PETITIONER:
THE CALCUTTA GAS COMPANY (PROPRIETARY) LTD.

Vs.

RESPONDENT:
THE STATE OF WEST BENGAL AND OTHERS

DATE OF JUDGMENT:
05/02/1962

BENCH:
SUBBARAO, K.
BENCH:
SUBBARAO, K.
AIYYAR, T.L. VENKATARAMA
SINHA, BHUVNESHWAR P.(CJ)
AYYANGAR, N. RAJAGOPALA
MUDHOLKAR, J.R.

CITATION:
1962 AIR 1044 1962 SCR Supl. (3) 1
CITATOR INFO :
R 1963 SC 703 (45)
R 1966 SC 828 (8)
RF 1973 SC2720 (9)
F 1976 SC 578 (33)
RF 1977 SC1496 (18)
RF 1979 SC 248 (5)
RF 1990 SC 85 (18)
RF 1990 SC1927 (14)

ACT:
Gas and gas-works-Enactment by State Legislature Constitutional validity-Writ Petition--Locus satandi-Oriental Gas Company Act, 1960 (W.B. 15 of 1960), s.4-Constitution of India Arts. 226, 246, Sch. VII, List II, Entries 24,25.

HEADNOTE:
By an agreement entered into by the appellant company and the Oriental Gas Company, the appellant was appointed as Manager of the later company which owned an industrial undertaking for the manufacture and sale of fuel gas in Calcutta with the right to receive remuneration as specified in the agreement. The West Bengal Legislature passed the Oriental Gas Company Act, 1960, and s.4 of that Act provided that the said undertaking shall stand transferred to the State Government for five years for management and control. On October 3, 1960, the State Government issued three notifications one of which appointed October, 7, 1960, as the date on and from which the management and control of the said undertaking would be taken over by it. The appellant by a petition under Art. 226 of the Constitution impugned the constitutional validity of the said Act and sought for appropriate writs restraining the State Government for giving effect to it and for quashing the said notifications. The High Court found against the petitioner and rejected the petition.
Held, that the State Legislature had the competence to enact the impugned Act and its constitutional validity was beyond question.

Article 226 of the Constitution confers a very wide power on the High Court to issue directions and writs not only for the enforcement of fundamental rights but other legal rights as well. Since the appellant's lawful rights under the agreement had been abridged, if not wholly destroyer by the impugned Act, it had the locus standi to apply under Art. 226 of the Constitution.
The State of Orissa v. Madan Gopal Bungta, [1952] S.C.R. 28 and Chiranjit Lal Choudhuri v. The Union of lndia, [1950] C.R. 869, referred to.
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The entries in the three Legislative Lists are only legislative heads or fields of legislation that demarcate the area over which the appropriate legislature operates and it is well settled that the language of the entries should be widely construed. If any entries overlap or are in direct conflict with each other, every attempt should be made to harmonise them, whether the entries belong to the same List or different 'Lists, so that no entry may be robbed of its entire content and made nugatory.
In re the Central Provinces and Berar Act, No. XIV of 1938, [1939] F. C. R. 18 and State of Bombay v. Norothamdas Jethabhai, [1951] S. C. R. 51, referred to.
So construed Entry 24 of List II which is in apparent conflict with Entry 25 of the same list, must be held to cover all industries in a State except Gas and Gas-works which are specifically dealt with by Entry 25 and exclusively allotted to it.
It is clear that the express intention of the Constitution was to carve out Gas and Gas-works industry from Entry 24 and bring them under Entry 25 and treat them in normal times as State industries. It would be erroneous to say that such an interpretation would prevent the Parliament from making laws in respect of Gas and Gas-works during war or other national emergencies.

JUDGMENT:
CIVIL APPELLATE JURISDICTION Civil Appeal No. 138 of 1961.
Appeal by special leave from the judgment and order dated November 15, 1960, of the Calcutta High Court in Matter No. 235 of 1960.
M. C. Setalvad, Attorney-General for India, B. B. L. Iyengar and B. P. Maheshwari, for the appellant.
S. M. Bose, Advocate-General, West Bengal, B. Sen, P. K. Chatter , S. C. Bose, Milon Bannerji and P. K. Bose, for the respondents Nos. 1 to 4.
1962. February 5. The Judgment of the Court was delivered by
SUBBARAO, J.-This appeal by special leave is against the Judgment and Order dated November 15, 1960, of the High Court of Judicature at Calcutta dismissing the petition filed by the appellant under
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Art. 226 of the Constitution, and it raises the constitutional validity of the Oriental Gas Company Act, 1960, (W.B, Act XV of 1960), hereinafter called the "impugned Act".
The facts that have given rise to this appeal may be briefly stated. The Oriental Gas Company was originally constituted by a deed of settlement dated April 25, 1853, by the name of the Oriental Gas Company, and it was subsequently registered in England under the provisions of the English Joint Stock Companies Act, 1862. By Act V of 1857 passed by the

Legislative Council of India, it was empowered to lay pipes in Calcutta and its suburbs and to excavate the streets for the said purpose. By Acts of the Legislative Council of India passed from time to time special powers were conferred on the said Company. In 1946 Messrs. Soorajmull Nagarmull, a firm carrying on business in India, purchased 98 percent of the shares of the said Oriental Gas Company Limited. The said firm floated a limited liability Company named the Calcutta Gas Co. (Proprietary) Limited and it was registered in India with its registered office at Calcutta. On July 24, 1948, under an agreement entered into between the Oriental Gas Company, and the Calcutta Gas Company the latter was appointed the manager of the former Company in India for a period of 20 years from July 5, 1948. The Oriental Gas Company is the owner of the industrial undertaking, inter alia, for the production, manufacture, supply, distribution and sale of fuel gas Calcutta. The Calcutta Gas Company, by virtue of the aforesaid arrangement, was in charge of its general management for a period of 20 years for remuneration. The West Bengal Legislature passed the impugned Act and it received the assent of the President on October 1, 1960. On October 3, 1960, the West Bengal Government issued three notifications- the first declaring that the said Act would come into force on October 3, 1960, the second containing the rules framed under the Act, and the

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third specifying October 7, 1960, as the date with effect from which the State Government would take over for a period of five years the management and control of the undertaking of the Oriental Gas Company for 'the purposes of, and in accordance with, the provisions of the said Act.. The appellant, i.e., the Calcutta Gas Company, filed a petition under Art. 226 of the Constitution tn. the High Court for West Bengal at Calcutta for appropriate writs for restraining the State Government from giving effect to the said Act and for quashing the said notifications. Respondents 1 to 4 to the petition were the State of West Bengal and the concerned officers, and respondent 5 was the Oriental Gas Company Limited. In the petition, the appellant contested the constitutional validity of the Act on various grounds, and in the counter affidavit. the contesting respondents i.e.. respondents 1 to 4, sought to sustain its validity and also questioned the maintainability of the petition at the instance of the appellant. Ray, J., gave the following findings on the contentions raised before him:(1) The appellant has no legal right to maintain the petition; (2) the appellant cannot question the validity of the Act on the ground that its provisions infringed his fundamental rights under Arts. 14, 19 and 31 in view of Art. 31A(1)(b) of the Constitution; (3) the West Bengal Legislature had the Legislative competence to pass the impugned Act by virtue of entry 42 of List III of the Seventh Schedule to the Constitution; (4) entry 25 of List II also confers sufficient authority and power on the State Legislature to make laws affecting gas and gas work ; and (5) even if the Act incidentally trenches upon any production aspect, the pith and substance of the legislation is gas and ,a,,-work within the meaning of entry 25 of List II. The learned Judge rejected all the contentions of the appellant and dismissed the petition by his order dated November 15, 1960. Hence the appeal.

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Learned Attorney-General, appearing for the appellant, has repeated before us all the contentions, except that relating

to fundamental rights., which his client had unsuccessfully raised before the High Court. His contentions may be summarized thus : (1) The finding of the High Court that the appellant has no locus standi to file the petition cannot be sustained, as under the impugned Act the appellant's legal rights under the agreement entered into by it with the Oriental Gas Company on July 24, 1948 were seriously affected. (2) Under Art. 246 of the Constitution Parliament has exclusive power to make laws with, respect to any of the matters enumerated in List I : Parliament in exercise of the said power passed the Industries (Development and Regulation) Act, 1951, by virtue of entry 52 of said List; the two entries in List II, namely, entries 24 and 25, cannot sustain the Act, as entry 24 is subject to the provisions of entry 52 of List I; and entry 25 must be confined to matters other than those covered by entry 24, and, therefore,, the West Bengal Legislature is not Competent to make a law regulating- the gas industry. (3) Assuming that the State Legislature has power to pass the Act by virtue of entry 25 of List II, under Art. 254(1) of the Constitution the law made by Parliament, namely, the Industries (Development and Regulation) Act, 1951, shall prevail, and the law made by the State Legislature, namely, the impugned Act be. void to the extent of repugnancy. And (4) the view of the High Court that the validity of the Act could be sustained under entry 42 of List III is wrong, as under the impugned Act the State only takes over the management of the Company and manages it for and on behalf of the Company, whereas the concept of requisition under the said entry requires that the State shall take legal possession of property of the person from whom it is requisitioned., on its own behalf or on behalf of a petitioner other than the owner thereof.

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The learned Advocate-General of West Bengal, and Mr. Sen, who followed him, seek to sustain the validity of the impugned Act not only under entry 25 of List II but also under entries 33 and 42 of List III of the Seventh Schedule to the Constitution. They further contend that the appellant was constituted as agent under the said agreement and that, as its rights were preserved by s. 4 of the impugned Act, it has no locus standi to file the petition under Art. 226.

The first question that falls to be considered is whether the appellant has locus standi to file the petition under Art. 226 of the Constitution. The argument of learned counsel for the respondents is that the appellant was only managing the industry and it had no proprietary right therein and, therefore, it could not maintain, the application. Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming fundamental right can also approach the court seeking a relief thereunder. The Article in terms does not, describe the classes of persons entitled to apply thereunder ; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right. In The State of Orissa v. Madan Gopal Rungta(1) this Court has ruled that the existence of the right is the foundation of the exercise of jurisdiction of the court under Art. 226 of the Constitution. In Chiranjit Lal Chowdhuri v. The Union of India (2), it has been held by this Court that the legal right that can be

enforced under Art. 32 must ordinarily be the right of the petitioner himself who complains of infraction of such right and approaches the court for relief. We do not see any reason why a different principle should apply in the case of a

(1) [1952] S C.R. 28.
(2) [1950] S.C.R. 869.

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petitioner under Art. 226 of the Constitution. The right that can be enforced under Art. 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified. The questions therefore, is whether in the present case the petitioner has a legal right, and whether it has been infringed by the contesting respondents. The petitioner entered into an agreement dated July 24, 1948, with respondent No. 5; in regard the Oriental Gas Company. Under the agreement,the appellant was appointed as Manager and the general management of the affairs of the Company was entrusted to it for a period of 20 years. The appellant would receive thereunder by way of remuneration for its services, (a) an office allowance of Rs. 3,000/- per mensem, (b) a commission of 10 per cent, on the net yearly profit of the Company, subject to a minimum of Rs. 60,000/- per year in the case of absence of or inadequacy of profits and (c) a commission of Re. 1/- per ton of all coal purchased and negotiated by the Manager. In its capacity as Manager, the appellant-Company was put in charge of the entire business and its assets in India and it was given all the incidental powers necessary for the said management. Under the agreement, therefore, the appellant had the right to manage the Oriental Gas Company for a period of 20 years and to receive the aforesaid amounts toward its remuneration for its services. Section 4 of the impugned Act reads:

> "With effect from the appointed day and for a period of five years thereafter.-
> (a) the undertaking of the Company shall stand transferred to the State Government for the purpose of management and control ;
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> (b) the Company and its agents, including managing agents, if any, and servant shall cease to exercise management or control in relation to the undertaking of the company;
> (c) all contracts, excluding any contract or contracts in respect of agency or managing agency, subsisting immediately before the appointed day and affecting the undertaking of the Company shall cease effect or to be enforceable Company, its agents or any to have against the person who was a surety thereto or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the State of West Bengal and shall be enforceable as fully and effectively as if instead of the Company the State of West Bengal had been named therein or had been a party thereto:"

Under the said section, with effect from the appointed day and for a period of five years thereafter, the management of the Company shall stand transferred to the State Government, and the Company, its agents and servants shall cease to exercise management or control of the same. Under cl. (c) of the section, the contracts of agency or managing agency

are not touched, but all the other contracts cease to have effect against the Company and are enforceable by or against the State. It is not necessary in this case to decide whether under the said agreement the appellant was constituted as agent or managing agent or a servant. of the Oriental Gas Company. Whatever may be its character, by reason of s. 4 of the impugned Act, it was deprived of certain legal rights it possessed under the agreement. Under the agreement, the appellant had the right to manage the Oriental Gas Company for a period of 20 years and to receive remuneration for the same. But under
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s. 4 of the impugned Act, it was deprived of that right for a period of five years. There was certainly a legal right accruing to the appellant under the agreement and that was abridged , if not destroyed, by the impugned Act. It is, therefore, impossible to say that the legal right of the appellant was not infringed by the provisions of the impugned Act. In the circumstances, as the appellant's personal right to manage the Company and to receive re-muneration therefore had been infringed by the provisions of the statute, it had locus standi to file the petition under Art. 226 of the Constitution.

To appreciate the rival contentions in regard to the other points, it would be convenient and necessary to notice briefly the provisions of the Industries (Development and Regulation) Act, 1951, hereinafter called the "'Central Act.", and the impugned Act. The Central Act was, passed, as its long title shows, to provide for the development and regulation of certain industries. Under s. 2 of the Central Act, it is declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule. Under beading 2 of the First Schedule, item (3) is "fuel gases-(coal gas, natural gas and the like)". ,Industrial undertaking" is defined to mean any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government ; and "factory" is defined to mean any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on. Section 9 authorizes the Government to levy and collect a cess from the industries : Chapter III provides for the regulation of scheduled industries : section 15 empowers the Government to make or cause to be made a fall and complete investigation of the affairs of any scheduled industry, if- it is of opinion that there is a likelihood of substantial fall in the volume of
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production or a marked deterioration in the quality of any article produced, or there is likely to be a rise in the price of any article produced, therein, or that an undertaking is being managed in a manner highly detriment-to the scheduled industry concerned; and s.16 authorizes the Central Government, after making the said investigation to issue such directions to the industrial undertaking or undertakings concerned as may be. appropriate in the circum-stances in order to regulate the production of any article or articles and fix the standards of production, to require it to take such steps to stimulate the development of the industry, to prohibit from resorting to any act or practice which might reduce its production capacity or economic value, or to control the prices or regulate the distribution of articles produced therein. Chapter III A confers power an the Central Government to assume management or control of an industrial undertaking in certain cases: section 18A

enables it to take control of an industrial undertaking, and s. 18B(1), inter alia, provides that on the issue of the notified order under s. 18A, all persons in charge of management, including persons holding office as managers or directors of the industrial undertaking immediately before the issue of the notified order shall be deemed to have vacated their offices as such, and that any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated and the person or persons appointed under the Act shall be empowered to take over the management and conduct the affairs of the Company in the place of the previous management. Chapter IIIB enables the Central Government for securing the equitable distribution and availability at fair prices of any article or class of articles relatable to any hanreeetd industry, and for controlling and ugsdlciulg the supply, distribution, and price of the

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said articles. Section 20 of the Act declares that after the commencement of the Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorizes any such Government or local authority so to do. Briefly' stated, the Central Act declares that it is expedient, in the public interest to take under its control the scheduled industries; its provisions are designed to provide for the development and regulation of the, said industries; it enables the Central Government, for the purpose of promoting and regulating the said industries, to investigate into the affairs of an undertaking, to regulate its production, supply and distribution, arid, if necessary, to take over the management of the undertaking.

Coming to the impugned Act, its provisions are confined only to the affairs of the Oriental Gas Company Limited. Its long title shows that it was passed to provide the taking over for a limited period of the management and control, and the .subsequent acquisition of the undertaking of the Oriental Gas Company Limited. Its preamble says that it was thought expedient to provide for the increase of the production of gas and improving the quality thereof for supply to industrial undertakings, hospitals and other wel-fare institutions, to local authorities for street lighting and to the public in general for domestic consumption and for that purpose to provide for the taking over for a limited period of the management and control, and the subsequent acquisition, of the undertaking. Under s. 4, with effect from the appointed day and for a period of five years thereafter the undertaking of the Company shall stand transferred to the State Government for the purpose of management and control. Under s. 6, the undertaking of the Company shall be run by the State Government and shall be used and

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utilised by the State Government for purposes of Production of gas and supply thereof to public institutions mentioned therein and for other purposes. Sections 8 and 9 provide for payment of compensation for taking over the said management. It would be seen that the impugned Act intends to serve the same purpose as the Central Act, though its operation is confined to the Oriental Gas Company. Both the Acts are conceived to increase ,-he production, quality and supply pertaining to an industry, and for that purpose to

enable the appropriate Government, if necessary, to take over the management for regulating the industry concerned to achieve the said purposes. The impugned Act occupies a part of the field already covered by the Central Act. The question is whether the State Legislature has constitutional competency to encroach upon the said field.

At this stage it would be convenient to read the relevant Articles of the Constitution.

> Article 246. (1) Notwithstanding anything in clauses (2) and (3) Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the ,Union List").
>
> (3) Subject to clauses (1) and (2). the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the ,State List").
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> List I-Union List
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> Entry 7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
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> Entry 52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
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> List II-State List
>
> Entry 24. Industries subject to the provisions of entries 7 and 52 of List I.
>
> Entry 25. Gas and gas-works.
>
> Entry 26.1 Trade and commerce within the State subject to the provisions of entry 33 of List III.
>
> Entry 27. Production, supply and distribution of goods subject to the provisions of entry 33 of List Ill.

Before construing the said entries it would be useful to' notice some of the well settled rules of interpretation laid down by the Federal Court and this Court in the matter of construing the entries. The power to legislate is given to the appropriate Legislatures by Art. 246 of the Constitution. The entries in the three Lists are only legislative heads or fields of legislation : they demarcate the area over which the appropriate Legislatures can operate. It is also well settled that widest amplitude should be given to the language of the entries. But some of the entries in the different List or in the same List may overlap and sometimes may also appear to be in direct conflict with each other. It is then the duty of this Court to reconcile the entries and bring about harmony between them. When the question arose about reconciling entry 45 of List I, duties of excise, and entry 18 of List II, taxes on the sale of goods, of Government of India Act, 1935, Gwyer, C. J., in ln re The Central Provinces and Berar Act No. X IV of 1938 (1), observed:

> "A grant of the power in general terms, standing by itself, would no doubt be construed in the wider sense; but it may be qualified
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> (1) (1939) F. C. R. 18, 42, 44,
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> by other express provisions in the same

> enactment, by the implication of the context, and even by considerations arising out of what appears to be the general scheme of the Act."

The learned Chief Justice proceeded to state

> "..... an endeavor must be made to ,solve it, as the Judicial Committee have said by having recourse to the context and scheme of the Act, and a reconciliation attempted between two apparently conflicting jurisdictions by reading the two entries together and by interpreting, arid, where necessary, modifying the language of the one by that of the other. If indeed such a reconciliation should prove impossible, then, and only then, will the non-obstante clause operate and the federal power prevail."

The Federal Court in that case held that the entry "taxes on the sale of goods" was not covered by the entry "duties of excise" and in coming to that conclusion, the learned Chief Justice observed:

> "Here are two separate enactments, each in one aspect conferring the power to impose a tax upon goods; and it would accord with sound principles of construction to take the more general power, that which extends to the whole of India, as subject to an exception created by the particular power, that which extends to the provinced only. it is not perhaps strictly accurate to speak of the provincial power as being excepted out of the federal power, for the two are independent of one another and exist side by side. But the underlying principle in the two cases must be the same, that a general power ought not to be so construed as to make a nullity of a particular 15 power conferred by the same Act and operating in the same field, when by reading the former in a more restricted sense effect can be given to the latter in its ordinary and natural meaning."

The rule of construction adopted by that decision for the purpose of harmonizing the two apparently conflicting entries in the two Lists would equally apply to an apparent conflict between two entries in the same List. Patanjali Sastri, J., as he then was, hold in State of Bombay v.Narothamdas Jethabai(1) that the words "administration of justice" and (,constitution and organization of all courts" in item one of List II of the Seventh Schedule to the Government of India Act, 1935, must be understood in a restricted sense excluding from their scope "jurisdiction and powers of courts" specifically dealt with in item 2 of List II. In the words of the learned Judge, if such a construction was not given "the wider construction of entry 1 would deprive entry 2 of all its content and reduce it to useless lumber." This rule of construction has not been dissented from in any of the subsequent decisions of this Court. It may, therefore, be taken as a well settled rule of construction that every attempt should be made to harmonize the apparently conflicting entries not only of different Lists but also of the same List and to reject that construction which will rob one of the entries of its entire content and make it nugatory.

With this background let us construe the aforesaid entries. There are three possible constructions, namely, (1) entry 24

of List II, which provides for industries generally, covers the industrial aspect of gas and gas-works leaving entry 25 to provide for other aspects of gas and gas-works; (2) entry 24 provides generally for industries, and entry 25 carves out of it 'the specific industry

(1) [1951] S.C.R.51.

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of gas. and gas-works, with the result that the indus try of gas and gas-works is excluded from entry 24 ; and (3) the industry of gas and gas-works falls under both the entries, that is, there' is a real overleaping of the said entries. Having regard to the aforesaid principle while giving the widest scope to both the entries, we shall adopt the interpretation which reconciles and harmonizes them.

The first question that occurs to one's mind is, what is the meaning of the expression ",indus. try" in entry 24 of List II ? Is it different from the meaning of that expression in entry 52 of List I ? Whatever may be its connotation, it, must bear the same meaning in both the entries for the, two entries are so interconnected that conflicting or different meanings given to them would snap the connection Entry 24 is subject to the provisions of entry 7 and entry 52 of List I. Entry 7 of List I provides for industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war; and entry 52 for industries the control of which by the Union is declared by Parliament by law to be expedient in the public interest. Therefore ordinarily industry is in the field of State legislation ; but, if Parliament by law makes a relevant declaration or declarations, the industry or industries so declared would be taken off its :field and passed on to Parliament. In the promises, the expression "industry" in all the entries must be given the same meaning. Now, what is the meaning of word "industry"? In Ch. Tika Ramji v. State of Uttar Pradesh the expression "industries" is defined to mean the process of manufacture or production and does not include the raw materials used in the industry or the distribution of the products of the industry. It was Contended that the word "industry" was P. word of wide

(1) [1956] S.C.R. 393.

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import and should be construed as including not only the process of manufacture or production but also activities antecedent thereto such as acquisition of raw materials and subsequent thereto such as disposal of the finished products of that industry. But that contention was not accepted. It is not necessary in this case to attempt to define the expression "industry" precisely or to state exhaustively all its ingredients. Assuming that the expression means only production or manufacture, would it take in its sweep production or manufacture, of gas? Entry 24 in List II in its widest amplitude takes in all industries, including that of gas and gas-works. So too, entry 25 of the said List comprehends gas industry. There is, therefore, an apparent conflict between the two entries and they overlap each other. In such a contingency the doctrine of harmonious construction must be invoked. Both the learned counsel accept this principle. While the learned Attorney-General seeks to harmonize both the entries by giving the widest meaning to the word "industry" so as to include the industrial aspect of gas and gas-works and leaving the other aspects to be covered by entry 25, learned counsel for the contesting respondents seeks to reconcile them by carving out gas and gas-works ill all its aspects from entry 24. If industry in entry 24 is interpreted to include gas and gas-

works, entry 25 may become redundant, and in the context of the succeeding entries, namely, entry 26, dealing with trade and commerce, and entry 27, dealing with production, supply and distribution 4 of goods, it will be deprived of all its contents and reduced to ",useless lumber". If industrial, trade, production and supply aspects are taken out of entry 25, the substratum of the said entry would disappear : in that event we would be attributing to the authors of the Constitution ineptitude, want of precision and tautology. On the other hand, the

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alternative contention enables entries 24 and 25 to operate fully in their respective fields : while entry 24 covers a very wide field, that is, the field of the entire industry in the State, entry 25. dealing with gas and gas-works, can be confined to a specific industry, that is,the gas industry. There may be many good reasons for the authors of the Constitution giving separate treatment to gas and gas-works. If one can surmise, it may be that, as the industry of gas and gas-works was confined to one or two States and was not of all India importance, it was carved out of entry 24 and given a separate entry, as otherwise if a declaration by law was made by Parliament within the meaning of entry 7 or entry 52 of List I, it would be taken out of the legislative power of States. Be it as it may, the express intention of the Constitution is to treat it, in normal times, as a state subject and it is not in the province of this Court to ascertain and scrutinize the reasons for doing so. It is suggested that this interpretation would prevent Parliament to make law in respect of gas and gas-works during war or other national emergency. Apart from the relevancy of such a consideration, the apprehension has no justification, for under Art. 249 Parliament is enabled to take up for legislation any matter which is specifically enumerated in List II whenever the Council of States resolves by two-thirds majority that such a legislation is necessary or expedient in the national interest. So too, under Art. 250 Parliament can make laws with respect to any of the matters enumerated in the State List, if a Proclamation of Emergency is in operation. Article 252 authorizes the Parliament to legislate for two or more States, if the Houses of the Legislatures of those :States give their consent to the said course. Subject to such emergency or extra- ordinary powers, the entire industry of gas and gas-works is within exclusive legislative competence of a State. It is, therefore, clear that the scheme of harmonious construction suggested on behalf of the State gives' full

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and effective scope of operation for both the entries in their respective fields, while that suggested by learned counsel for the appellant deprives entry 25 of all its content and even makes it redundant. The former interpretation must, therefore, be accepted in preference to the latter. In this view,' gas and-gas works are within the exclusive field allotted to the States. On this interpretation the argument of the learned Attorney- General that, under Art. 246 of the Constitution, the legislative power of State is subject to that of Parliament ceases to have any force, for the gas industry is outside the legislative field of Parliament and is within the exclusive field of the Legislature of the State. We, therefore, hold that the impugned Act was within the legislative competence of the West Bengal Legislature and was, therefore, validly made.

In this view the alternative argument advanced on behalf of the State, namely, that the impugned Act was made by virtue of entry 33 and entry 42 of List III need not be considered. We should not be understood to have expressed our view one way or other on this aspect of the case.

Nor is the contention of learned Attorney General that s. 20 of the Central Act Would still be valid vis-a-vis gas industry has any force. Under s. 20 of the Central Act,

> "After the commencement of this Act, it shall not be competent for any State Governmentor a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorizes any such Government or local authority so to do."

We have expressed the view that the Legislature of a State has the exclusive power to make law in respect of gas industry by virtue of entry 25 of List II, and that entry 24 does not comprehend gas industry. As we have indicated earlier, the expression "industry" in entry 52 of List I bears the

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same meaning as that in entry 24 of List II, with the result that the said expression in entry 52 of List I also does not take in a gas industry. If so, it follows that the Central Act, in so far as it purported to deal with the gas industry, is beyond the legislative competence of Parliament. Section 20 is an integral part of the Central Act, and if it is taken out of the Act, it can only operate in vacuum. The said section was introduced for the effective implementation of the provisions of the Central Act. It was also enacted by virtue of entry 52 of List I of the Seventh Schedule to the Constitution. If the Act was constitutionally void in so far as it purported to effect the gas industry, for the aforesaid reasons, s. 20 would equally- be void to the same extent for the same reasons. In this context two decisions of this Court, namely Raghubir Singh v. State of Ajmer(1), and State of Bihar v. Ummh Jha(2) may usefully be consulted, for in the said decisions this court held that ancillary provisions enacted for carrying out the objects of a main Act would fall with the main Act on the ground that they were enacted only to subserve the purpose of the main Act. Section 20, therefore, will not avail the appellant to question the validity of the State action.

In the result, we agree with the High Court that the impugned Act was within the legislative competence of the West Bengal State Legislature and was validly made. The appeal fails and is dismissed with costs of respondents 1 to 4.

Appeal dismissed.

(1) [1959] Supp. (1) S.C.R. 478.

(2) A.I.R. 1962 S.C. 50.

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