

**Case Commentary - BABULAL PARATE VERSUS
STATE OF BOMBAY AND ANOTHER**

Manasvi Pandey

Student of Shri Vaishnav Institute of Law, Indore

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BABULAL PARATE VERSUS STATE OF BOMBAY
AND ANOTHER, 2 (5) & 20 of 2022, IJLR.

ABSTRACT

The State Reorganisation Act 1956 has re organized territory of Bombay and created a composite state under Section 8 (1) of the act the constitution of India in the first

part talks about the Union and its territory and gives a wide range of power to the Parliament to constitute and state and alter it under section 3 Article 3 of Indian constitution. In formation of Bombay under the State Re-organisation act was not proposed in the bill of State Re-organisation and the was sought to be impugning of article 3 Indian Constitution this paper talks about the analysis on the case of Babulal parate versus state of Bombay and another on whether the creation of Bombay under the State Re-organisation Act 1956 not originally proposed in the bill of the state of article 3 Indian constitution or not.

KEYWORDS: Supreme Court, state, Constitution, Bombay, union, parliament.

Case Title	Babulal Parate V. State of Bombay and Another
Case No	Civil Appeal 342 of 1956
Date Of The Order	August 28, 1959
Jurisdiction	Supreme Court of India
Quorum	Constitutional Bench comprising of 5 judges- Chief Justice S.R. Das, Justice S.K. Das, Justice A.K. Sarkar, Justice K.N. Wanchoo and Justice M. Hidayatullah
Author Of The Judgment	Hon'ble Justice S Das
Appellant	Babulal Parate
Respondent	State of Bombay and Another
Counsel For Appellant	Advocate R. V. S. Mani

Counsel For Respondent	Advocate C. K. Daphtary, Solicitor-General of India, B. Sen, and R. H. Dhebar
Acts And Section Involved	<ul style="list-style-type: none"> • Constitution of India, 1950; Article 3 • the States Reorganisation Act, 1956, Section 8 (1) • Constitution of the United States, 1787, Art. IV, s. 3

I. INTRODUCTION

The case Babulal parate versus state of Bombay and another has been decided by a five judge bench and is of immense importance to be considered as a landmark judgement on the issue of the very first part of the Indian Constitution, that is ,Union and its territories on the formation of new States and the power of parliament to form new states under Article 3 of Indian Constitution. Justice SK Das has very perfectly pointed out the relevant doctrines and judgements previously heard and cited a clear, unambiguous and landmark judgement in this case.

II. FACTS OF THE CASE

Prime Minister of India on 22nd December 1953 made a statement regarding Commission to be appointed to inspect objectively and this passionately issue of Indian states reorganization for the purpose to secure the Welfare of the people of each constituent as well as the nation is a whole Commission was appointed under Ministry of Home Affairs by a resolution of union government on 29 December 1953 and bill and title the state organisation bill was introduced in the 18th April 1956 in Lok Sabha under which three separate units the union territory of Bombay state of Maharashtra together with Marathawada and Vidhara and State of Gujarat as well on the Recommendation of

President of India the state organisation of Article 3 Indian Constitution of the president on 31st August 1956 as per Section 81 of the act State of Bombay was created as a composite act which was not originally proposed in the bill the new state came into existence on 1st November 1956 and on 12th September 18 1956 a petition was filed by the applicant on Bombay High Court under article 226 of the constitution of the new state of Bombay as a single unit and not as separate three units violated Article 3 of the Constitution of India as the Bombay to be expressed on creation of the new state.

III. ISSUES

Whether Article 3 of the Constitution, amended by the Constitution (Fifth Amendment) Act, 1955 is violated due to the impugned Act?

IV. ARGUMENTS FAVOUR OF APPELLANT:

- A. Condition of the proviso to Article 3 of the Constitution has not been complied .
- B. The word “State” used in Article 3 should be provided a inference to imply and comprise “the geographical entity” and the people as the “democratic process” integrated in Article 3.
- C. Representatives of people of the Bombay State, assembled in the Legislature of the State ought to

have been given an “opportunity of expressing their views on the proposal originally contained in the Bill, and on substantial modification thereof”.

- D. The creation of a new State of Bombay as a single unit was so different than the originally proposed separate three units; thereby rendering it as a “new proposal altogether” due to which a new Bill and a new reference was indispensable.

V. ARGUMENTS FAVOUR OF RESPONDENT:

- A. The proviso to Art. 3 of the Constitution states that where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill must be referred by the President to the Legislature of the State for expressing its view no recondite doctrine of “ democratic process” is involved therein.
- B. Where introduction of an amendment is subject to a condition precedent, the Constitution has used the expression .
- C. In the Debates in the State Legislature several members spoke in favour of a composite State of Bombay thus had the opportunity to express their views.
- D. Formation of a new composite State of Bombay as in s. 8 of the Act was a substantial modification not new proposal.

VI. ORDER OF THE COURT:

- A. Article 3 of the Constitution, amended by the Constitution (Fifth Amendment) Act, 1955 is not violated due to the impugned Act.
- B. The appeal fails and is dismissed with costs.
- C. Court found that:
1. In plain and unambiguous language, the proviso to Art. 3 of the Constitution states that

where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill must be referred by the President to the Legislature of the State for expressing its views. It does not appear to us that any special or recondite doctrine of “ democratic process “ is involved therein.

2. Article 1 of our Constitution says that India is a Union of States and the States and the territories thereof are specified in a Schedule, that being no reasons for importing into the Construction of Art. 3 any doctrinaire consideration of the sanctity of the rights of States
3. Wherever the introduction of an amendment is subject to a condition precedent, as in the case of financial bills, the Constitution has used the expression A bill or amendments but no such expression occurs in art 3.
4. Under Art. 118 Parliament has power to make rules of its own procedure and conduct of business, including the moving of amendments etc.
5. Rule 80 of the rules of procedure of the House of the People (Lok Sabha) conditions the admissibility of amendments to clauses or schedules of a Bill, says that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates.
6. Article 122 (1) of the Constitution says that the validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.
7. We cannot accept an interpretation of Art. 3 which may nullify the effect of Art. 122

8. Interpretation moreover which is based not on the words used therein but on certain abstract and somewhat illusory ideas of what learned counsel for the appellant has characterised as the democratic process.
9. We recognise that the formation of a new composite State of Bombay as in s. 8 of the Act was a substantial modification of the original proposal of three units contained in the Bill. That, however, does not mean that it was not a proper amendment of the original proposal or that the State Legislature had no opportunity of expressing its views on all aspects of the subject matter of the proposal. High Court rightly pointed out that in the debates in the State Legislature several members spoke in favour of a composite State of Bombay.

VII. CONCLUSION

The case of Babulal parate vs state of Bombay is an important judgement that covers the boundaries of the Parliamentary power over the formation of a state and widens the scope of the power of parliament. It provides the extension of nature and scope of article 3 of the Indian Constitution as well as act as a landmark judgement on the same subject covered under Article 3 Constitution of India.

VIII. RELATED CASE LAWS

I. Referred Judgements :-

- A. T H VAKIL VS. BOMBAY PRESIDENCY RADIO CLUB LTD [REFEREED]

II. Cited Judgment :-

- A. NALLURI VENKATA RAJU VS. STATE OF ANDHRA PRADESH [LAWS(APH)-1960-4-28] [REFERRED TO]

B. A SRINATH REDDY VS. UNION OF INDIA [LAWS(APH)-2009-2-28] [REFERRED TO]

C. RAM BADAN RAI VS. UNION OF INDIA [LAWS(SC)-1998-11-73] [RELIED ON]

D. PRADEEP CHAUDHARY VS. UNION OF INDIA [LAWS(SC)-2008-5-46] [REFERRED TO]

E. STATE OF HIMACHAL PRADESH VS. UNION OF INDIA [LAWS(SC)-2011-9-7] [REFERRED TO]

F. SUPREME COURT ADVOCATE-ON-RECORD ASSOCIATION VS. UNION OF INDIA [LAWS(SC)-2015-10-80] [REFERRED TO]

G. P.V.KRISHNAIAH VS. UNION OF INDIA [LAWS(APH)-2013-10-6] [REFERRED TO]

H. D.SURYANARAYANA VS. GOVERNMENT OF INDIA [LAWS(APH)-2014-3-5] [REFERRED TO]

I. CHANCHAL MODI VS. STATE OF M P [LAWS(MPH)-2014-3-82] [REFERRED TO]

J. ANURADHA BHASIN VS. UNION OF INDIA [LAWS(SC)-2020-1-23] [REFERRED TO]

REFERENCE

- I. Bare act on Indian Constitution 1950
- II. Article 3 Indian Constitution
- III. Indian kanoon case study Babulal parate vs State of Bombay