

ABSTRACT

***M/S. ORISSA CEMENT LTD. AND ORS. V. STATE OF ORISSA AND ORS. -
IRAC ANALYSIS***

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The decision of the Supreme Court in *M/s. Orissa Cement Ltd. and Ors. v. State of Orissa and Ors.* is a compelling illustration of the potential discrepancies which often arise when called upon to address the technicality of Article 246, read with the Seventh Schedule of the Constitution of India, 1950.

This technicality is one which stems from the fact that this provision seeks to demarcate the extent to which the respective legislatures, be it the Centre or the State can legislate upon a given aspect of law. In light of this, the provisions have been drafted in a manner such that the courts would be in a position to harmoniously construe the law in a manner which seeks to uphold the constitutionality of a given law as may have been passed by one or the other Legislature.

However more often than not, this situation creates more ambiguity as opposed to clarity which was the original intention of the framers. As a natural consequence, litigation over the legislature which possesses the true legal competence to draft a law upon a topic enumerated in the Seventh Schedule is a common sight.

The instant piece of literature seeks to briefly illustrate one such instance, where a dispute regarding the competence of a specific legislature to legislate upon a given area of law has come before the Supreme Court. The author seeks to analyze the manner in which such a dispute was addressed by the Supreme Court and the *modus operandi* by which a final decision was arrived at.

Keywords: Constitution of India, Article 246, Seventh Schedule, Union List, State List, Cess, Levy, Fee, Tax on Land.

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