

Piyadasa v. Bribery Commissioner, S. C. 3 of 1962-Bribery Tribunal Case No. 30/1. 307/60, (2/SC), Decided on 31/10/1962

Bribery Tribunal-Incapacity to try persons for offences of bribery-Lack of capacity of Legislature to create tribunals vested with judicial power- "Judicial power"-Appeal preferred under Bribery Act-Right of Supreme Court to entertain it-Bribery Act No. 11 of 1934, as amended by Act No. 40 of 1958, ss. 28, 42, 47, 66 (1), 68, 69A-Ceylon (Constitution) Order-in-Council, 1946, ss. 29, 39 (7), 45, 52, 55-Ceylon Independence Act, 1947.

Tambiah, J., with Sri Skauda Rajah, J. agreeing.

The appellant was prosecuted before the Bribery Tribunal, constituted under the Bribery Act, No. 11 of 1954, as amended by the Bribery (Amendment) Act, No. 40 of 1958, on four counts involving charges of bribery and was convicted on all four counts and sentenced to three months' rigorous imprisonment, the sentences to run concurrently.

Held;

A Bribery Tribunal, constituted under the Bribery Act No. 11 of 1954, as amended by Act No. 40 of 1958, consists of members not appointed by the Judicial Service Commission and is, therefore, not competent not only to impose a sentence on the person charged before it but even to investigate and pronounce judgment in respect of the charge. The Legislature has no power, except by an appropriate amendment of the Ceylon (Constitution) Order-in-Council, 1946, to create a Tribunal and confer upon it judicial power exercised by the Supreme Court or by judicial officers appointed by the Judicial Service Commission under section 55 of the Constitution Order-in-Council.

When by section 68 of the Bribery Act the Legislature purported to empower the Bribery Tribunal to punish any act of contempt committed in the course of the hearing of any charge of bribery as provided by section 57 of the Courts Ordinance and Chapter LXV of the Civil Procedure Code, i.e., as a contempt of Court, a power which hitherto resided solely in the Judicature, it intended in unmistakable terms, to vest the Bribery Tribunal with judicial power even at the stage it tries an accused and/or convicts him. This is clearly a violation of section 55 of the Ceylon (Constitution) Order-in-Council. Therefore, the Bribery Tribunal is an unconstitutional body and all proceedings before it are null and void.

Application allowed.