Smt. Selvi v. State of Karnataka

Whether narco-analysis, polygraph and brain-mapping tests can be forced on an accused or suspect during investigation.

Date of Order: May 5, 2010
Case Law No: GIB-SC-2010-02
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

A batch of appeals challenged the involuntary administration of narco-analysis, polygraph examination and the Brain Electrical Activation Profile test to improve investigation in criminal cases. The questions were whether these tests violate the right against self-incrimination under Article 20(3) and personal liberty under Article 21, and whether their results can be used in evidence.

Final Verdict

The Court held that compulsory administration of these techniques amounts to testimonial compulsion and an intrusion into mental privacy. **No individual should be forcibly subjected to any of these techniques, whether in a criminal investigation or otherwise.** A public interest in investigation cannot justify dilution of the right against self-incrimination.

Voluntary administration is permitted only with safeguards: the person must have a lawyer, consent must be recorded before a Magistrate, and the test must be conducted by an independent agency. The results themselves are not admissible as evidence, but information later discovered with their help can be used under Section 27 of the Evidence Act. The appeals were disposed of on these terms.

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