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The Valiant ICS I.M. Lall: A Quintessential Review of the Case that Engendered Article 311

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ABSTRACT

“One Man with courage makes a majority.” - Andrew Jackson

The Constitution of India is one of the liveliest and most dynamic document that is recognised as a grundnorm, all over the world. It not just supports, but also elaborates upon the purport of the values that the Indian Constituent Assembly members possessed, and so proudly upheld. The Indian Constitution, furthers the ideals and principles of basic tenets of natural justice, foundational legal principles, and conceptual pillars of constitutionalism as well as, constitutional law. The essence of the Indian Constitution is the socio-economic transformation that is envisaged, for the whole nation. Article 311 is also one such provision. This single most provision of the Indian Constitution forms the basis of the service law jurisprudence in India. Service law matters, issues related to appointment and removal of civil servants, reasonable opportunity to be heard and other such legal constitutional rights- all of these emanate from Article 311 itself, and the constitutional values of our forefathers forms the basis of the same. However, not much is known about the landmark case that gave rise to service law jurisprudence in India. It was the landmark, but relatively unknown case of High Commissioner for India and the High Commissioner for Pakistan v. I.M. Lall (1948) BOMLR 649, which was the foremost case whereby an Indian won against the mighty British Empire. Chander M. Lall, writes about the colossal personality that was, I.M. Lall- his grandfather and the civil servant who was wrongfully dismissed sans any reasonable opportunity given to be heard. ICS officer Sh. I.M. Lall was wronged against by the nefarious designs of the British Empire, but with his one-pointed motivation and determination, coupled with professional righteousness and moral ethics of his very being- fought valiantly against the Empire in the Privy Council and won. This was the watershed moment in the Indian service law jurisprudence, against the backdrop of the teary partition of the year 1947 and relocation of the Lall family. Not many, even in the legal profession are aware of this locus classicus, and this is particularly why Chander M. Lall's book is a must read for legal professionals, young scholars, and every Indian alike. The case of Sh. I.M. Lall, wholly justifies what Macaulay stated through his words: And how can a man die better, Than facing fearful odds; for the

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ashes of his fathers, and the temples of His Gods. This is probably the essence of raw and unmatched courage, that I.M. Lall showcased in the face of deathly odds, including the traumatising partition of the Indian subcontinent. The Indian service law jurisprudence owes her life to I.M. Lall, undoubtedly.

Keywords: *Constitution, public servants, Article 311, natural justice, privy council*

I. ICS I.M. LALL: INTRODUCING A COLOSSAL CONSTITUTIONAL INSTITUTION

Lord Moran (Anatomy of Courage; Book World²) had famously remarked, “*courage is a moral quality; it is not a chance gift of nature like an aptitude for games. It is a cold choice between two alternatives, the fixed resolve not to quit; an act of renunciation which must be made not once but many times by the power of the will. Courage is will power.*” This archetypal quote sumptuously sums up exactly what ICS officer Sh. I.M. Lall contributed to the Indian Constitution. He bestowed courage, righteousness, prompt and calculated grievance redressal, statutory dynamism, as well as structural apparatus to our ‘living’³ constitution, in a way that no one could have ever imagined. He did that, especially, in the field of civil services, and the authoritative protection that is accorded to the civil servants of the nation, proudly known as the “iron pillar⁴” of the Indian democracy. Chander M. Lall⁵, I.M. Lall’s grandson rightly puts so, “the year was 1948, and a landmark verdict was handed down by the Privy Council, the highest court of appeal for the entire Commonwealth, at the time. For the first time in the history of the Empire, a subject had won against the British Empire.⁶” But, this was just the beginning.

The case titled, *High Commissioner for India and the High Commissioner for Pakistan v. I.M.*

² Charles Wilson, 1st Baron Moran, *The Anatomy of Courage* (1945)

³David S. Law, *Constitutionalism in Context* (2022); Andras Sajo, *Constitutions and Constitutionalism* (2017); Charles Howard McIlwain, *Constitutionalism: Ancient and Modern* (1940); Poul F. Kjaer, *Constitutionalism in the Global Realm: A Sociological Approach* (2014); Dieterr Grimm, *Constitutionalism: past, Present and Future* (2016); Nick Barber, *The Principles of Constitutionlaim* (2018); ‘Constitution a Living Document (Pranab Mukherjee Foundation) <<https://pmf.org.in/citizen-mukherjee/pranab-mukherjee-blog/constitution-a-living-document/#:~:text=>>> accessed 29 April 2025; K. Singh Gill, ‘The Living Constitution: Theory and Inherent Rights’ (SSRN) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4606775> accessed 29 April 2025; S. Gangwar & Aishwarya Pagedar, ‘Examining the Living Metaphor in the Indian Constitution’ (*Springer-Jindal Global Law Review*) <<https://link.springer.com/article/10.1007/s41020-022-00183-8>> accessed 29 April, 2025; S. Gangwar & Aishwarya Pagedar, ‘Examining the Living Metaphor in the Indian Constitution’ (*Research Gate-Jindal Global Law Review*) <https://www.researchgate.net/publication/365802897_Examining_the_living_metaphor_in_the_Indian_Constitution> accessed 29 April 2025; Government of Goa, ‘Indian Constitution: A Living Document’<<https://www.goa.gov.in/wp-content/uploads/2021/11/INDIAN-CONSTITUTION-IS-A-LIVING-DOCUMENT.pdf>> accessed 29 April 2025; ‘Constitution of India a Living Document, Not Relic Cast in Stone’ (*Rashtrapati Bhavan*) <http://presidentofindia.nic.in/pranab-mukherjee/press_releases/constitution-india-living-document-not-relic-cast-stone-says> accessed 29 April 2025

⁴ ‘Inauguration of Civil Services Day’ (*The Vice-President’s Address*) <<https://pib.gov.in/PressReleasePage.aspx?PRID=1918242>> accessed 29 April 2025

⁵ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

⁶ Ibid

Lall⁷, laid down the basic tenets and foundational principles of Article 311⁸ of the Constitution of India, stipulating that due process has to be followed (without fail) before any civil service officer is removed or reduced in rank. But this book written by Chander M. Lall, is much more than a case study or a case comment. It intrinsically and utmost beautifully narrates the personal and professional trajectory of I.M. Lall's life, replete with the values that Sh. I.M. Lall (hereinafter, Lall) held close to his heart, undoubtedly- the stimuli behind his unquestionable growth in life. Chander M. Lall has closely knitted the steady familial development of the Lall's, with the courageous valour that Lall imbibed and exhibited, when it was much needed.

Born as Inder Mohan Gera (later, Lall), Lall's father was a moneylender in Mianwali. Engaged to his future wife at a tender age of seventeen, Lall got himself enrolled at the Government College University at Lahore. He idealised Mahatma Gandhi, more so, because of the legal profession and the black gown of the legal professionals that he adorned; more than anything else. Armed with a matriculation and a law degree, Lall would have never imagined that World War I⁹ would break out, and he would be one of the enlisted army officers in the same, fighting on the side of the mighty British Empire. But, Lall had other aspirations. Formed via the Government of India Act, 1958¹⁰, the higher civil service in British India (christened, Imperial Civil Service), was a stronghold of the British itself. The British were the appointing and the recruiting agency for the ICS, completely and absolutely. It was only from 1922¹¹ onwards, that ICS examinations started to be held in India. Inder Mohan Lall, determined and motivated enough, joined the ICS on 2nd October 1922. After serving across various districts of the vast empire, Lall was appointed as the judge of Sheikhpura. And this is from where, the life-long love between Lall and the legal jurisprudence began. Lall married Dropadi in 1923, but faced a number of personal trials and tribulations.

Quite possibly, his early life struggles shaped him as a man of principles, values, high ethical morals, and of resolute decision-making skills. He rightfully walked on the path that Mahatma Gandhi showed through his words: *"A true soldier (read, a true human being) does not argue as he marches, how success is going to be ultimately achieved. But he is confident that if he*

⁷ *High Commissioner for India and the High Commissioner for Pakistan v. I.M. Lall* (1948) BOMLR 649

⁸ The Constitution of India 1950, art. 311

⁹ Michael Howard, *The First World War* (2003); Hew Strachan, *To Arms* (2001); Adrian Gregory, *The Last Great War* (2008); Aimee Fox, *The Learning to Fight* (2017); Modris Eksteins, *Rites of Spring* (1989); Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

¹⁰ Government of India Act 1958

¹¹ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

only plays his humble part well, somehow or other the battle will be won. It is in that spirit that every one of us should act. It is not given to us to know the future. But it is given to every one of us to know how to do our own part well.¹²” This, probably forms the foundation of the next part of Lall’s life.

II. I.M. LALL: A STEADFAST RIGHTEOUS CIVIL SERVANT AGAINST THE MIGHTY BRITISH RAJ

Chander M. Lall, specifically mentions the year 1935 as the year signaling ‘trouble in paradise¹³’ for Lall in his professional life. While performing his duty as the district and sessions court judge in Multan, Lall learnt of the nefarious activities being carried out by his staff, acting under the stewardship of the clerk of the court, in his name. Lall initiated a toughened up disciplinary action against the malafide actors, causing a stir and a number of negative consequences for Lall, in the near future. Lall, never did bent under the unending pressures and refused to be beaten up for his ethical-moral conduct, that was in line with the professional values of the authority he upheld. Chander M. Lall explains the ongoing circumstances in Lall’s life as, “*a cocktail of trouble was brewing, and the cherry on the top was his posting at the NWFP.*¹⁴” However, the transfer had its own positive consequences, as well. A collector and an archaeologist by hobby, Lall went for extensive travels in the region, including trips to Takht-i-Bahi¹⁵ (in Gandhara), literally translated as the ‘throne of origins.’

Indian heritage and preservation was a sensitive topic and the independence struggle for self government and Indian freedom was reaching its crescendo. This is why Lall’s support for the said cause, caused huge uproar within the official circles. Indian nationalist movement was gaining traction at this point of time. In the words of Chander M. Lall, “*Lall had become a thorn in the Empire’s eyes, and his removal had become necessary.*¹⁶” While Inder Mohan was serving in Peshawar, in the NWFP, Lall received a letter via the judicial commissioner and the incumbent chief secretary, informing that the Punjab government had decided to hold a departmental enquiry into the conduct of Lall under the requisite Civil Services (Classification, Control, and Appeal) Rules¹⁷. This detailed enquiry contained eight charges

¹² Maj. Gen. Ian Cardozo, *Param Vir: Our Heroes in the Battle* (2003)

¹³ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

¹⁴ Ibid

¹⁵ ‘Buddhist Ruins of Takht-i-Bahi and neighbouring city remains at Sahr-i-Bahlol’ (*UNESCO World Heritage Convention*) <<https://whc.unesco.org/en/list/140/>> accessed 29 April 2025; ‘Takht-i-Bahi’ (*World Heritage Site*) <<https://www.worldheritagesite.org/list/Takht-i-Bahi>> accessed 29 April 2025; ‘Takht-I-Bahi’ (*Department of Archaeology and Museums*) <<https://doam.gov.pk/world-heritage-sites/23>> accessed 29 April 2025.

¹⁶ Ibid

¹⁷ Ibid; Civil Services (Classification, Control, and Appeal) Rules- now, the Central Civil Services (Classification, Control, and Appeal) Rules

against Lall, and dealt with his time in Multan. This was the Empire's way to curb any voices raised against itself, either implicitly or explicitly. But, Lall's case did not fall into either of the cases.

The author points to the very fact that at no point prior to the receipt of the aforementioned letter, was, Lall consulted or any explanation sought for his actions. His superiors had simply proceeded to issue the said letter, which in tone and tenor already held him guilty of the charges. The writing on the wall was quite clear: the Empire had decided to terminate the services of Inder Mohan.¹⁸ In Lall's own words, as and how submitted to the Privy Council, *"in my case from the very beginning it was intended to dismiss or remove me from the ICS. In this connection I would request Your Majesty to send for the minutes of the proceedings of a meeting of the Hon'ble Judges of the Lahore High Court. The Honourable Chief Justice is reported to have said at the meeting that I should be dismissed from service. Other judges opposed this proposal and it was decided to report the matter to the Government."*¹⁹ Wisely enough, from here, Lall started to maintain a paper trail, which came in handy at later stages of his case. The present case law is not only important for constitutional law enthusiasts, but also for legal practitioners, both for preparation of court arguments and vetting of documents being used in any stated case.

J. D. Anderson, ICS and Commissioner held the departmental inquiry in this case. Anderson believed in the points that were put forward by Lall, because Chaman Lall, the concerned judicial clerk (reference- engagement in nefarious activities in the name of Lall)²⁰- was evasive in all his responses. Charges 4-8 were held to be unproven, with Lall pleading guilty to the first two charges. Therefore, Anderson recommended quashing of all charges beyond the first two. However the Empire was not satisfied with Anderson's assessments. Sh. Lall was asked to join at a lower level of service, and report to a junior officer, with F.L. Brayne then being appointed to complete Anderson's preliminary inquiry. Brayne came with a nefarious agenda and Lall was never supplied with the copy of Anderson's reports²¹, which goes against the very tenets of natural justice.

The rushed second inquiry, *sans* any documents and final report of Anderson's inquiry, and the trying circumstances that Lall went through, all point out towards the extensive tribulations that Lall had to undergo, beyond all expectations. The report of the second inquiry was venomous and went on to state that all charges against Lall have been sufficiently proved.

¹⁸ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

¹⁹ Ibid

²⁰ Ibid

²¹ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

The very genesis of the wording of the present Article 311 was used to go against Lall's official authority. Lall was made to sign a covenant at the time of his appointment that stated, "Inder Mohan has been appointed as a member of the Civil Services of India... such service to continue *during the pleasure of His Majesty*, his heirs and successors, to be signified under the hand of the Secretary of State for India.²²" Therefore, as of 4th June, 1940, Sh. I.M. Lall was removed for service of the Empire, without following any of the natural justice and basic legal principles, as stated above. The author goes on to state that, "*the findings of the Brayne report and the subsequent actions initiated by the government felt like a tonne of bricks on the Lall household. It was not unexpected, yet there had been hope that perhaps the powers would see reason. But that was not to be.*"²³ This, quite fittingly summarises the trials that Lall had to go through, despite all his sincere services rendered towards the Empire.

But, Lall was not to be subdued, because he was not wrong in his pursuits of justice. After being denied personal meetings with higher authorities, Lall finally instituted a case against the Secretary of State for India (1942), in the court of Lala Tara Chand Aggarwal, at Lahore, pertinently asking questions regarding the extent of Secretary of State's powers in removal of civil servants, their right to be heard, the right to be given a reasonable opportunity of giving show cause²⁴, et al. The division bench of the High Court²⁵ ruled in favour of Lall regarding his wrongful dismissal and absence of any reasonable opportunity accorded to him, regarding the same. An appeal by the Secretary of State to the Federal Court²⁶, also held in favour of Lall, reiterating much of the provisions of today's Article 311. *David had defeated the Goliath, by all means*. Thus, the order of the Privy Council re-instated Lall as an ICS officer, of repute. Lall, was thus victorious in his legal battle. It was vindication, at last.

III. CONCLUSIONARY COMMENTS: A PARTING NOTE

This case forms the basis of the whole paraphernalia of service law jurisprudence in India. Chander Lall, the author takes the reader through myriad emotions against the backdrop of the Indian freedom movement, Gandhiji's struggles for non-violence and peaceful protests, with advocacy and legal professionals emerging as a definite threat to the British empire, along with Lall standing tall against the might of the *Raj*. Article 311 is therefore the fountainhead of service law related justice in India, and the service law matters, undoubtedly, owe a huge debt to ICS Sh. Lall for the valiant courage that he showed in face of all the impending odds.

²² Ibid (at pg. 61), Letter to Lord Marques, Secretary of State, suggesting the removal of I.M. Lall from the ICS

²³ Chander M. Lall, *At The Pleasure of His Majesty: I.M. Lall and the Case That Shook The Crown* (2024)

²⁴ Ibid

²⁵ *I.M. Lall v Secretary of State*, MANU/LA/0109/1944

²⁶ *The Secretary of State of India v. I.M. Lall* (Civil Appeal No. XII of 1944)

Chander M. Lall succeeds in his mission to describe the whole life of his late grandfather in the most engaging manner, with much brevity. The book takes one through the worrisome stages of the trial and with each stage of the same, the reader becomes awed and inspired by the courage and raw valour of Sh. I.M. Lall. The case of Sh. I.M. Lall, wholly justifies what Macaulay stated through his words: *And how can a man die better, Than facing fearful odds; for the ashes of his fathers, and the temples of His Gods*. This is probably the essence of raw and unmatched courage, that I.M. Lall showcased in the face of deathly odds, including the traumatising partition of the Indian subcontinent. The Indian service law jurisprudence owes her life to I.M. Lall, undoubtedly.
