

Ranasinghe v. The Bribery Commissioner, S. C. 4162-Bribery Tribunal Case 35/l, 172/60, (2/SC), Decided on 20/12/1962

Bribery Tribunal-Constitutional invalidity of such Tribunal-Bight of appeal against a conviction-"Judicial power " -Amendment of a prevision in the Constitution Order in Council-Power of Court to question its validity-Importance of Speaker's Certificate-Bribery Act No. 11 of 1954, as amended by Act No. 40 of 1958, s. 41-Ceylon (Constitution) Order in Council, 194,0, ss. 29 (3) (4), 55.

H. N. G. Fernando, J., with L. B. de Silva, J. agreeing.

The Appellant was tried and convicted by the Bribery Tribunal and the Appellant submits that the Bribery Tribunal does not hold judicial power and accordingly to quash the conviction of the appellant and the sentence passed against him.

Held,

That the conviction of a person by a Bribery Tribunal, as distinct from the imposition of a sentence, is an exercise of judicial power. A challenge of the jurisdiction of a Bribery Tribunal to convict a person can be made in the exercise of a right of appeal conferred by the Bribery Act itself. In such a case, there is no question of the wholesale challenge of the entire Bribery Act. The objection which lies against a conviction by a Bribery Tribunal is that the judicial power validly vested in the special tribunal cannot be lawfully exercised by persons who are appointed to the Tribunal by the Governor-General, and not by the Judicial Service Commission. Section 55 of the Ceylon (Constitution) Order in Council, 1946, vests in the Judicial Service Commission the exclusive power to appoint to judicial office whether the appointment is made by name or whether it is made by office.

Under Section 29 (4) of the Constitution Order in Council, an Act of Parliament which conflicts with any of the provisions of the Constitution Order in Council is invalid unless passed by a two-thirds majority in the House of Representatives. The fact that the Act has received the Royal Assent cannot prevent the Court from holding it to be invalid unless, as provided by Section 29 (4), the Act has endorsed on it a certificate of the Speaker that it was passed by the requisite majority.

Section 29 (4) of the Constitution Order in Council is applicable to a Bill which, though not in form an amending Bill, contains provision which is in conflict with some constitutional provision. Accordingly, in the absence of the Speaker's Certificate endorsed upon the Bribery Act, validity cannot be claimed for any provision in that Act which is inconsistent with Section 55 of the Constitution Order in Council.

The conviction of the appellant in this case and the orders made against him are null and inoperative, on the ground that the persons composing the Bribery Tribunal which tried him were not lawfully appointed to the Tribunal.

Appeal allowed.