

CHAPTER 27

INTER-STATE RELATIONS

I. INTER-STATE COMITY

Though a federal Constitution involves the sovereignty of the Units within their respective territorial limits, it is not possible for them to remain in complete isolation from each other and the very exercise of internal sovereignty by a Unit would require its recognition by, and co-operation of, the other Units of the federation. All federal Constitutions, therefore, lay down certain rules of comity which the Units are required to observe, in their treatment of each other. These rules and agencies relate to such matters as—

(a) Recognition of the public acts, records and judicial proceedings of each other.

(b) Extra-judicial settlement of disputes.

(c) Co-ordination between States.

(d) Freedom of inter-State trade, commerce and intercourse.

(A) *Recognition of Public Acts, etc.* Since the jurisdiction of each State is confined to its own territory [Arts. 162, 245(1)], the acts and records of one State might have been refused to be recognised in another State, without a provision to compel such recognition. The Constitution, therefore, provides that—

Full Faith and Credit. "Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and every State" [Art. 261(1)].

This means that duly authenticated copies of statutes or statutory instruments, judgments or orders of one State shall be given recognition in another State in the same manner as the statutes, etc., of the latter State itself. Parliament has the power to legislate as to the mode of proof of such acts and records or the effects thereof [Art. 261(2)].

(B) *Extra-judicial Settlement of Disputes.* Since the States, in every federation, normally act as independent units in the exercise of their internal sovereignty, conflicts of interest between the units are sure to arise. Hence, in order to maintain the strength of the Union, it is essential that there should be adequate provision for judicial determination of disputes between the units and for settlement of disputes by extra-judicial bodies as well as their prevention by consultation and joint action. While Art. 131 provides for the judicial determination of disputes between States

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by vesting the Supreme Court with exclusive jurisdiction in the matter, Art. 262 provides for the adjudication of *one class* of such disputes by an extra-judicial tribunal, while Art. 263 provides for the prevention of inter-State disputes by investigation and recommendation by an administrative body. Thus—

(i) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley and also provide for the exclusion of the jurisdiction of all Courts, including the Supreme Court, to entertain such disputes [Art. 262].

In exercise of this power, Parliament has enacted the Inter-State Water Disputes Act, 1956, providing for the constitution of an *ad hoc* Tribunal for the adjudication of any dispute arising between two or more States with regard to the waters of any inter-State river or river valley.

(ii) The President can establish an inter-State Council for enquiring into and advising upon inter-State disputes, if at any time it appears to him that the public interests would be served by the establishment of such Council [Art. 263(a)].

(C) *Co-ordination between States.* The power of the President to set up inter-State Councils may be exercised not only for advising upon disputes, but also for the purpose of investigating and discussing subjects in which some or all of the States or the Union and one or more of the States have a common interest. In exercise of this power, the President has already constituted the Central Council of Health, the Central Council of Local Self-Government, the Central Council of Indian Medicine,¹ Central Council of Homeopathy.

In this connection, it should be mentioned that advisory bodies to advise on inter-State matters have also been established under statutory authority:

(a) Zonal Councils have been established by the States Reorganisation Act, 1956 to *advise* on matters of common interest to each of the five zones into which the territory of India has been divided,—Northern, Southern, Eastern, Western and Central.

It should be remembered that these Zonal Councils do not owe their origin to the Constitution but to an Act of Parliament, having been introduced by the States Reorganisation Act, as a part of the scheme of reorganisation of the States with a view to securing co-operation and co-ordination as between the States, the Union Territories and the Union, particularly in respect of economic and social development. The creation of the Zonal Councils was a logical outcome of the reorganisation of the States on a linguistic basis. For, if the cultural and economic affinity of linguistic States with their contiguous States was to be maintained and their common interests were to be served by co-operative action, a common meeting ground of some sort was indispensable. The object of these Councils, as Pandit Nehru envisaged it, is to "develop the habit of co-operative working". The presence of a Union Minister, nominated by the Union Government, in

each of these Councils (and the Chief Ministers of the States concerned) also furthers co-ordination and national integration through an extra-constitutional advisory organisation, without undermining the autonomy of the States. If properly worked, these Councils would thus foster the 'federal sentiment' by resisting the separatist tendencies of linguism and provincialism.

(i) The *Central Zone*, comprising the States of Uttar Pradesh, Madhya Pradesh, Chhatisgarh and Uttarakhand.

(ii) The *Northern Zone*, comprising the States of Haryana, Himachal Pradesh, Punjab, Rajasthan, Jammu & Kashmir, and the Union Territories of Delhi & Chandigarh.

(iii) The *Eastern Zone*, comprising the States of Bihar, West Bengal, Orissa, Sikkim and Jharkhand.

(iv) The *Western Zone*, comprising the States of Gujarat, Maharashtra and Goa and the Union Territories of Dadra & Nagar Haveli; Daman & Diu.

(v) The *Southern Zone*, comprising the States of Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, and the Union Territory of Pondicherry.

(vi) The *North Eastern Zone*, comprising the States of Assam, Meghalaya, Nagaland, Manipur, Tripura, Mizoram, Arunachal Pradesh.

Each Zonal Council consists of the Chief Minister and two other Ministers of each of the States in the Zone and the Administrator in the case of a Union Territory. There is also provision for holding joint meetings of two or more Zonal Councils. The Union Home Minister has been nominated to be the common chairman of all the Zonal Councils.

The Zonal Councils, as already stated, discuss matters of common concern to the States and Territories comprised in each Zone, such as, economic and social planning, border disputes, inter-State transport, matters arising out of the reorganisation of States and the like, and give advice to the Governments of the States concerned as well as the Government of India.²

Besides the Zonal Councils, there is a North-Eastern Council, set up under the North-Eastern Council Act, 1971, to deal with the common problems of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram.

(b) The River Boards Act, 1956, provides for the establishment of a **River Board.** River Board for the purpose of advising the Governments interested in relation to the regulation or development of an inter-State river or river valley.

(c) The inter-State Water Disputes Act, 1956, provides for the reference of an *inter-State* river dispute for arbitration by a **Water Disputes Tribunal.** Water Disputes Tribunal, whose award would be final according to Art. 262(2).

II. FREEDOM OF INTER-STATE TRADE AND COMMERCE

The great problem of any federal structure is to minimise inter-State barriers as much as possible, so that the people may feel that they are members of one nation, though they may, individually, be residents of any

of the Units of the Union. One of the means to achieve this object is to guarantee to every citizen the freedom of movement and residence throughout the country. Our Constitution guarantees this right by Art. 19(1)(d) & (e).

No less important is the freedom of movement or passage of commodities and of commercial transactions between one part of the country and

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another. The progress of the country as a whole also requires free flow of commerce and intercourse as between different parts, without any barrier. This is particularly essential in a federal system. This freedom is sought to be secured by the provisions [Arts. 301—307] contained in Part XIII of our Constitution. These provisions, however, are not confined to *inter-State* freedom but include *intra-State* freedom as well. In other words, subject to the exceptions laid down in this Part, no restrictions can be imposed upon the flow of trade, commerce and intercourse, not only as between one State and another but as between any two points within the territory of India whether any State border has to be crossed or not.

Article 301 thus declares—

“Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.”

Art. 303(1) declares that neither the Parliament nor the State Legislature shall have power to make any law giving, or authorising the giving of, any preference to one State over another; or making or authorising the making of, any discrimination between one State and another, in the field of trade, commerce or intercourse. Hence, if a State prohibits the sale of lottery tickets of others and promotes that of its own, it would be discriminatory and violative of Art. 303.³

The limitations imposed upon the above freedom by the other provisions of Part XIII are—

(a) Non-discriminatory restrictions may be imposed by Parliament, in the public interest [Art. 302].

By virtue of this power, Parliament has enacted the Essential Commodities Act, 1955, which empowers, ‘in the interest of the general public’, the Central Government to control the production, supply and distribution of certain ‘essential commodities’, such as coal, cotton, iron and steel, petroleum.

(b) Even discriminatory or preferential provisions may be made by Parliament, for the purpose of dealing with a scarcity of goods arising in any part of India [Art. 303(2)].

(c) Reasonable restrictions may be imposed by a State “in the public interest” [Art. 304(b)].

(d) Non-discriminatory taxes may be imposed by a State on goods imported from other States or Union Territories, similarly as on *intra-State* goods [Art. 304(a)].

(e) The appropriate Legislature may make a law [under Art. 19(6)(ii)] for the carrying on by the State, or by a corporation owned or controlled by

the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Before leaving this topic, we should notice the difference in the scope of the provisions of Arts. 19(1)(g) and 301 both of which guarantee the freedom of trade and commerce. Arts. 19(1)(g) and 301.

Though this question has not been finally settled, it may be stated broadly that Art. 19(1)(g) looks at the freedom from the standpoint of the *individual* who seeks to carry on a trade or profession and guarantees such freedom throughout the territory of India subject to reasonable restrictions, as indicated in Art. 19(5). Article 301, on the other hand, looks at the freedom from the standpoint of the movement or passage of commodities or the carrying on of commercial transactions between *one place and another*, irrespective of the individuals who may be engaged in such trade or commerce. The only restrictions that can be imposed on the freedom declared by Art. 301 are to be found in Arts. 302—305. But if either of these freedoms be restricted, the aggrieved individual⁴ or even a State⁵ may challenge the constitutionality of the restriction, whether imposed by an executive order or by legislation.⁴ When there is a violation of Art. 301 or 304, there would ordinarily be an infringement of an individual's fundamental right guaranteed by Art. 19(1)(g), in which case, he can bring an application under Art. 32, even though Art. 301 or 304 is not included in Part III as a fundamental right.⁶

REFERENCES

1. *India*, 1982, p. 101.
2. After a lapse of some three years, sittings of Zonal Councils have been revived from 1978 [STATESMAN, 8-9-1978, p. 9]. Yet, it must be said that this scheme has not been fully utilised [see Author's *Comparative Federalism*, 1987, pp. 574ff.].
3. *B.R. Enterprises v. State of U.P.*, (1999) 9 S.C.C. 700.
4. *Atiabari Tea Co. v. State of Assam*, AIR 1961 S.C. 232; *Automobile Transport v. State of Rajasthan*, AIR 1962 S.C. 1406.
5. *State of Rajasthan v. Mangilal*, (1969) 2 S.C.C. 710 (713); *State of Assam v. Labanya Prabha*, AIR 1967 S.C. 1574 (1578).
6. *Syed Ahmed v. State of Mysore*, AIR 1975 S.C. 1443.