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ARVIND GUPTA

v.

UNION OF INDIA AND ORS.

(Writ Peition (Civil) No. 393 of 2012)

OCTOBER 1, 2012

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[R.M. LODHA AND ANIL R. DAVE, JJ.]

C

Comptroller & Auditor General's (Duties, Powers and Conditions of Services) Act, 1971 – s.16 – Regulations on Audit and Accounts, 2007 framed under the 1971 Act – Power of the Comptroller and Auditor General of India (CAG) to give performance audit report – Regulations framed under the 1971 Act empowering the CAG to conduct performance audit – If violative of the Constitution – Held: CAG's function to carry out examinations into economy, efficiency and effectiveness with which Government has used its resources is inbuilt in the 1971 Act – Performance audit reports prepared under the Regulations have to be viewed accordingly – No unconstitutionality in the Regulations – More-over, Audit reports submitted by CAG are subject to scrutiny by the Parliament or the Legislature of the State, as the case may be – Constitution of India, 1950 – Articles 149 and 151.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 393 of 2012.

F

Under Article 32 of the Constitution of India.

Santosh Pual, Mohita Bagai (for Harish Pandey) for the Petitioner.

The following Order of the Court was delivered by

ORDER

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1. We have heard Mr. Santosh Paul, learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that the Comptroller and Auditor General of India (CAG) has no power to give performance audit report and the Regulations on Audit

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and Accounts, 2007 (for short "Regulations") framed under the Comptroller & Auditor General's (Duties, Powers and Conditions of Services) Act, 1971 (for short "1971 Act") empowering the CAG to conduct performance audit are violative of the Constitution. A

3. Article 149 of the Constitution of India provides that CAG shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament. In pursuance of Article 149 of the Constitution, 1971 Act has been enacted. Amongst other provisions in 1971 Act, Section 16 provides that it shall be the duty of the CAG to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union Territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed and for this purpose make such examination of the accounts as he thinks fit and report thereon. B C D

4. CAG's function to carry out examinations into economy, efficiency and effectiveness with which Government has used its resources is inbuilt in the 1971 Act. Performance audit reports prepared under the Regulations have to be viewed accordingly. We find no unconstitutionality in the Regulations. More-over Article 151 of the Constitution provides that the reports of CAG relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament and the reports relating to the accounts of a State shall be submitted to the Governor of the State who shall cause them to be laid before the Legislature of the State. The audit reports, which are submitted by CAG are, thus, subject to scrutiny by the Parliament or the Legislature of the State, as the case may be. E F G

5. Writ Petition is wholly misconceived and is dismissed accordingly.

B.B.B.

Writ Petition dismissed. H