

They the cor-  
responding indian  
states might have



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They may, subject to any provisions which may be made by Act of Parliament or of the Legislature of the State enacted by virtue of powers conferred by the Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if the Constitution had not been enacted. [Article 300 (1) of the Constitution], Art. 300 are on the same line as section 176 of the Government of India Act, 1935.

It deals with suits as such and proceedings analogous to, or consequent upon, suits and has not reference to the extraordinary remedies by Art. 226. The provisions of Art.

300 (1) of the Constitution of India are mutatis mutandis substantially the same. Article 300 (1) consists of three parts namely,— (a) The first part provides for the form and the cause and the title in a suit and says that a State (omitting any reference to the Government of India) may sue or be sued by the name of the State; (b) A State may sue or be sued in relation to its affairs in like cases as the corresponding provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted; and (c) The second part is subject to any provisions which may be made by an Act of the Legislature of the State concerned, in due exercise of its legislative functions, in pursuance of powers conferred by the Constitution. Thus the first part (a) deals only with the nomenclature of the parties to a suit or proceeding. Section 79 of the Code of Civil Procedure also deals with suits by or against Government. It states that in a suit by or against the Government, the authority to be named as plaintiff or defendant,

as the case may be, shall be: (a) In the case of a suit by or against the Central Government, the Union of India, and (b) In the case of suit by or against a State Government, the State.

Section 80, C. P. C. provides for notice.

It reads as follows: “(1) Save as otherwise provided in sub-section (2), no suit shall be instituted against: (bb) In the case of a suit against the Government of the State of Jammu and Kashmir: (i) The Chief Secretary to that Government or (ii) Any other officer authorised by that Government in this behalf; (iii) The Government (including the Government of the State of Jammu and Kashmir) or (iv) A public officer in respect of any act purporting to be done by such public officer in his official capacity, Until the expiration of two months next after notice in writing has been delivered to, or left at, the office of: (a) In the case of a suit against the Central Government except where it relates to a railway, a Secretary to the Government; (b) In the case of a suit against the Central Government where it relates to a railway, the General Manager of that railway; (c) In the case of a suit against any other State Government. a Secretary to that Government of the Collector of District, And in the case of a public officer, delivered to him or left at his office, stating the course or action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left. (2) A suit to obtain an urgent or immediate relief against the Government (including the Government of the State of Jammu and Kashmir), or any public officer in respect of any act purporting to be done by such public officer in his official capacity, may be instituted, with the leave of the Court, without serving any

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notice as required by sub-section (1) but the Court shall not grant relief in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the case may be, a reasonable opportunity of showing cause in respect of the relief prayed for in the suit: Provided that the Court shall, if it is satisfied, after hearing the parties that no urgent or immediate relief need be granted in the suit return the plaint for presentation to it after complying with the requirements of sub-section (1).

(3) No suit instituted against the Government or against a public officer in respect of any act purporting to be done by such public official in his official capacity shall be dismissed merely by reason of any error or defect in the notice referred to in sub-section (1), if in such notice: (a) The name, description and the residence of the plaintiff had been so given as to enable the appropriate authority or the public officer to identify the person serving the notice and such notice had been delivered or left at the office of the appropriate authority specified in sub-section (1), and (b) The cause of action and the relief claimed by the plaintiff had been substantially indicated.” In any suit by or against the Government, the plaint or written statement shall be: (a) Signed by such person as the Government may, by general or special order, appoint in this behalf, and (b) Verified by any person whom the Government may so appoint and who is acquainted with the facts of the case. Persons being ex officio or otherwise authorized to act for the Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, act and applications under the Civil Procedure Code may be made or done on behalf of the Government. In suit by or against the Government, instead of inserting in the plaint the

name and description and place of residence of the plaintiff or defendant, it is sufficient to insert the appropriate- name as provided in section 79. The Court in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channel, and for the issue of instructions to the Government pleader to appear and answer on behalf of the Government and may extend the time at its discretion, but the time as extended shall not exceed 2 months in the aggregate.