

Lecture-12



Supreme Court of 1774

JURISDICTION OF SUPREME COURT OF JUDICATURE 1774

The jurisdiction of the court is only to the Calcutta region but can be extended to the people residing in the Bengal, Bihar and Orissa, if they are British and His Majesty's subject.

Person, directly or indirectly, employed by the company or under the services of His Majesty's subject.

Person voluntarily submitted to the supreme court. The similarity between the legislation of 1773-74 and the Charter of 1753 is obvious.

Cases exceeding the limit of 500 rupees.

But the problem was that neither the Regulating Act 1773 nor the Charter of 1774, stated or give any hint related to the law, which should be administered by the court especially in those cases which involve Indians as well.

The Governor General and his Council fell outside the jurisdiction of the Supreme Court and not under its ambit to hear anything against them for any offence committed by them in Bengal, Bihar, Orissa except in cases of the felony and treason.

Under the Regulating Act 1773, the King's Bench was eligible to hear cases of crime, misdemeanor and offences committed by Governor General or any member of his Council or by any judges of the supreme court and also these high officials are indemnified from the imprisonment under the supreme court's order.

The court of King's Bench could likewise require the Governor-General in Council to examine witnesses in India and to send the records to England when the cause of action involved the Chief Justice and other puisne Judges of the Supreme Court at Calcutta. When the proceedings were by Bill in Parliament concerning any offence committed against the Regulating Act of 1773, or any other offence committed in India, the Chancellor or the Speaker of the House of Parliament could issue warrants for the examination of witnesses in India. Parliament's power of requisition extended even in cases of capital offences, whereas the King's Bench could not order for the

examination of witnesses in India when the evidence in question related to some capital offence. In criminal cases, court decided cases with the help of jury both the Grand Jury and Petty Jury.

Legislative Power

Supreme Court has authorized to make his own procedures and rules which help it in exercising his jurisdiction. But these rules were subject to the King-in-Council's approval. Governor General and Council has the power to make laws but that law should be registered under the Supreme Court and should be reasonable in nature and that law become effective only after the registration is done.

Miscellaneous Provisions

With the Regulating Act 1773 another change in the provision takes place that is, the Governor General and council and the Judges or the Supreme Court would not accept any kind of present; and no persons who is holding a civil or military office under the crown or the company, would accept any present. But this was not applicable to the cases of the Councilors, Surgeons or Physicians.

Procedendo: the ability of the Supreme Court to order the lower court to proceed to the judgment of the cases without specifying.

It was also a court of equity and court of record.

Ecclesiastical Jurisdiction

SC issue probates of bill for the British subjects who reside in Bengal, Bihar and Orissa for the British Subjects who resides in Bengal, Bihar and Orissa. Sc also had the power to issue the letter of administration if no executioner of the will is present then the SC had the power to appoint an executioner. With this it also had the power to appoint the guardians of the infants and insane children.

Admiralty Jurisdiction

The court had the power to try the civil maritime causes or the crime that has been committed upon the high seas in these cases petty jury sit to take the decision and crimes which takes place at offshore or on the ship at the offshore of the Bengal, Bihar, Orissa, such cases tried by the SC who come under direct and indirect employment.

Appellate Jurisdiction

Appeal from all the courts present at that time went to the SC and from here the appeal went to the kings-in-council if the case was of value more than Rs.1000.