

ITEM NO.1501

COURT NO.1

SECTION XIV-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

Civil Appeal No.2357/2017

GOVT. OF NCT OF DELHI

Appellant(s)

VERSUS

UNION OF INDIA

Respondent(s)

Date : 11-05-2023

This appeal was called on for pronouncement of Judgment today.

For Appellant(s)

Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Chirag M. Shroff, AOR  
Mr. Shadan Farasat, Adv.  
Mr. Rahul Mehra, Sr. Adv.  
Mr. Shourya Dasgupta, Adv.  
Ms. Hrishika Jain, Adv.  
Mr. Aman Naqvi, Adv.  
Mr. Mreganka Kukreja, Adv.

For Respondent(s)

Mr. Tushar Mehta, Solicitor General  
Mr. Sanjay Jain, A.S.G.  
Mr. R Bala, Sr. Adv.  
Mr. Kanu Agarwal, Adv.  
Mr. Rajat Nair, Adv.  
Mr. Saurabh Mishra, Adv.  
Mr. Rajesh Kumar Singh, Adv.  
Mr. Padmesh Mishra, Adv.  
Mr. Arkaj Kumar, Adv.  
Mr. Arvind Kumar Sharma, AOR  
  
Mr. Gagan Gupta, AOR  
  
Mr. K.R. Sasiprabhu, AOR

- 1 Hon'ble Dr Justice Dhananjaya Y Chandrachud, Chief Justice of India pronounced the judgment of the Bench comprising His Lordship, Hon'ble Mr Justice M R Shah, Hon'ble Mr Justice Krishna Murari, Hon'ble Ms Justice Hima Kohli and Hon'ble Mr Justice Pamidighantam Sri Narasimha.
- 2 In view of the signed reportable judgment, the Court passed the following order:
  - a. There does not exist a homogeneous class of Union Territories with similar governance structures;
  - b. NCTD is not similar to other Union Territories. By virtue of Article 239AA, NCTD is accorded a "sui generis" status, setting it apart from other Union Territories;
  - c. The Legislative Assembly of NCTD has competence over entries in List II and List III except for the expressly excluded entries of List II. In addition to the Entries in List I, Parliament has legislative competence over all matters in List II and List III in relation to NCTD, including the entries which have been kept out of the legislative domain of NCTD by virtue of Article 239AA(3)(a);
  - d. The executive power of NCTD is co-extensive with its legislative power, that is, it shall extend to all matters with respect to which it has the power to legislate;
  - e. The Union of India has executive power only over the three entries in List II over which NCTD does not have legislative competence;
  - f. The executive power of NCTD with respect to entries in List II and List III shall be subject to the executive power expressly conferred upon the Union by the Constitution or by a law enacted by Parliament;

- g. The phrase ‘insofar as any such matter is applicable to Union Territories’ in Article 239AA(3) cannot be read to further exclude the legislative power of NCTD over entries in the State List or Concurrent List, over and above those subjects which have been expressly excluded;
- h. With reference to the phrase “Subject to the provisions of this Constitution” in Article 239AA(3), the legislative power of NCTD is to be guided, and not just limited, by the broader principles and provisions of the Constitution; and
- i. NCTD has legislative and executive power over “Services”, that is, Entry 41 of List II of the Seventh Schedule because:
- (I) The definition of State under Section 3(58) of the General Clauses Act 1897 applies to the term “State” in Part XIV of the Constitution. Thus, Part XIV is applicable to Union territories; and
- (II) The exercise of rule-making power under the proviso to Article 309 does not oust the legislative power of the appropriate authority to make laws over Entry 41 of the State List.

We have answered the issue referred to this Constitution Bench by the order dated 6 May 2022. The Registry shall place the papers of this appeal before the Regular Bench for disposal after obtaining the directions of the Chief Justice of India on the administrative side.

**(CHETAN KUMAR)**  
**A.R. -cum-P.S.**

**(Signed Reportable Judgment is placed on the file)**

**(SAROJ KUMARI GAUR)**  
**Assistant Registrar**