
CASE COMMENT ON STATE OF BOMBAY V. K.P. KRISHNAN & ORS.

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Case Title: State of Bombay v. K.P. Krishnan & Ors.

Date of Judgement: 18-08-1960

Court: Supreme Court of India

Quorum: Justice P. B. Gajendragadkar, B. P. Sinha, C.J. and J.L. Kapur, K. Subba Rao, and K. N. Wanchoo, JJ

Citation: AIR 1960 SC 1223

Legal Provisions specified: Sections 10, 12 of the Industrial Disputes Act, 1947; Article 226 of the Constitution of India

Subjects related to case: Administrative Law, Constitutional Law (Writs and Judicial Review), Industrial Disputes Law.

INTRODUCTION

This landmark judgment of the Supreme Court deals with the interpretation and application of Section 12(5) of the Industrial Disputes Act, 1947¹, in conjunction with Section 10(1) of the same statute. The case clarifies the nature of the State Government's discretion in referring an industrial dispute for adjudication after the failure of conciliation proceedings. The decision also draws on constitutional principles, particularly Article 226², which empowers the High Courts to issue writs, including mandamus, against the State for the enforcement of legal rights.

The Industrial Disputes Act, 1947 (herein after referred as IDA, 1947), was enacted by the parliament to provide for the investigation and settlement of any disputes in the industries. Section 12(5) prescribes that the government upon receiving the failure report from a

¹ Industrial Disputes Act, No. 14 of 1947, (India).

² Constitution of India, (India)

conciliation officer, must refer the dispute to a Tribunal, if it fails to do so reasons for such failure it must recorded and communicated.

The central issue in this case was whether the Government of Bombay could legally abstain from referring the industrial dispute for adjudication solely on the ground that the employees concerned had engaged in a "go-slow" during the relevant period, and whether such refusal was compliant to writ jurisdiction.

FACTS

In the year 1953, a dispute arose between the clerical staff of the Associated Cement Companies Ltd., Bombay, and the management thereof, wherein the staff demanded -

- (i) payment of bonus for the year 1952–53 and
- (ii) reclassification of certain clerical posts to higher grades.

A Conciliation Officer was duly appointed and took cognizance of the dispute. Upon the failure of conciliation proceedings, a report was submitted under Section 12(4) of the Act, recording that there was substantial substance in the workmen's demands.

However, by letter dated 28th May 1954, the Government of Bombay abstained from referring the dispute for adjudication under Section 12(5), citing solely that the employees had resorted to a "go-slow," an action deemed highly reprehensible or disgraceful.

Aggrieved by this refusal, the employees approached the Bombay High Court under Article 226 of the Constitution of India, praying for relief of writ of mandamus directing the State Government to make a 'Reference' under Section 12(5).

BACKGROUND

The matter was first heard by a Hon'ble Single Judge (Tendolkar, J.) of the Bombay High Court (herein after referred as HC). The Hon'ble court held that, the reasoning given by the State Government for failure to refer the matter was in no way relevant to the industrial dispute in question, and that the Government had acted arbitrarily and contrary to statutory duty. A writ of mandamus was accordingly issued.

Dissatisfied with the decision, The Government decided and preferred an appeal before a

Hon'ble Division Bench consisting of Chagla, C.J. and Desai, J., which unanimously upheld the judgement passed by of the learned Subordinate Judge, reiterating that the Government cannot act punitively and must exercise discretion based in accordance with relevant and germane considerations.

The matter reached the Supreme Court, because of a further appeal filed by the State of Bombay, who was aggrieved by the decision. The appeal was challenging the issuance of writ of mandamus and defending the sufficiency and legality of its stated reasons.

ANALYSIS

The Supreme Court's decree in the case - *State of Bombay v. K.P. Krishnan* is revolutionary in Indian labour jurisprudence, both for its nuanced statutory interpretation and its firm assertion of judicial control over administrative discretion. The principal question before the Court was whether the government's refusal to refer the industrial dispute under Section 12(5) of the IDA, 1947 was valid when the sole basis for refusal of the allegation was that the employees had engaged in a go-slow movement.

The Court undertook a detailed examination of the broad scheme of the IDA, 1947, particularly Sections 10 and 12, which govern the mechanics of referral and conciliation. Under Section 12(4), a Conciliation Officer who concludes that the conciliation has failed is required to submit a report to the government. The operative provision, Section 12(5), then requires the government to decide whether to refer the dispute for adjudication. While the language of Section 12(5) uses the term "may," thereby ostensibly conferring discretionary power upon the appropriate government, the Court carefully dissected this wording to identify the underlying legislative intent.

A significant doctrine is invocation of the English judgement, *Reg. v. Tithe Commissioners* (1849) 14 Q.B. 459. The Supreme Court referred to this authority to underscore a timeless principle, where a statute confers a discretionary power and simultaneously imposes a duty, such as recording reasons, the powers of discretionary nature must be exercised in a manner consistent with that duty. This allowed the Court to equate it with the Indian statutory principles of administrative law, drawing parallels along with English jurisprudence³.

³ *Reg. v. Tithe Commissioners* (1849) 14 Q.B. 459

Justice Das, while delivering the judgment to the Court, stressed that the provision must be read in light of the duty to record and communicate reasons for non-referral. The act of recording reasons is not a mere formality but a safeguard against arbitrariness. Thus, while the statute retains the word “may,” that discretion is bounded by legal constraints, most notably the requirement to exercise power rationally and in good faith. It was this foundational administrative law principle that formed the base of the Court’s reasoning.

The government’s justification for its refusal to refer the dispute; the employees' engagement in a go-slow; was held to be extraneous and unconnected to the subject matter of the dispute, which involved demands for bonus and reclassification. The Court noted that the Conciliation Officer had found substance in the workmen's demands, and the employer had in fact paid the bonus voluntarily, which further undercut the State’s rationale. The misconduct of go-slow, while disgraceful in industrial discipline, was not relevant to the adjudication of the bonus or reclassification claim. By allowing misconduct to foreclose the statutory process of reference, the government had mixed disciplinary sanction with adjudicative rights, a mistake both in law and in administrative principle.

The decision is significant, in that it lays down a clear demarcation between administrative discretion and arbitrary conduct. The Court’s interpretation transforms the word “may” in Section 12(5) into a “conditional shall”, i.e., where the government is satisfied that there is a real industrial dispute warranting adjudication, the discretion grows into a duty to refer. The power to deny reference remains, but only upon relevant, bona fide, and reasoned grounds. This approach aligns with established administrative law doctrines in India and abroad.

It must also be noted that while *K.P. Krishnan* clarifies the scope of discretion, it does not strip the government of power to refuse reference entirely. Rather, it imposes constitutional discipline over that power. The government remains empowered to reject references that are stale, frivolous, politically sensitive, or lacking in industrial merit, etc. But the judgment insists on transparency, relevance, and rational relation between the reasons cited and the industrial dispute at hand. This approach, while seems modest, transformed the practice of industrial dispute management in India by subjecting executive power to legal and constitutional standards.

CONCLUSION

The Supreme Court’s conclusion in *State of Bombay v. K.P. Krishnan* stands as a turning point in the evolution of administrative law within the framework of industrial legislation. It

meticulously interprets Section 12(5) of the IDA, 1947, to hold that governmental discretion is neither unfettered nor immune from judicial scrutiny. The ‘power to refer’, or ‘refuse to refer’, a dispute must be exercised based on germane, intelligible, and bona fide considerations. Failure to do so invalidates the action and justifies judicial intervention under Article 226 of the Constitution.

The key takeaway from the judgment is that procedural fairness is integral to the administration of industrial justice. By compelling the government to record and communicate reasons, the Court imposed a structural obligation to justify action, which operates as a check on arbitrariness. This is of vital importance in the Indian labour landscape, where the government plays a gatekeeping role in enabling or disabling access to judgement. Without such judicial standards, the possibility of politically influenced or employer-biased decisions would be huge.

Following *K.P. Krishnan*, courts began to closely scrutinize refusals under Section 12(5) to ensure that governments were not indulging in summary or punitive rejections. In *Ram Avtar Sharma v. State of Haryana*, the Hon’ble Supreme Court held that government cannot refuse referral of an industrial dispute merely on the ground that it involved a large number of workers or that settlement seemed unlikely⁴.

In *Sarva Shramik Sangh v. Indian Oil Corporation Ltd. & Ors.*, the Court emphasized that refusal to refer a dispute could not be rested on procedural technicalities or inconsistent submissions made by a union. The Court cited *K.P. Krishnan* to underline that any denial of adjudicatory referral must be based on substantial, relevant grounds, and may be challenged by means of writ remedy when it is arbitrary or lacks bona fide exercise of power⁵. These rulings demonstrate the expanding judicial intolerance for opaque or mechanical refusals, and they firmly root their reasoning in the standards laid down in *K.P. Krishnan*.

The broader implication of this ruling is the affirmation of rule of law in administrative governance. It affirms that even where statutory language confers discretion, such discretion must be structured, reasoned, and accountable. It moves away from the colonial vestiges of absolute executive authority and roots the Indian administrative state into a culture of reasoning and explanation.

⁴ *Ram Avtar Sharma v. State of Haryana*, AIR 1985 SC 915

⁵ *Sarva Shramik Singh vs Indian Oil Corporation Ltd. & Ors*, AIR 2009 SC 2355

However, while the judgment remains foundational, certain ambiguities continue. It does not fully outline how to treat cases involving mixed motives, nor does it specify what threshold of misconduct justifies non-referral. These gaps leave some interpretive room, and subsequent judicial development has only partially filled them. For instance, later rulings have permitted refusal in cases involving threat to public order or repetitive demands.

Yet, despite these silences, the core message of the case is unambiguous, i.e., State's powers must yield to reason, especially where such powers determine the rights of citizens to seek legal remedies. *K.P. Krishnan* thus not only clarified an industrial law provision but also elevated the administrative practices of the Indian state to a constitutional level of responsibility.

In essence, this decision reaffirms the primacy of reasoned governance, where the procedural legitimacy of an action is as vital as its substantive legality. It is a lesson in the judicial writing-of accountability, a principle that remains central to democratic governance even today.

The ruling also resonates with the broader constitutional structure, particularly Article 14, which, though not explicitly invoked in the judgment, underpins the doctrine against arbitrariness in state action. When read alongside Article 226, which empowers HC to issue writs against such state action, the decision becomes a textbook illustration of constitutional supervision of executive discretion in industrial policy.