Mansa Roadways to pay the amount as noted against employees.

L. K. SUD, ADVOCATE, for the Petitioner.

B. K. JHINGAN, ADVOCATE, for the Respondent.

JUDGMENT

Dua, J.

DUA, J.—The five petitioners, who are employees of the Mansa Roadways Private, Limited, have preferred this revision under section 115 of the Code of Civil Procedure

against an order of Shri Sewa Singh, District Judge, Bhatinda, acting as appellate Authority under the Payment of Wages Act (hereinafter referred to as the Act). The Appellate Authority had dismissed the appeal of these five petitioners, but had accepted the appeals of some other employees, from the order of Shri Rattan Dev, acting as an Authority under section 15 of the Act.

Karnail Singh
and others

Balwant Singh
Dhillon

Dua, J.

The respondent has raised a preliminary objection that the Authority under the Act, not being a Court subordinate to the High Court, revision under section 115 of the Code is incompetent and, therefore, this revision should be dismissed as such. I am unable to persuade myself to decline to hear the petitioners in support of their grievances on this ground. It is true that this Court has taken the view that an Authority under the Act is not a Court subordinate to the High Court so as to attract this Court's revisional jurisdiction under section 115 of the Code, but at the same time this Court has felt no difficulty in exercising its power of superintendence under Article 227 of the Constitution, if the circumstances demand interference to promote the cause of justice; See *Divisional Superintendent, Northern Railway v. Satyender Nath Kapur Chand* (1). It is correct that there exists considerable conflict of judicial opinion in the various High Courts on this point, but this conflict has in the presence of Article 227 of the Constitution become, for all practical purposes purely academic. In the present case, however, it is noteworthy that from the order of the Authority under section 15 of the Act an appeal was preferred to the District Court under section 17 of the Act and the present revision has been preferred against the order of that Court discharging its functions as a Court of appeal. The question naturally arises whether the District Court when disposing of such an appeal functions as a Court Subordinate to the High Court or merely as a *persona designata*. At the bar this aspect has not at all been adverted to, with the result that I am feeling disinclined to express my considered opinion on this aspect and, therefore, I have heard the parties on the merits of the controversy to see if any infirmity is made out justifying interference under Article 227 of the Constitution or under section 115 of the Code. I may in this connection point out that the ultimate basic purpose and object of these

(1) I.L.R. (1963) 2 Punj. 623—A.I.R. 1964 Punj. 242.

Karnail Singh
and others
v.
Balwant Singh
Dhillon

Dua, J.

two provisions is not materially different, for they are both designed to clothe this Court with power to set right the orders of the subordinate Tribunals and Courts if there is *inter alia* a jurisdictional infirmity resulting in failure of justice.

In the case in hand the District Court has observed that the claims of Ajit Singh driver and Harcharan Singh and Major Singh conductors had been rejected by the Commissioner under the Act on the ground of want of jurisdiction and that, therefore, on the authority of *Risal Singh v. Union of India* (2), and *Mohammad Matin Kidwai v. District Executive Engineer* (3), no appeal lay against that order, the only remedy available being a revision. The petitioners' learned counsel has submitted that this order amounts to an illegal refusal to exercise jurisdiction vested in the District Court and, therefore, it is a fit case in which the High Court under section 115 of the Code or under Article 227 of the Constitution should interfere and direct the District Court to exercise its jurisdiction in accordance with law. In this connection reliance has been placed on the amendment of section 17 of the Act by Act 68 of 1957, whereby the scope of appeal has been extended and an appeal has also been provided against an order dismissing either wholly or in part an application made under sub-section (2) of section 15. The judgment of this Court in *Risal Singh's case* was concerned with an order passed long before the amendment and is, therefore, according to the counsel, being wrongly relied upon in support of the exclusion of appellate jurisdiction by the District Court in regard to cases arising after the amendment. The counsel has also referred me to a decision of the Rajasthan High Court in *Loona Ram v. Authority under Payment of Wages Act* (4), which seems clearly to support his contention.

On behalf of the respondent this submission has not been controverted. The only ground on which the respondent has tried to resist the petitioners' challenge to the impugned order is that power under Article 227 of the Constitution is not as wide as that under section 115 of the

(2) A.I.R. 1958 Punj. 155.

(3) A.I.R. 1955 All. 180.

(4) A.I.R. 1962 Paj. 173.

Code and that it is confined merely to seeing that the Tribunal in question functions within the limits of its authority. It is also argued that this in effect is even more restricted than the power conferred on this Court under Article 226 of the Constitution, which extends to quashing an impugned order on the ground of mistake apparent on the face of the record. It is, on the basis of this submission, argued that the District Court has not transgressed its jurisdiction and, therefore, there is no question of keeping it within its bounds. It has also been argued that even though the District Court has observed that the appeal is incompetent, it has nevertheless considered the merits of the case and has rejected the employees' claim no merits as well.

Karnail Singh
and others

v.
Balwant Singh
Dhillon

Dua, J.

It is undoubtedly true that the power conferred on this Court by Article 227 of the Constitution has, as a rule of practice, to be most sparingly exercised and only in exceptional cases of grave dereliction of duty and is not intended to be used merely for the purpose of correcting errors of fact or of law. This self-imposed restraint is necessary because of the wide language conferring the unlimited reserve of power of superintendence. But it does not mean that when a Tribunal illegally refuses to exercise the jurisdiction vested in it by law, this Court is to act as a helpless spectator and is incapable of setting the failure of justice thus caused. I have also not been impressed by the submission that power under Article 227 of the Constitution cannot be invoked on account of the flagrant and patent violation of law or a grave dereliction of duty by the subordinate Tribunal which goes to the root of the matter and results in injustice. If an error of law apparent on the face of the record is grave and material and has occasioned manifest failure of justice, then this Court, not only may be competent, but may indeed be duty-bound to interfere. But in the present case the order of the District Court is tainted with the infirmity of non-exercise of jurisdiction vesting in it, which has resulted in non-consideration of the three petitioners' appeal on the merits. The submission that the District Court has actually considered their claim has not impressed me. The tenor and trend of the order seems to suggest that after stating the facts of the case it has been observed that the Commissioner had rejected their claim for want of jurisdiction and, therefore, the order not being appealable, the appeal preferred was

Karnail Singh
and others

"
Balwant Singh
Dhillon

—
Dua, J.

expressly held to be incompetent. The submission that the observation regarding incompetency of the appeal is just incidental and by the way seems to me to be wholly unwarranted. Indeed it is the reference to the facts of the three petitioners which appears to me to be incidental and intended merely for the purpose of supporting the conclusion that the appeal was not competent. I may appropriately point out at this stage that if a judicial or a *quasi-judicial* Tribunal is of the view that an appeal before it is not competent, then dealing with the merits of the controversy and giving a decision thereon cannot but be described to be a some what unsatisfactory, if not unjudicial, approach to the case. The District Court has not entertained any doubt about the incompetency of the appeal; nor has it said that it would nevertheless go into the merits of the controversy and see if the material on the record justified the conclusion of the Authority below and indeed on the categorical expression of opinion in regard to the incompetency of the appeal, it may not be easily assumed that it has intended to adjudicate on the appellant's grievances on the merits. To uphold the respondent's contention and to deny relief to the petitioners in this Court on the basis of this submission would not only fail to promote the cause of justice but would be clearly inconsistent with the true concept of Rule of law. Such a course can by no means inspire the petitioners' confidence in our judicial process. The importance of citizens' confidence and faith in the judicial process to the civilized and orderly preservation of the society cannot be over-emphasised because it is this confidence and faith which restrains them and keeps them away from drift towards defiant thinking. It is accordingly for the judicial and quasi-judicial Tribunals, and ultimately for this Court in this state, to see that this faith and confidence is strengthened and not shaken, and nothing is done to contribute towards the weakening of such faith. On the facts and circumstances of this case, the order of the District Court in regard to the three employees mentioned above must accordingly be quashed and set aside and the case sent back for re-hearing their appeal.

In so far as the other two employees are concerned, nothing convincing has been urged by way of criticism against the order of the District Court. In regard to their case, therefore, this petition fails and is disallowed.

As a result of the foregoing discussion, this petition is allowed with regard to the three employees, namely, Ajit Singh, driver and Harcharan Singh and Major Singh conductors, and their appeal before the District Court will have to be decided on the merits. The parties are directed through their counsel to appear before the District Court on the 19th of April, 1965, when another date will be given for the hearing on the merits. In the peculiar circumstances of this case there will be no order as to costs.

Karnail Singh
and others
v.
Balwant Singh
Dhillon
—
Dua, J.

R.S.

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

M/s JASWANT SUGAR MILLS LTD.,—Petitioner

versus

UNION OF INDIA AND ANOTHERS,—Respondent

Civil Writ No: 442-D of 1964.

*Sugar Control Order (1963)—Cl. 8—Delhi Administration—
Whether a person or organisation which can be constituted a nominee
for distribution of sugar.*

1965

March, 23rd.

Held, that the Delhi Administration is neither a person nor an organisation and cannot, therefore, be constituted a nominee for the distribution of sugar under clause 8 of the Sugar Control Order, 1963, issued under Rule 125(2) of the Defence of India Rules, 1962. It is a State as defined in section 3(4) of the General Clauses Act.

Petition praying that a Writ of Quo Warranto be issued to the Respondents and the allotments made by the Director of Food and Civil Supplies, Delhi, in July, 1964, for the month of July-August, 1964, be quashed and a Writ of Mandamus be issued to the Respondents directing them to cancel the allotment of sugar already made for the month of July-August, 1964, for permits to import sugar issued to the Sugar dealers of Delhi and prohibiting the respondents in future from making arbitrary allotments as already made in June and July, 1964 and directing them to make allotments in future in accordance with the rules as adopted by the Central Government, prior to the transfer of work of allotment to the Delhi Administration or to make allotments to all the eligible licence-holders on equal distribution basis OR any appropriate Writ, order or direction as may be just and proper in the circumstances of the case, be issued.

A. R. WHIG, S. S. CHADHA AND M. K. CHAWALA, ADVOCATES, for the Petitioner.

S. N. SHANKAR, ADVOCATE, for the Respondents.