DEBT RELIEF TO THE POOR

ONE OF the gravest causes of rural poverty in India has been the exploitation of vulnerable segments of people by money lenders and other creditors for centuries. Legal liquidation of rural indebtedness is, therefore, one of the national poverty alleviation programmes at the grassroots level. An effective implementation and liberal interpretation of such legal measures is a *sine qua non* for rural development. Over the years the judiciary has shown its concern towards age-old social injustices and granted approval to measures such as state laws liquidating indebtedness in village India.[1] A recent instance of liberal judicial interpretation of a state law emancipating the poor from their indebtedness to the rich is noteworthy.

In pursuance of article 46 of the Constitution directing the state to promote educational and economic interests of the weaker sections of the people, the State of Rajasthan enacted the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act 1976 to combat the menace of increasing indebtedness among marginal farmers, agricultural labourers and rural artisans by liquidating the same up to a specified date. A similar law had also been passed by the Madhya Pradesh legislature a year earlier. The Rajasthan law defined a scheduled debtor irrespective of his residence, the location of his land or the place of his occupation. Yet, in a debt recovery litigation initiated by creditors in Rajasthan, trial courts took the view that marginal farmers—debtors hailing from Madhya Pradesh—could not avail of the law as the same was meant for Rajasthan rural masses. This gave rise to a peculiar situation resulting in injustice due to the non-availability of a welfare legislation to defendants in Rajasthan and lack of competence of Madhya Pradesh courts to entertain their case for want of jurisdiction.

Consequently, the restricted interpretation by trial courts was assailed in a revision application in the Rajasthan High Court. Allowing the application in *Sagarmal* v. *Laxmi Vastra Bhandar*,[2] Justice Lodha observed that the sustenance of the impugned order would mean violation of article 14 guaranteeing equal protection of laws and of article 46 mandating the state to promote economic interests of the weaker sections. As the constitutional provisions are universally applicable and all pervading, approval of the trial courts' order would deny equal treatment to Indian citizens under like circumstances and negate the mandate of the directive principle. In his opinion, their interpretation was obviously wrong; it should have been such as was in consonance with the fundamental right and directive principle. Thus the law could not be interpreted as granting licence for exploitation by money lenders of one state of the weaker segments of some other state who fell in

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1. *E.g., Fatehchand* v. *State of Maharashtra*, A.I.R. 1977 S.C. 1825.
2. A.I.R. 1987 Raj. 112.

the category of debtors.[3]

Keeping in view the objectives of constitutional provisions and the state law, the judge held that it would not be material to the *economic status* of marginal farmers—the citizens of India—as to which part of the country they resided in, as the Rajasthan law would liquidate their debts the moment they became subject matter of litigation in state courts. The exploitation was prohibited in the state not from the point of view of its residents only but from that of the economic conditions of weaker sections irrespective of their place of residence, location of land or the venue of occupation.[4]

The error on the part of lower courts was caused by a wrong interpretation of the state Act which had made no distinction between local and outside debtors. The statute only defined the economic status of debtors without any correlation to their domicile. It was a status based on economic condition of the individuals and not on their domicile. The courts were obviously wrong in reading in it a qualification which it did not prescribe. The corrective came from a socially conscious judge of the High Court who looked into the background and objective of the welfare legislation and gave it a proper perspective. The *Sagarmal* decision is in tune with the national policy on rural indebtedness and with development jurisprudence as well.[5]

While hearing the revision, it was, however, unnecessary for the judge to have gone into the applicability of article 14. He was seized merely of the question of making an appraisal of the trial courts' order, and he could have arrived at the same conclusion even without a reference to equality provision.

Almost all the states have enacted laws liquidating rural indebtedness. Problems like the one resolved in *Sagarmal* may arise there also. It is a social reality that creditors and debtors in rural India have come to belong to different states especially after states' reorganisations. Some High Courts may fall in line with the Rajasthan case and others may take a contrary view. This can well result in harassment of poor debtors and frustrate the purpose of legislation. Therefore, keeping in view the possibility of conflicting stands by High Courts on the applicability of similar laws to debtors outside the states concerned, and national policy to provide debt relief to rural masses, instead of waiting for a favourable highest appellate decision, it may be advisable to have a central law either under article 249 which empowers Parliament, on a resolution of the Council of States, to legislate with respect to a matter in the state list in the national interest, or under article 252 which empowers Parliament to legislate with respect to a matter not falling within its purview for two or more states by their consent. The latter law may be adopted by any other state.

*J.K. Mittal**

3. *Id.* at 114.
4. *Id.* at 114-15.
5. See, for the expression "development jurisprudence", *supra* note 1 at 1839.

*Research Professor, Indian Law Institute, New Delhi.