



**Quasi-Judicial authorities in Pondicherry and fundamental rights**  
**—K. S. Ramamurthy Reddiar v. Chief Commissioner, Pondicherry and Another.**

The Supreme Court's deference to 'the quasi' has been, of late, restricting the fundamental rights guaranteed by the Constitution.<sup>1</sup> In a recent case, *Ramamurthy Reddiar v. Commissioner of Pondicherry*,<sup>2</sup> the Court held that the Government of India could not direct a quasi-judicial authority in Pondicherry not to commit a breach of the fundamental rights. Before Pondicherry, a former French Colony, became part of the territory of India by de jure transfer in 1962 the Government of India had been exercising by virtue of an Agreement with France, full jurisdiction over Pondicherry in executive, legislative and judicial matters in accordance with the Foreign Jurisdiction Act, 1947.<sup>3</sup> A large number of Acts in force in India, including the Indian Motor Vehicles Act, were extended to Pondicherry. Ramamurthy, a citizen of India, applied for a stage carriage permit to the Transport Authority in Pondicherry. His application was rejected by the Transport Authority and the appellate authority, the Chief Commissioner of Pondicherry, confirmed this rejection. In a petition before the Supreme Court under Art. 32 of the Constitution for the enforcement of his fundamental rights he alleged that in so far as his application was rejected on the ground that he was not a native of Pondicherry the order of the Chief Commissioner infringed the protection against discrimination guaranteed by article 15 of the Constitution.<sup>4</sup>

The point for determination before the Court was whether the Chief Commissioner of Pondicherry, acting in a quasi-judicial capacity, could be said to be an authority under the control of the Government of India within the meaning of article 12.<sup>5</sup> The

1. In *Ujjam Bai v. State of Uttar Pradesh* A.I.R. 1962 S.C. 1621 the Court held that there was no fundamental right violated if a quasi-judicial authority acting within its jurisdiction misconstrued a provision of law or came to an erroneous finding of fact. The case has since served as a sword and as a shield. For a comment on this case see this journal Vol. IV, p. 452.

2. A.I.R. 1963 S.C. 1464.

3. See the answers of the Government of India to the questions put by the Court in *Masthan Sahib v. Commissioner of Pondicherry* A.I.R. 1962 S.C. 797 at 798.

4. Article 15(1): The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

5. Article 12: In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the



Court interpreted the word 'control' to mean control over the functions *i.e.*, the power to "direct [the authority] to decide a particular matter in a particular way." Such control was possible in the case of an executive authority but impossible in the case of a quasi-judicial authority. So the Commissioner, the court held, while exercising a quasi-judicial function, could not be said to be an authority under the control of the Government. In the opinion of the Court it did not make any difference that the commissioner was appointed and paid by the Government of India and subject to its disciplinary control. The Court argued that if the authority were of an "executive or administrative nature" a writ could have been issued to the Government of India directing them to give effect to the decision of the Court by virtue of the Government's powers of control. Such a control, the Court thought, was impossible in the case of quasi-judicial authorities for where rule of law prevailed it was not open to any Government to direct a quasi-judicial authority to decide a particular matter in a particular way.

A situation similar to the one in the *Ramamurthy* case arose in an earlier case, *Masthan Sahib v. Commissioner of Pondicherry*.<sup>6</sup> There the writ petitions under Art. 32 were dismissed "having regard to the nature of the relief sought and the authority against whose orders relief is claimed." The reasons that prompted the court to dismiss the petitions in *Masthan Sahib* are more fully articulated in *Ramamurthy*. In both cases the nature of the functions exercised by the authority was projected as the deciding factor. But what was really in issue in these cases was the existence or otherwise, of a power in the Indian Government to direct quasi-judicial authorities in Pondicherry to act according to the Constitution. It is not convincing to say that such a power could be presumed to exist only if there was control over the function of the authorities for the power to direct a quasi-judicial authority to act within its jurisdiction and according to law has never been understood to depend on any control over its functions.

Admittedly the Indian Government had plenary jurisdiction in executive, legislative and judicial matters. 'Jurisdiction' under the Foreign Jurisdiction Act includes "rights, power and authority."<sup>7</sup> The

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Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

6. A.I.R. 1962 S.C. 797.

7. The Foreign Jurisdiction Act, 1947, Sec. 1(6).



Central Government could exercise the jurisdiction itself or delegate the same to any officer or authority in "such manner and to such extent" as it thought fit.<sup>8</sup> Orders could be made determining the law and procedure to be followed and also determining the persons who are to exercise the jurisdiction and the powers to be exercised by them.<sup>9</sup> Besides, there is the general power under the Act to "make such orders as may seem to [the Central Government] expedient for the effective exercise of any foreign jurisdiction."<sup>10</sup> The Chief Commissioner of Pondicherry, appointed by the Central Government, was the head of the administration of French Establishments.<sup>11</sup> He could, *subject to the direction and control of the Central Government*, appoint Judges, magistrates, and other authorities and determine their jurisdiction, powers, duties and functions.<sup>12</sup> A notification<sup>13</sup> specifically enjoined the court, tribunal or authority empowered to enforce the enactments extended to Pondicherry from altering any law if such alteration affected the substance of the law.

These provisions indicate the very wide powers conferred by the Act and the extent of the powers of direction and control retained by the Central Government over all the authorities. When full jurisdiction lay with the Central Government the fact that an authority was constituted with defined jurisdiction and powers did not in any way divest the Central Government of its powers to see that the authority acted within its jurisdiction and according to law. If in the exercise of its legislative jurisdiction the Government could amend an enactment in force in the territory of India and extend the same to Pondicherry no argument based on rule of law could stand in the way of vesting in the Government a supervisory power over quasi-judicial authorities. The Court's enquiry was not sufficiently focussed on this aspect of the case. The Court seems to have proceeded on the assumption that quasi-judicial authorities in Pondicherry stood in relation to the Government of India on the same footing as quasi-judicial authorities within the territory of India. In the territory of India the power to see that these authorities acted within jurisdiction

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8. *Ibid.*, Sec. 3(2).

9. *Ibid.*, Sec. 4(1).

10. *Ibid.*, Sec. 4(1).

11. French Establishments (Administrative) Order, 1954, S.R.O. 3314 Gazette of India. Part II, Sec. 3, p. 2137 dated Nov. 1, 1954.

12. *Ibid.*, Sec. 4(1).

13. *Ibid.*, S.R.O. 3315.



and according to law is vested by the Constitution in the Superior Courts and to this extent Government's powers of direction are restricted. In the absence of any Parliamentary legislation limiting the Central Government power, there is nothing to show that the Government of India did not have such supervisory power in relation to quasi-judicial authorities in Pondicherry. Were it otherwise it would mean that these authorities were let loose in Pondicherry with liberty to flout the very law they were empowered to enforce. Ramamurthy Reddiar could have successfully challenged a government notification if that had allowed any kind of discrimination, but he should feel stupefied to be told that he had no relief if an authority constituted by that notification violated his fundamental rights.<sup>14</sup> It certainly would not have done violence to the rule of law, rather it would have helped it, to recognise in the Government of India the power to see that the authorities in Pondicherry conducted themselves according to the law and the constitution.

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14. In *Masthan Sahib* the Court pointed out that the situation created by the French Establishments not being part of the territory of India was anomalous and unfortunate. Ayyangar, J., for the Court observed: "The situation created by the French Establishments not being part of the territory of India is somewhat anomalous.....So far as the orders of the Courts and other authorities—Judicial and quasi-judicial within that area are concerned, the superior courts in India have not, *subject to what we have stated as regards the limited jurisdiction of this Court*, any appellate or revisional jurisdiction over them and this might in a large number of cases lead to injustice and a sense of grievance" (emphasis supplied). What is not quite clear from the opinion is the "limited jurisdiction" the learned Judge had in mind.