V.S. DREAM COACHING

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Indirapuram Ghaziabad

For

H.J.S. P.C.S. (J) A.P.O. & CLAT

Year – 2023

Secret of success is to know something

nobody else knows

NO. 5 OF 2023

NEWSLETTER

May 2023

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Established in Sept. 2022

For Judicial Service Aspirants

In the service of Judicial Fraternity

V.S. DREAM COACHING

1. Study Material-Law

Maintenance – Wives, Children and Parents

Introduction

The word 'Maintenance' is not defined in the Code of Criminal Procedure, 1973. Chapter IX of the Code of Criminal Procedure deals with provisions for maintenance of wives, children and parents. 'Maintenance' in general meaning is keeping something in good condition. 'Maintenance' in legal meaning is money (alimony) that someone must pay regularly to a former wife, husband or partner, especially when they have had children together. It is the duty of every person to maintain his wife, children and aged parents, who are not able to live on their own.

Scope and objective of proceedings

Scope and objectives of proceedings for maintenance of wives, children and parents are the following:

- The proceedings are not punishable in nature. The main objective of Chapter IX of Cr.P.C. is not to punish a person who is not maintaining those whom he is bound to maintain.
- The main objective is to prevent homelessness by way of procedure to provide a speedy remedy to those who are in pain.
- It does not make any distinction between persons belonging to different religions or castes.
- It has no relation to the personal laws of parties.

Order for maintenance of wives, children and parents

Section 125 of Cr.P.C. deals with "Order of maintenance of wives, children and parents". In this Section, it is given the name of parties who are entitled to get maintenance, essential ingredients to claim and get maintenance and order of the first-class Magistrate. In the case of **Mohd. Ahmed Khan Vs. Shah Bano Begum AIR 1985 SC 945,** the Hon'ble Supreme Court delivered a judgment favouring maintenance given to an aggrieved divorced Muslim woman.

Who can claim and get maintenance?

Section 125 of Cr.P.C. deals with "Order for maintenance of wives, children and parents". According to Section 125(1), the following persons can claim and get maintenance:

- Wife from his husband,
- Legitimate or illegitimate minor child from his father,
- Legitimate or illegitimate minor child (physical or mental abnormality) from his father, and
- Father or mother from his son or daughter.

Wife

In the case of **Chanmuniya Vs. Virendra Singh Kushwaha (2011) 1 SCC 141,** Supreme Court has defined 'Wife' and it includes even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time. Strict proof of marriage should not be a precondition of maintenance under Section 125 of the Cr.P.C.
Hon'ble Supreme Court in its order in **Lalita Toppo Vs. State of Jharkhand & Anr., AIR 2018 SC (Supp) 2583,** held that a live-in partner can seek maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005.

In the case of **Sirajmohmedkhan Janmohamadkhan Vs. Hafizunnisa Yasinkhan, AIR 1981 SC 1972** the Supreme Court held that maintenance can be allowed to the wife when her husband is impotent.

In the case of **Smt. Yamunabai Anantrao Adhav Vs. Ranantrao Shivram Adhav, AIR 1988 SC 644,** the Supreme Court held that marriage of women in accordance with Hindu rites with a man having a living spouse is completely nullity in the eye of law and she is not entitled to benefit under Section 125 of the Cr.P.C.

A wife **can claim** and get maintenance from her husband in the following conditions:

- She is divorced by her husband, or
- Obtained divorce from her husband, and
- She has not remarried, and
- She is not able to maintain herself.

A wife **cannot claim** and get maintenance from her husband in the following conditions:

- Wife living in adultery, or
- Refuses to live with husband without any valid reasons, or

- Living separately by mutual consent.

Note: Muslim wife can also claim maintenance under Cr.P.C. though they have a separate Act (Muslim Women Protection of rights on Marriage Act) for them.

Legitimate or illegitimate minor child

(a) Son - 'Minor' means a person who, under the provisions of Section 3 of the Indian Majority Act, 1875 is deemed not to have attained his majority i.e., above the age of 18 years.
(b) Minor Son (Legitimate or Illegitimate) is entitled to get maintenance under Section 125 of Cr.P.C.
(c) If Minor Daughter (Legitimate or Illegitimate) is unmarried, then she is entitled to get maintenance from her father and if she is married, then she is also entitled to get maintenance from his father but the magistrate has to be satisfied that her husband has not essential and sufficient means for the maintenance of his minor wife.

In the case of **Shahbuddin S/o Sarfuddin Vs State of U.P., 2006 (1) ALJ 372(All)** a minor daughter attaining majority during the pendency of the application for maintenance was held entitled to maintenance up to the date of majority.

Legitimate or illegitimate abnormal child who has attained majority

If any major child (Legitimate or Illegitimate) is abnormal (mentally or physically unfit), then the father of that child has to maintain him and he can claim maintenance on this ground of abnormality.

Father or mother

- Natural father and mother can claim maintenance.
- Mother includes adoptive mother, she can claim maintenance from adoptive son.
- Father can claim maintenance, it is a statutory obligation, this claim cannot be defeated by pleading that the father failed to fulfil his parental obligation.

A childless stepmother can also claim maintenance.

In the case of **Pandurang Bhaurao Dabhade Vs. Baburao Bhaurao Dabhade, 1980 CRI. L.J. 256,** the Hon'ble Bombay High Court has held that the father or mother can claim maintenance under Section 125(1)(d) if he or she is unable to

maintain himself or herself. But it is also important that if parents claim maintenance to their children, children must have sufficient means to maintain their parents and yet neglects or refuses to maintain the father or mother.

Essential conditions for granting maintenance

There are some essential conditions which should be fulfilled for claiming and granting maintenance:
(a) Sufficient means for maintenance are available.
(b) Neglect or refusal to maintain after the demand for maintenance.
(c) The person claiming maintenance must be unable to maintain himself/herself.
(d) Quantum of maintenance depends on the standard of living.

(a) Sufficient means to maintain the person - If any person has sufficient means for maintenance, then it is his duty to maintain his wives, children and parents. If sufficient means are not available, then it will be a perfect and valid defence for people who are legally bound for maintenance of wife, children and parents.

(b) Neglect or refusal to maintain - Any person neglects or refuses to maintain his wives, children and parents in malafide intention or in any type of egoistic behaviour on the demand for maintenance by them.

(c) The person who claims maintenance must be unable to maintain himself/herself - It is a very important condition for granting maintenance that a person who is claiming maintenance must be unable to maintain himself/herself. For example- If a wife is earning well, then she can not claim maintenance under this Section. In the case of Abdulmunaf v Salima, it was held that the wife who is hale and healthy and is sufficiently educated to earn for herself but refuses to earn from own and claim maintenance from her husband will be entitled to claim maintenance but that her refusal to earn under the circumstances would disentitle her to get complete amount of maintenance.

If the husband of a minor daughter does not have sufficient means to maintain her, then it is the duty of her father to give maintenance. In these circumstances, married minor daughter is entitled to get maintenance from the father.

(d) Quantum of maintenance - Quantum of maintenance means the amount of maintenance. Quantum of maintenance depends on the standard of living. For example- If any issues raised in a rich family, then demand for maintenance will be more as compared to poor family according to their standard of living in a prior life. In simple words, the Court should also make sure that whether maintenance granted is justified according to the status of a family or not.

Jurisdiction of Magistrates to deal with maintenance proceedings

According to Section 125(1)(d), If any person neglects or refuses to maintain his wife, children or parents, then a Magistrate of the First Class can order such person to make a monthly allowance for the maintenance of his wife, children or parents, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the direction of magistrate.

If a minor female child is unmarried, then the magistrate can order to make such allowance, until she attains her majority. In case a minor child is married and the magistrate is satisfied that the husband of such minor female child is not possessed of sufficient means, then the magistrate can order father of the minor female child to make such an allowance for maintenance.

When a proceeding is pending regarding monthly allowance for maintenance, the Magistrate can order such person to make a monthly allowance for the interim maintenance of his wife, children or parents and the expenses of such proceeding which the Magistrate considers reasonable.

An application for the monthly allowance for the interim maintenance and expenses of proceeding should be disposed within sixty days from the date of the notice of the application to such person.

According to Section 125(2), If a court order for such allowance for maintenance or interim maintenance and expenses of the proceeding, then it should be payable from the date of the order or if so ordered, then it shall be payable from the date of application for maintenance and expenses of proceedings.

According to Section 125(3), If any person fails to comply with the order without sufficient cause, then Magistrate can order to issue a warrant for levying the amount with fines. If the person again fails after the execution of the warrant, then the punishment of imprisonment for a term which may extend to one month or until payment of sooner made is awarded.

Procedure for maintenance

Sec. 126 Cr.P.C. deals with "Procedure for maintenance". This Section says the following:
Proceeding under Section 125 may be taken in the following district:

- Where he is, or
- Where he or his wife resides, or
- Where he last resided with his wife or mother of an illegitimate child.

Evidence to be taken in the presence of a person against whom maintenance is to be ordered.

If a person is wilfully avoiding summons, then ex-parte evidence is taken in that case.

Alteration in allowance

Alteration in allowance means an order to increase, decrease or remove/cancel the allowance which was ordered by the Magistrate under Section 125.According to Section 127(1), if a magistrate ordered to give allowance for maintenance under Section 125 according to the conditions of parties at that time, but if the present conditions of parties have changed, then he can also order to alter the allowance. For example-

- Husband had a well-settled job and means for maintenance, on this basis the Court has ordered him to maintain his wife and to allowance under Section 125. But in the present condition, the husband has no job and means for maintenance. Then, the Court can alter the allowance and can reduce the amount of allowance.
- If a wife was not having any job or she was unable to maintain herself and she got the order of allowance under Section 125. But after some months, she is well settled and she has the means to maintain herself. In this case, the Court can order to remove or cancel allowance.

According to Section 127(2), Magistrate shall cancel or revoke any order given under Section 125 by him, if it appears that it should be cancelled in consequences of any decision of the competent Civil Court.

For example- If Magistrate has ordered to give allowance to wife after divorce but Civil Court has ordered to live together. Then, Magistrate has to revoke his order which was given under Section 125.

Hon'ble Apex Court in case **Sanjeev Kapoor Vs. Chandana Kapoor and Ors., AIR 2020 SC 1064,** held that a Magistrate who passes an order on settlement between parties under Section 125 of the Code of Criminal Procedure (CrPC) has the power to recall or set aside the Order if terms of the same are violated, and Section 362 of Cr.P.C. does not function as a bar on the same.

According to Section 127(3), where an order has been made in favour of women under Section 125, then the magistrate can cancel the order in the following case:

- If a woman is remarried after divorce.

- If a woman has taken allowance under any personal laws after divorce.
- If a woman has voluntary leave her right to maintenance.

According to Section 127(4), the Civil Court shall take into account the sum which has been paid to such person as monthly allowance for maintenance and interim maintenance under Section 125 at the time of making any decree for the recovery of any maintenance or dowry.

Enforcement of order of maintenance

Section 128 deals with "Enforcement of order of maintenance". According to this Section, the following are the conditions for enforcement of the order of maintenance:

- Copy of order under Section 125 is given to that person free of cost in whose favour it is made. In case the order is in favour of children, then the copy of the order will be given to the guardian of children.
- If any Magistrate has made an order under Section 125, then any Magistrate of India can enforce this order where that person lives who have to give maintenance.
- The Magistrate has to satisfy two conditions before enforcement of order:
  - Identity of parties, and
  - Proof of non-payment of allowances.

Conclusion

Chapter IX of the Code of Criminal Procedure is essential for the protection of the rights of the divorced wife, children and aged parents. It is made to protect them from unusual livelihood. Maintenance is the duty of everyone who has sufficient means for the same. In this chapter of Cr.PC, there are various provisions given related to maintenance like who is entitled to maintenance, essential conditions for granting maintenance, Procedure of maintenance, Alteration of the previous order, Enforcement of order of maintenance etc.

B. Important Cases Full Report

IN THE SUPREME COURT OF INDIA

Captain Manjit Singh Virdi (Retd.)
Vs.
Hussain Mohammed Shattaf & Ors.

[Criminal Appeal No. 1399 of 2023]

HEADNOTE – Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of charge, the Court has to satisfy that a prima facie case is made out against the accused persons. Interference of the Court at that stage is required only if there is strong reasons to hold that in case the trial is allowed to proceed, the same would amount to abuse of process of the Court.

JUDGMENT

Rajesh Bindal, J.

1. The order dated 17.07.2013 passed by the High Court of Judicature at Bombay in Revision Application No. 135 of 2012 has been challenged by the appellant. By the aforesaid order, the High Court has set aside the order dated 21.02.2012 passed by the court below vide which application filed by the Respondent nos.1 and 2 for discharge, was dismissed.

2. The dispute arises out of an FIR No. 46 of 2006 registered at Lonawala City Police Station on 14.05.2006 for murder of Manmohan Singh Sukhdev Singh Virdi, a resident of Virdi's Bungalow, Thombarewadi, Lonawala. His body was found lying in a pool of blood in his bedroom.

3. Learned counsel appearing for the Appellant submitted that a bare perusal of the impugned order passed by the High Court shows that a mini trial has been conducted merely by referring to some of the statements recorded by the police during investigation, which were forming part of the chargesheet. This was beyond the scope of jurisdiction of the Court at the time of consideration of application for discharge.

The Court had failed to consider the fact that there was Psychological Evaluation including Psychological Evaluation including Psychological Profiling, Polygraph Testing and Brain Electrical Oscillations Signature Profiling (BEOS)

conducted on Respondent Nos. 1 and four other aides of respondent no.1, which lead towards the accusation of Respondent Nos. 1 and 2 in the crime.

4. In support of the arguments, learned counsel for the appellant has placed reliance upon the judgment of this Court in the case of State of Maharashtra and Anr. v. Dr. Maroti S/o.Kashinath Pimpalkar1.

5. On the other hand, learned counsel for Respondent Nos. 1 and 2 submitted that it is a case of blind murder, hence, there was no eye-witness. There was no enmity of Respondent Nos. 1 and 2 with the deceased. They were happily living in the neighbourhood.

A false story was built up by the prosecution for which there is no material to support. He further submitted that Trial Court had failed to exercise jurisdiction vested in it to discharge the respondent no. 1 and 2. They have been falsely implicated in the case. It would be abuse of the process of the Court in case they are made to face trial. The relevant material collected by the prosecution was considered by the High Court.

6. Though the order passed by the High Court as such has not been challenged by the State. The learned counsel for the State having no explanation therefor sought to argue that the impugned order cannot be legally sustained as at the stage of consideration of application for discharge, appreciation of the evidence as such was not possible as the same could be only after the evidence is recorded in the Court after trial. At the stage of framing of charge only prima facie case is to be seen.

7. Heard learned counsel for the parties and perused the record and relevant papers.

8. After registration of FIR, investigation was conducted and statements of number of persons were recorded under Section 161 and 164 of Cr.P.C. Even a Psychological Evaluation including Psychological Profiling, Polygraph Testing and Brain Electrical Oscillations Signature Profiling (BEOS) of Respondent No. 1 was conducted on 31.5.2007 and similar tests were conducted on the other four persons viz. Baliram Chidhu Khade, Mohan Vijayamma Shridharan, Ashok Gajraj Chaudhary, Mehboob Dastagi Sheikh who were close aides of respondent no.1.

9. As it was a blind murder, the crime was investigated and chargesheet dated 09.12.2009 was filed against Hussain Mohammed Shattaf and Waheeda Hussain Shattaf (Respondent nos. 1 and 2) and Zaanish Khan stating therein that while Respondent no.1 was staying in Dubai for the purpose of his business, his wife respondent no.2 came in contact with the deceased and developed friendship.

They started meeting each other frequently. The friendship turned into physical relationship. When the Respondent No.1 returned from Dubai, he came to know about the same. To take revenge, he in connivance with respondent no.2 and one Zaanish Khan conspired to kill the deceased through unknown assailants.

10. As the case was triable by Sessions, the matter was committed by the Magistrate to the Sessions Court, Pune. Immediately thereafter Respondent Nos. 1 and 2 filed revision application for discharge. The same was dismissed by the Trial Court vide Order dated 21.02.2012. The High Court vide impugned order had set aside the order passed by the Trial Court and discharged Respondent Nos. 1 and 2. The aforesaid order is under challenge before this Court.

11. The law on issue as to what is to be considered at the time of discharge of an accused is well settled. It is a case in which the Trial Court had not yet framed the charges. Immediately after filing of chargesheet, application for discharge was filed. The settled proposition of law is that at the stage of hearing on the charges entire evidence produced by the prosecution is to be believed.

In case no offence is made out then only an accused can be discharged. Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of charge, the Court has to satisfy that a prima facie case is made out against the accused persons. Interference of the Court at that stage is required only if there is strong reasons to hold that in case the trial is allowed to proceed, the same would amount to abuse of process of the Court.

12. The law on the point has been summarised in a recent judgment of this Court in State of Rajasthan v. Ashok Kumar Kashyap2. Relevant paras are extracted below: -

"11.1. In P. Vijayan v. State of Kerala, (2010) 2 SCC 398, this Court had an occasion to consider Section 227 CrPC What is required to be considered at the time of framing of the charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that at the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused.

It is observed that in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. It is further observed that if the Judge comes to a conclusion that there is sufficient

ground to proceed, he will frame a charge under Section 228 CrPC, if not, he will discharge the accused.

It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11.2. In the recent decision of this Court in State of Karnataka v. M.R. Hiremath, (2019) 7 SCC 515, one of us (D.Y. Chandrachud, J.) speaking for the Bench has observed and held in para 25 as under:

"25. The High Court [M.R. Hiremath v. State, 2017 SCC OnLine Kar 4970] ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court.

It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709, adverting to the earlier decisions on the subject, this Court held:

'29. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

13. The relevant part of the impugned order passed by the High Court is reproduced below:-

"In the statement of Suresh Thapa dated 11.12.2006, he says he had attended party at the bungalow. In the statement of Collector Singh Thakur recorded on 9.12.2007, he refers tearing of papers by accused no.2 at 7 O' clock on

13.5.2006. Even this statement primarily would not activate to nail the accusedapplicants as the incident of elimination/murder has taken place late in the night. Mr. Suresh Thapa, in his statement on 14.5.2006, refers that in the late night he was sitting of a platform at site, at such time a car came to drop deceased and thereafter the deceased went with his gardener Hari to his house.

In further statement dated 28.6.2006, he refers of a silver colour Tata India Car coming to the area of society and a person from the car called the deceased loudly, he was tall with long hair. The deceased came and had chat with the said person who later accompanied the deceased to bungalow.

In third statement dated 11.12.2006, Suresh Thapa changed his earlier version and stated that a silver colour car came to the gate of the society and driver honked, the deceased came out of his bungalow, he opened the door, the deceased closed the door and he then went towards bungalow no.5 and while returning, the car was standing near his bungalow, the driver went ahead to the deceased, however they had no communication.

Then he went ahead and called "Captain Captain", they had chat. The person accompanied the deceased and 2 - 3 person were sitting in the car. In the supplementary statement of Ramesh Dhakol - another security, dated 1.1.2007, he refers of vehicle of accused no.2 coming back at around 2 to 2.30 a.m. in the night and she went to her bungalow. He says, his earlier statement was incorrect. Dr. Ajitsingh in his statement dated 31.12.2006 refers to his visit to the deceased and also with the deceased to the house of accused nos. 1 and 2 in April, 2006.

He saw the deceased and accused no.2 on a swing while accused no. 1 was nearby. This he noticed on 13.5.2006. The statement of Sajida Begum - wife of Zarnish (Mohd. Asgar) does not implicate the accused-applicants. Brother of the deceased Mr. Manjitsingh refers to a communication he had with accused no.1 in past, wherein accused no.1 allegedly conveyed him the deceased wanted to purchase everything, if time permits he will also purchase his wife. This communication was on telephone".

14. A perusal of the impugned order passed by the High Court shows that some of the material collected by the Investigating Agency filed alongwith chargesheet has been referred to in a sketchy manner. The statements of Suresh Sherbahadur Thapa, Collector Thakur Singh, Ramesh Dhakol, Manjit Singh, Dr. Ajit Singh and Sajida Begum have been referred to. However, from a perusal of the record, it is evident that their statements have not be noticed either in their entirety or only part of the statements recorded on a particular day has been noticed and the statements recorded either before or after, have not been referred to.

Besides that, the Investigating Agency had recorded the statements of Hiraman Dyaneshwar Chaudhari, Ramesh Murlidhar, Mohan Vs., Ashok Gunaji Thosar, Mehboob Dastagi Sheikh, and Rakma Shivram Waghmare, which have not been referred to and considered by the High Court while discharging Respondent Nos. 1 and 2. The fact cannot lost sight of that it was a case of blind murder. The circumstances only could have nailed the accused through the material collected by the Investigating Agency.

15. Psychological Evaluation including Psychological Profiling, Polygraph Testing and BEOS of Respondent No. 1 was conducted. Besides this test was also conducted of other four persons who were close aides of respondent no.1, namely, Ahok Gajraj Chaudhary, Mehboob Dastagir Sheikh, Baliram Chidhu Khade and Mohan Vijayamma Shridharan.

16. In the report of the test conducted on Respondent No.1, the opinion furnished by the Directorate of Forensic Sciences Laboratory, Home Department, Maharashtra, shows the involvement of Respondent No.1 in the murder of Captain Manmohan Singh. His psychological profiling also pointed out towards him being an antisocial personality with tendency to go against the social norms. Relevant part of the report is extracted below:-

"Psychological Evaluation of the subject Mohammed Shattaf clearly indicates his involvement in the murder of Capt. Manmohan Singh as indicated by Deception on the questions of Polygraph and by Experiential Knowledge present on the significant probes on BEOS. This finding was corroborated by the finding that the subject has Antisocial Personality Traits and a tendency to portray himself in a socially desirable way. Narcoanalysis could not be conducted on the subject he refused to give written consent for the procedure".

(emphasis supplied)

17. Besides this, opinion regarding four other persons shows that there was deceit in responding to question about knowledge of killing of deceased. Relevant part of the report is extracted below:-

"Psychological Evaluation of the subjects Ashok Gajraj Chaudhary and Mehboob Dastagi Sheikh included Psychological Profiling and Polygraph Examination in the case of the murder of Capt. Manmohan Singh. With regard to Ashok Gajraj Chaudary, even though he denied having any knowledge about the murder, yet his Polygraph examination revealed about the murder, yet his Polygraph examination revealed his attempts to deceive on questions related to him hiding information related to the death of Capt.

Singh him being asked by somebody to hide information about this murder, and him knowing who has killed the victim. In relation to Mehboob Dastagi Sheikh, even though he denied having witnessed or helped in the murder of Capt. Manmohan Singh, or having any knowledge about the same, yet his Polygraph Examination reveals 'Deception' on the question related to him knowing who has murdered Capt. Manmohan Singh".

(emphasis supplied)

18. The High Court vide impugned order had summed up the entire evidence in two paras without even referring to the Psychological Evaluation including Psychological Profiling, Polygraph Testing and Brain Electrical Oscillations Signature Profiling (BEOS) tests of the accused and the other aides of respondent no.1 and ordered discharge of Respondent Nos.1 and 2.

19. Though Psychological Evaluation test report only may not be sufficient to convict an accused but certainly a material piece of evidence. Despite this material on record, the High Court could not have opined that the case was not made out even for framing of charge, for which only prima facie case is to be seen.

20. If the facts of the case are examined in the light of law laid down by this Court on the subject, it is evident that the High Court has not even referred to the evidence collected by Investigating Agency produced alongwith chargesheet in its entirety.

Rather there is selective reference to the statements of some of the persons recorded during investigation. It shows that there was total non-application of mind. The High Court had exercised the jurisdiction in a manner which is not vested in it to scuttle the trial of a heinous crime.

21. For the reasons mentioned above, the appeal is allowed and the impugned order of the High Court is set aside.

.....J. (Abhay S. Oka)

.....J. (Rajesh Bindal)

New Delhi

May 18, 2023.

1 (2023) 4 SCC 298

2 (2021) 11 SCC 191

IN THE SUPREME COURT OF INDIA

Dhanraj
Vs.
Vikram Singh
CIVIL APPEAL NO. 4071/2009 (IX)

HEADNOTE – Writ Court cannot stop implementation of a statutory provision without holding it unconstitutional

JUDGMENT

Rajesh Bindal, J.

The challenge in these appeals is to the judgment of the Division Bench of the High Court in a writ petition filed by the 6th and 7th respondents invoking Article 226 of the Constitution of India. Prayer (b) of the writ petition filed by 6th and 7th respondents was the only substantive prayer which reads thus:

> "The petitioners seek directions to respondents to follow rotation policy for the general elections to Panchayats in the State of Maharashtra to be held in the year 2007, in compliance with the Maharashtra Zilla Parishad and Panchayat Samitis (Manner and Rotation of Reservation of Seats) Rules, 1996.)".

The entire petition proceeds on the footing that in the local body elections which were round the corner, the apprehension of the 6th and 7th respondents was that the provisions of the Panchayat (Extension of Scheduled Areas) Act, 1996 will not be given effect to by the State Election Commission.

In paragraph 10 of the writ petition, there is a vague averment that Sections 12(2) and Section 58(1b) of the Zilla Parishad and Panchayat Samiti Act, 1961 are not in consonance with parts IX and X of the Constitution of India.

It is necessary to quote the operative part of the impugned judgment which reads thus:

> "14. Our conclusions based on the reasons discussed hereinabove, can be summarised as follows;
>
> (1) Second proviso to each of Sections 12 (2) (b) and 58 (1-B) (b) of ZPPS Act are in conflict with first proviso to Section 4 (g) of PESA .
>
> (2) Second proviso to each of Sections 42 (4) (a) and 67 (5) (a) of ZPPS Act are in conflict with the second proviso to Section 4 (g) of PESA.

(3) Proviso to Rule 4 (2) of 1996 Rules is also in conflict with first proviso to Section 4(g) of PESA

(4) It is desirable for Law Departments of State and Union to have a dialogue to remove the discrepancy.

(5) Till the time discrepancy is removed, provisions of ZPPS Act I 1996 Rules to the extent of repugnancy with PESA, as indicated hereinabove, will have to be ignored for practical application.

(6) It is not possible to treat Scheduled Area and other part from the same Panchayat, as separate zones, controlled by PESA and ZPPS Act, for the purpose of elections to Panchayats.

(7) State Election Commission cannot deny responsibility of implementation of PESA in the field. In view of conclusions hereinabove, the writ petition will have to be and is accordingly allowed.

In view of conclusions hereinabove, the writ petition will have to be and is accordingly allowed.

Rule, which was made returnable forthwith by consent of the parties at the commencement of the arguments, is made absolute, by directing Respondent nos.l and 2 to implement the provisions of PESA for the elections of Panchayats at all levels in the districts of Dhule and Nandurbar.“

After having heard the learned counsel appearing for the parties, we are of the view that the entire exercise undertaken by the High Court of going into the issue of validity of the provisions of the 1961 Act and the rules framed thereunder was uncalled for. The reason is there was no challenge to the validity of the provisions of the 1961 Act in the writ petition.

The High Court records that there is a conflict between certain provisions of the 1961 Act and Section 4(g) of PESA. It is also observed that there is a conflict between proviso to Rule 4(2) of the 1996 Rules framed under the 1961 Act with Section 4(g) of PESA.

Surprisingly, the High Court expressed a view that the law departments of the State and the Union should have a dialogue to remove the discrepancies. Further, the Court directed that till the discrepancies are removed by the legislatures, the provisions of the 1961 Act and the 1996 Rules framed thereunder to the extent of repugnancy with PESA

shall be ignored "for practical application". Thereafter, the High Court proceeded to issue a Writ of Mandamus directing the State to implement the provisions of PESA for the elections of Panchayats at all levels in the districts of Dhule and Nandurbar.

The law is well settled. There is always a presumption of constitutionality in favour of a statutory instrument. Secondly, in the writ petition, there are no pleadings to show in what manner there is a repugnancy between the relevant provisions of the 1961 Act and Section 4(g) of PESA. Thirdly, there is no challenge to the provisions of the 1961 Act and the rules framed thereunder in the writ petition. Therefore, obviously, the State had no notice of the contentions which were raised at a time of hearing of the writ petition regarding the validity of the 1961 Act. Even a notice was not issued to the Advocate General of the State.

Learned counsel appearing for the 6th and 7th respondents submits that the State legislature lacks legislative competence to enact the relevant provisions of the 1961 Act and the rules framed thereunder.

His second submission is that it was not necessary for the writ petitioners to incorporate a specific challenge to the statutory provisions of the State enactment. If during the course of hearing the Court finds that the legislature lacked competence, it can always go into the issue of validity of the enactment. Thirdly, he submits that in view of Article 144 of the Constitution of India, this Court should do substantial justice. Lastly, he submits that if hypertechnical approach is adopted by this Court, the object for which certain provisions were incorporated in the Constitution for the benefit of the Scheduled Tribes, will be completely defeated.

With greatest respect to the learned counsel for the original writ petitioners, we cannot accept any of these submissions. There is not even a whisper of a challenge incorporated in the writ petition to the 1961 Act and the rules framed thereunder. The State was not called upon to answer the issue of either repugnancy or lack of legislative competence. Moreover, there was no notice issued to the Advocate General of the State.

In absence of specific pleadings, a Writ Court ought not to have gone into the issues of repugnancy or lack of legislative competence. Learned counsel appearing for the writ petitioners (6th and 7th respondents) relies upon various decisions of this Court including the landmark decision in the case of S.P. Gupta vs. Union of India.

We are of the view that in absence of any specific challenge to the validity of the statutory provisions, the High Court ought not to have undertaken the exercise of

going into the question of repugnancy. We fail to understand the propriety of the observation that the law departments of the State and the Union should have a dialogue to remove the discrepancy. Moreover, the High Court has not proceeded to strike down the relevant provisions which were held to be repugnant to PESA. It only directs that till the discrepancy is removed by the legislature, certain provisions of the 1961 Act and the rules framed thereunder shall be ignored. Such approach by the writ Court is not at all called for. Without holding that the statutory provisions are not constitutionally valid, the High Court could not have issued a direction not to implement the statutory provisions.

We may note here that Proviso to Rule 4(2) of the 1996 Rules framed under the 1961 Act has already been repealed.

As a last ditch effort, the learned counsel appearing for the writ petitioners submits that by setting aside the impugned judgment and order, an order of remand may be made so that the petitioners will be able to apply for amendment for incorporating a proper challenge. It is not possible to accept this submission at this stage in a writ petition filed 15 years back.

The Writ Petition is of the year 2008 and looking to the pleadings in the writ petition, it was filed only to take care of the elections which were round the corner. Moreover, considering the prayer made in the writ petition, now we cannot permit the writ petitioners to enlarge the scope of the writ petition.

We may also note here that without there being any pleadings, the writ Court has gone into the various factual aspects such as, category of Panchayats, etc. This exercise was not supported by the pleadings.

Accordingly, the appeals are allowed, the impugned judgment and order dated 31.10.2008 is set aside and writ petition No.4860/2008 filed by 6th and 7th respondents is accordingly dismissed. There shall be no order as to costs.

…….J. [Abhay S. Oka]

…….J. (RAJESH BINDAL)

New Delhi

10.05.2023

IN THE SUPREME COURT OF INDIA

All India Judges Association
Vs.
Union of India & Ors.

[Writ Petition (Civil) No. 643/2015]

[Special Leave Petition (Civil) Nos. 6471-6473/2020]

[Contempt Petition (Civil) Nos. 711/2022, 36/2023, 37/2023, 38/2023, 39/2023, 40/2023, 848/2023]

[Writ Petition (Civil) No. 643/2015]

HEADNOTE – Judges are not employees of state, District Judiciary's independence part of basic structure

JUDGMENT

Justice PS Narasimha,

INDEX

Pamidighantam Sri Narasimha, J

1. Introduction to Pay Commissions

1. The District Judiciary1 is the backbone of the judicial system. Vital to the judicial system is the independence of the judicial officers serving in the District Judiciary. To secure their impartiality, it is important to ensure their financial security and economic independence.

To this end, at the instance of the All India Judges Association, this Court, in 1993 found the need to state that there must be a Judicial Pay Commission, separate and independent from the Executive in order to ensure that the system of checks and balances are in place, and the Judiciary has a say in their pay and service conditions.2

2. Pursuant to the judgment of this Court, the First National Judicial Pay Commission ("FNJPC") was constituted by the Government of India by Resolution dated 21.03.1996. The FNJPC, headed by Justice K. Jagannatha Shetty, submitted a comprehensive report on 11.11.1999. This comprehensive report contained recommendations on pay, pension and allowances as well as other service conditions pertaining to the district judiciary.

After prolonged proceedings, on 21.03.2002, this Court approved the recommendations of the FNJPC pertaining to emoluments with certain modifications relating to allowances.3 Notably, the recommendations were accepted with effect from 01.01.1996. This was because the employees of the Central Government were given the benefits of the 5th Central Pay Commission from that date.

3. Within the next few years, the Central Government appointed the 6th Central Pay Commission, and the Commission made its recommendations which were accepted from 01.01.2006. To ensure that the District Judiciary does not lag behind, this Court once again stepped in at the instance of the very same All India Judges Association.

This Court appointed a One-Person Commission headed by Justice E Padmanabhan (Retd Judge of the High Court of Madras) by Order dated 28.04.2009. The One-Person Commission once again submitted a report, which was accepted by this Court by Order dated 20.04.2010.4 The revised pay scales, which are currently in force, as recommended by this Commission, were made effective from 01.01.2006.

2. THE SNJPC'S REPORT AND THE ORDERS OF THIS COURT

4. Ten years later, the 7th Central Pay Commission submitted its report and its recommendations were accepted by the Central Government with effect from 01.01.2016. Correspondingly, in the present writ petition, once again at the instance of the All India Judges Association, this Court has been called upon to intervene and update/upgrade the service conditions of the judicial officers.

5. This Court by the order dated 09.05.2017 in W.P. (C) No. 643/2015 appointed the Second National Judicial Pay Commission headed by Justice P.V. Reddi (Retd.) as its Chairman with Senior Advocate R Basant (Former Judge) as its Member5. Pursuant to the order of this Hon'ble Court, the Government of India, by its Resolution dated 10.11.20176, constituted the Second National Judicial Pay Commission ("Commission/SNJPC"). As per the Resolution, the terms of reference of the Commission are as follows:

(a) To evolve the principles which should govern the structure of pay and other emoluments of judicial officers belonging to the subordinate judiciary all over the country.

(b) To examine the present structure of emoluments and conditions of service of judicial officers in the States and UTs taking into account the total packet of benefits available to them and make suitable recommendations including post-retirement benefits such as pension, etc. having regard among other relevant factors, to the existing relativities in the pay structure between the officers belonging to subordinate judicial services vis-à-vis other civil servants and mechanism for redressal of grievances in this regard.

(c) To examine the work methods and work environment as also the variety of allowance and benefits in kind that are available to judicial officers in addition to pay and to suggest rationalisation and simplification thereof with a view to promoting efficiency in judicial administration, optimising the size of judiciary, etc. and to remove anomalies created in implementation of earlier recommendations.

(d) To consider and recommend such interim relief as it considers just and proper to all categories of judicial officers of all the States/Union Territories. The interim relief, if recommended, shall have to be fully adjusted against and included in the package which may become admissible to the judicial officers on the final recommendations of the Commission.

(e) To recommend the mechanism for setting up of a permanent mechanism to review the pay and service conditions of members of subordinate judiciary periodically by an independent commission exclusively constituted for the purpose and the composition of such commission should reflect adequate representation on behalf of the judiciary.

6. It is seen from the Report of the Commission that it held region-wise consultative conferences in the cities of Guwahati, Mumbai, Kolkata, Kochi, Delhi, Chandigarh, Chennai, Lucknow, Bhopal, Visakhapatnam and Srinagar where long deliberations took place with the representatives of the All India Judges' Association, All India Retired Judges' Association, State Associations, officials of the Registry and deputed officers of High Courts and senior government officers. A perusal of the Report indicates that the Commission has analyzed the representations from various sources and periodically consulted with several experts while preparing working sheets and calculations.

7. After wide consultation, the Commission realized a need for interim relief to be granted to judicial officers as their pay had not been increased for more than 10 years. Thus, they submitted a Report on Interim Relief to this Court 09.03.2018. Considering that the judicial officers were without updated/upgraded pay, this Court, by order dated 27.03.2018, directed the States and the Union of India to implement the recommendations of the Commission with regard to interim relief.

8. Subsequently, on 29.01.2020, the Commission submitted its Final Report to this Court. The Report has recommendations which cover Pay Structure (Volume I), Pension and Family Pension (Volume III) and Allowances (Volume IV). A separate part of the report viz., Part II deals with the issue of establishing a permanent mechanism to determine subjects of service conditions of the District Judiciary.

9. This Court took cognizance of the Report on 28.02.2020. For the assistance of the Court, amici curiae were appointed. The States and the Union of India were directed to file their objections, if any, to the Report. The Court observed that over the years, the primary objection to the implementation of the various directions concerning the service conditions of the district judiciary is the alleged paucity of financial resources, and rejected this objection even before the States could raise it.

3. SUBMISSIONS OF COUNSEL

10. The Amicus Curiae, K Parameshwar placed the recommendations of the Commission and its reasoning before this Court. Detailed notes of submissions have been filed by the amicus curiae tabulating the recommendations and supplementing the same with additional reasoning. He also detailed the objections put forward by the States and the Union and rebutted them with clarity.

11. The Amicus Curiae also laid stress on the principles on which the recommendations of the Commission draw their strength. He broadly suggested

five principles for the consideration of the Court. Firstly, he submitted that the independence of the district judiciary is part of the Basic Structure of the Constitution. He stated that the judgments of the Court, thus far, have recognized the principle of independence of judiciary only in the context of the High Courts and the Supreme Court and submitted that this principle ought to equally apply to the District Judiciary.

12. He then submitted that the principle of independence of the judiciary is an integral part of Part III of the Constitution, as it ensures a guarantee to a fair trial. He argued that therefore, the independence of the judiciary must be seen as a guarantee under Article 21 of the Constitution.

13. The third principle, in his submission, was that the doctrine of inherent powers, as noticed by this Court in Brij Mohan Lal v. Union of India, (2012) 6 SCC 502 and suggested by the Report of the Task Force on Judicial Impact Assessment (chaired by Justice (Retd) M Jagannadha Rao) would require the Judiciary to compel payment of reasonable sums of money to carry out its constitutionally mandated responsibilities. To this end, he also relied on Article 50 of the Constitution which mandates that "The State shall take steps to separate the judiciary from the executive in the public services of the State."

14. He then submitted, relying on the Order dated 05.04.20237 passed by this Court in the review proceedings, that there is an equivalence of core judicial function between Judicial Officers in the District Judiciary and the Judges of the High Court. Therefore, he submitted that the increase in pay of the High Court judges must equally reflect in the increase of pay of judicial officers of the District Judiciary.

15. Lastly, he submitted that in a unified judicial system, the service conditions, designations etc. must be uniform across the country. He relied on the judgment of this Court in All India Judges Association v. Union of India (1993) 4 SCC 288 as well as the reports of the FNJPC and SNJPC to contend that the uniformity must be maintained across the country in terms of pay and designation of the District Judiciary.

16. The Petitioners, i.e., the All India Judges Association were represented by Gourab Banerji, Senior Advocate. He supported the Report of the SNJPC and supported the arguments made by the amicus curiae. He also brought to the attention of this Court a recent decision in Director, KPTCL v. CP Mundinamani (2023) SCC Online SC 401 to defend the recommendation of the Commission on the accrual of last increment for the purposes of pension.

He also sought to support the recommendation of the Commission on additional quantum of pension to be given from the age of 75 years by contending that the

same is not only reasonable but is also already given by a number of States from an even younger age. In this regard, he also submitted that the age of retirement of district judges is lower than that of High Court and Supreme Court judges and therefore, they must be entitled to retiral benefits at a younger age.

17. The arguments on behalf of the All India Retired Judges Association were put forward by V Giri, Senior Advocate. While supporting the contentions made by the Amicus Curiae as well as Gourab Banerji, Senior Advocate, he reiterated the need for an urgent implementation of the Report of the SNJPC, especially in respect of pension to be paid to retired officers.

18. The counter-arguments were led by KM Nataraj, the Ld. Additional Solicitor General of India who appeared for the State of Uttar Pradesh. He was also supplemented by Amit Anand Tiwari, AAG for Tamil Nadu, Ms Pratishtha Vij, counsel for the State of Himachal Pradesh, Siddharth Dharmadhikari, Counsel for the State of Maharashtra, Nachiketa Joshi, Counsel for the State of Madhya Pradesh, Ajay Pal, Counsel for the State of Punjab, Madhumita Bhattacharjee, Counsel for the State of West Bengal, Shuvodeep Roy, Counsel for the State of Assam, Shailesh Madiyal, Counsel for the UT of Jammu and Kashmir, Pukhrambam Ramesh Kumar, Counsel for the State of Manipur, Deepanwita Priyanka, Counsel appearing on behalf of the State of Gujarat, B.K. Satija, AAG for the State of Haryana, Kuldeep Singh Parihar, Counsel for the State of Uttarakhand appearing for the States.

19. They firstly contended that the multiplier of 2.81 cannot be applied to the District Judiciary across the cadres. It is their argument that the 7th CPC recommended a graded pay increase across different cadres of the employees of the Central Government and therefore, the same has to be applied even for the judiciary.

Thereafter, they once again argued that the States do not have sufficient financial resources to meet the increase in pay as suggested by the SNJPC. As regards the recommendation on increment to be accrued for the purposes of pension to the judicial officer in spite of her retirement, they contended that since the applicable Rules in their State do not provide for such accrual for Government Employees, the same cannot be given to judicial officers.

The States also opposed the grant of retirement gratuity as suggested by the SNJPC. They argued that their State Rules which are prevalent provide for a uniform rate across cadres and services in the State and therefore, the recommendation cannot be accepted by them. Lastly, they contended that the minimum eligibility for Family Pension must be less than Rs. 30,000, as suggested by the Commission.

20. Before considering the recommendations of the SNJPC on pay, pension, gratuity, age of retirement etc., it is necessary to consider certain principles concerning judiciary that have a direct bearing on our decision on the recommendations.

4. PRINCIPLES EVOLVED FOR JUDICIAL PAY, PENSION AND ALLOWANCES

21. This Court has dealt with three different Judicial Pay Commission and has evolved certain principles, which form the underpinning of judicial pay, pension and allowances. The first principle is that a unified judiciary requires uniform designations and service conditions of judicial officers across the country. The second principle is that the independence of the judiciary requires that pay of judicial officers must be stand-alone and not compared to that of staff of the political executive or the legislature.

The third principle is that the independence of the judiciary, which includes the District Judiciary, is part of the basic structure of the Constitution. The fourth principle is that the access to an independent judiciary enforces fundamental rights guaranteed under Part III of the Constitution. The fifth principle is that the essential function of all judicial officers in the District Judiciary and judges of the High Court and this Court is essentially the same.

I. Uniformity in Designations and Service Conditions

22. India has a unified judiciary under the scheme of the Constitution. A unified judiciary necessarily entails that the service conditions of judges of one state are equivalent to similar posts of judges of other states. The purpose of this constitutional scheme is to ensure that the judicial system is uniform, effective and efficient in its functioning. Efficient functioning necessarily requires judges of caliber and capacity to be provided with the right incentives and promotion opportunities to maintain the high level of functioning of the judiciary.

23. This Court in All India Judges Association (II)8 has noted the position of law and observed that uniform designations and hierarchy, with uniform service conditions are unavoidable necessary consequences. It was held:

"14. Secondly, the judiciary in this country is a unified institution judicially though not administratively. Hence uniform designations and hierarchy, with uniform service conditions are unavoidable necessary consequences. The further directions given, therefore, should not be looked upon as an encroachment on the powers of the executive and the legislature to determine the service conditions of the judiciary. They are directions to perform the long overdue obligatory duties."

II. Separation of Powers and Comparison with Political Executive

24. Separation of powers demands that the officers of the Judiciary be treated separately and distinct from the staff of the legislative and executive wings. It must be remembered the judges are not employees of the State but are holders of public office who wield sovereign judicial power. In that sense, they are only comparable to members of the legislature and ministers in the executive. Parity, thus, cannot be claimed between staff of the legislative wing and executive wing with officers of the judicial wing.

This Court in All India Judges' Assn. (II) v. Union of India,9 explained the distinction and held that those who exercise the State power are the Ministers, the Legislators and the Judges, and not the members of their staff who implement or assist in implementing their decisions. Thus, there cannot be any objection that judicial officers receive pay which is not at par with executive staff. In this context, it may also be remembered that Article 50 of the Constitution directs the State to take steps to separate the judiciary from the Executive.

25. This distinction is also important because judicial independence from the executive and the legislature requires the judiciary to have a say in matters of their finances. This Court has previously noted that theoretically, allowing the Executive to decide the pay of the judiciary may lead to unintended consequences.10 Therefore, to secure true independence of the judiciary, this Court has recognized that the pay of judicial officers is separate and distinct from the pay of staff of other wings of the State.

This, it may be noted, is nothing but an articulation of the doctrine of inherent powers. This doctrine mandates that the judiciary must possess the inherent power to "compel payment of those sums of money which are reasonable and necessary to carry out its mandated responsibilities, and its powers and duties to administer justice."11 This doctrine is only the logical conclusion of separation of powers and ensures that the independence of the judiciary is secured.

26. The submission of the States that there is a paucity of financial resources must be examined from this aspect of the matter. The States and the Union have repeatedly stated that the burden on the financial resources of the States/Union due to the Report of the SNJPC is significant and therefore the Report cannot be implemented. Without the doctrine of inherent powers, any de-funding of the Judiciary cannot be repelled.

27. Apart from this, Judicial Officers have been working without a pay revision for nearly 15 years. A pay revision has been recommended in accordance with the law laid down by this Court and a report submitted by a Judicial Pay

Commission after considering this very objection. This Court has also examined this issue of paucity of financial resources on at least three occasions in these very proceedings.

In the Order dated 28.02.2020, which took cognizance of the Report of the SNJPC, this Court stated that it hoped that "the same objections, which have been rejected by this Court in All India Judges Association v. Union of India (1993) 4 SCC 288, will not be re-agitated. The Court in the aforesaid judgment observed that compared to the other plan and non-plan expenditures, the financial burden caused on account of the directions given therein are negligible." 12 However, the States and the Union raised this objection in their affidavits before this Court.

28. After going through the affidavits of the States and the Union, this Court on 27.07.2022 found that in contrast to the 7th Central Pay Commission, which was implemented from 01.01.2016, judicial officers have not received any similar benefit. Thus, the Court held that "there is a need to at least implement the revised pay structure immediately so as to alleviate the sufferings of the judicial officers."13 The Court, after considering the objections of the Union and the State rejected the same and accepted the revision of pay structure as recommended by the SNJPC. Aggrieved by the acceptance of the Report, the Union filed a review petition before this Court.

This Court by Order dated 05.04.2023 dismissed the review petitions and found that the financial implications cannot be considered as excessive in view of the information given by the SNJPC.14 Still, the States and the Union have raised this objection after its express rejection twice over. The rejection of their objection is also reiterated. Judicial Officers cannot be left in the lurch for prolonged periods of time without a revision of pay on an alleged paucity of financial resources.

29. This Court in its Review Order dated 05.04.2023 has explained this position in the following words:

"4. In view of the above discussion, the issue is whether there is any compelling need to reduce the quantum of increase proposed by applying a lower multiplier so as to marginally reduce the gap between entry level IAS officers (in Junior and Senior time scales) and Judicial Officers at the first two levels (Civil Judge, Junior and Senior Divisions). Such an exercise is not warranted for more than one reason.

Firstly, the initial starting pay must be such as to offer an incentive to talented youngsters to join judicial service. Secondly, the application of a multiplier/ factor less than 2.81 would result in a deviation from the principle adopted by

SNJPC that the extent of increase of pay of judicial officers must be commensurate with the increase in the pay of High Court judges. This principle has been accepted by this Court by approving the recommendations of the SNJPC.

Therefore, there is no valid reason to depart from the principle applied by JPC that the pay of judicial officers should be higher when compared to All India Service Officers of the corresponding rank. This principle has been approved by this Court in AIJA (2002) Thirdly, in All India Judges Association (II) v. Union of India this court rejected the comparison of service conditions of the judiciary with that of the administrative executive:

"7. It is not necessary to repeat here what has been stated in the judgment under review while dealing with the same contentions raised there. We cannot however, help observing that the failure to realize the distinction between the judicial service and the other services is at the bottom of the hostility displayed by the review petitioners to the directions given in the judgment. The judicial service is not service in the sense of 'employment'. The Judges are not employees. As members of the judiciary, they exercise the sovereign judicial power of the State.

They are holders of public offices in the same way as the members of the council of ministers and the members of the legislature. When it is said that in a democracy such as ours, the executive, the legislature and the judiciary constitute the three pillars of the State, what is intended to be conveyed is that the three essential functions of the State are entrusted to the three organs of the State and each one of them in turn represents the authority of the State.

However, those who exercise the State power are the Ministers, the Legislators and the Judges, and not the members of their staff who implement or assist in implementing their decisions. The council of ministers or the political executive is different from the secretarial staff or the administrative executive which carries out the decisions of the political executive. Similarly, the Legislators are different from the legislative staff. So also the Judges from the judicial staff.

The parity is between the political executive, the Legislators and the Judges and not between the Judges and the administrative executive. In some democracies like the USA, members of some State judiciaries are elected as much as the members of the legislature and the heads of the State. The Judges, at whatever level they may be, represent the State and its authority unlike the administrative executive or the members of the other services. The members of the other services, therefore, cannot be placed on a par with the members of the judiciary, either constitutionally or functionally.""

III. Independence of the District Judiciary is Part of the Basic Structure

30. This Court has repeatedly held that the independence of the judiciary is part of the basic structure of the Constitution.15 However, the pronouncements of the Court have been in the context of the High Court and the Supreme Court and not in the context of the District Judiciary. The District Judiciary performs an important role in upholding the rule of law. As noted in the Review Order dated 05.04.2023:

"15. The District Courts and courts forming a part of the district judiciary discharge a prominent role in preserving the rule of law. Public confidence in the judicial system sustains the credibility of the judiciary. The district judiciary has a significant role in generating and fostering public confidence. The standards of ethics and professionalism expected of judges are more rigorous than those applied to other services/professions. Ensuring adequate emoluments, pension and proper working conditions for the members of the district judiciary has an important bearing on the efficiency of judicial administration and the effective discharge of the unique role assigned to the judiciary."

31. The independence of the District Judiciary must also be equally a part of the basic structure of the Constitution. Without impartial and independent judges in the District Judiciary, Justice, a preambular goal16 would remain illusory. The District Judiciary is, in most cases, also the Court which is most accessible to the litigant. The Amicus Curiae submitted that on a single day, the District Judiciary handled nearly 11.3 lakh cases.

It was seen that during the period of the pandemic as well, the District Judiciary was yet efficient and undertook its functions to ensure that justice is delivered in a timely manner. It is thus important to recognize that the District Judiciary is a vital part of the independent judicial system, which is, in turn, part of the Basic Structure of the Constitution.

IV. Judicial Independence and Access to Justice Ensures Implementation of Part III of the Constitution

32. Any interpretation of Part III of the Constitution would also require that effective and speedy disposal of cases be done by an independent District Judiciary. This Court has repeatedly held that the right of free and fair trial forms part of Article 14 and 21 of the Constitution.17 For instance, in Anita Kushwaha v. Pushap Sudan [(2016) 8 SCC 509, para 31], this Court recognized that "access to justice" inheres in Articles 14 and 21. This Court held:

"31. If "life" implies not only life in the physical sense but a bundle of rights that makes life worth living, there is no juristic or other basis for holding that denial

of "access to justice" will not affect the quality of human life so as to take access to justice out of the purview of right to life guaranteed under Article 21. We have, therefore, no hesitation in holding that access to justice is indeed a facet of right to life guaranteed under Article 21 of the Constitution.

We need only add that access to justice may as well be the facet of the right guaranteed under Article 14 of the Constitution which guarantees equality before law and equal protection of laws to not only citizens but non-citizens also. Absence of any adjudicatory mechanism or the inadequacy of such mechanism, needless to say, is bound to prevent those looking for enforcement of their right to equality before laws and equal protection of the laws from seeking redress and thereby negate the guarantee of equality before laws or equal protection of laws and reduce it to a mere teasing illusion."

33. The right of fair trial and access to justice, as contemplated by this Court, is not limited to the physical access to a Court. The right must also include all the necessary prerequisites of a Court, i.e., the infrastructure, and an unbiased, impartial, and independent judge. At the cost of repetition, for most litigants in this country, as the only physically accessible institution for accessing justice is the District Judiciary, the independence of district judiciary assumes even greater significance.

34. One may go to the extent to state that the rights of "access to justice" and "fair trial" cannot be exercised by an individual without an independent judiciary. Further, without fair and speedy trial, the remaining rights, including fundamental and constitutional rights will not be enforced in a manner known to law. If these instrumental rights themselves are hindered, then all other rights within the Constitution would not be enforceable.

V. Equivalence of Judicial Functions of District Judiciary and Higher Judiciary

35. The essential function of the District Judiciary, as also the function of the High Courts and this Court is to administer justice impartially and independently. This Court in its Review Order observed:

"14. Fourthly, the argument that an uniform IoR would equate the district courts with constitutional courts is erroneous. A uniform multiplier is used for a uniform increment in pay and not for the purpose of uniform pay in itself. All Judges across the hierarchy of courts discharge the same essential function of adjudicating disputes impartially and independently. Thus, it would not be appropriate to apply graded IoR when SNJPC has chosen to uniformly apply the multiplier."

36. Together, the Courts constitute the unified judicial system performing for the core and essential function of administering justice. To be truly unified both in form and in substance, there must be integration in terms of pay, pension and other service conditions between the District Judiciary, the High Courts and the Supreme Court. To this end, under Article 125 and 221 of the Constitution, the salaries etc. payable to the judges of the High Court and the Supreme Court are fixed by law as made by Parliament. The salaries for judges of the High Court are the same across the country by virtue of the High Court Judges (Salaries and Conditions of Service) Act, 1954.

37. Given that in the hierarchy of the unified judicial system a Judge of the High Court is placed above a District Judge, it follows that a District Judge cannot have more pay more than a High Court judge. Therefore, the maximum ceiling of pay that a District Judge may earn is the salary of a High Court judge which is fixed under the aforementioned statute. Once the salary of the District Judge is pegged against the High Court judge, it thus follows that any increase in the salary of the judges of the High Court must reflect in the same proportion to the judges in the District Judiciary. In the Review Order, this Court observed:

"16. The legitimacy of the principle that the increase of pay of the judicial officers must be commensurate with the quantum of increase in the pay of High Court judges has been raised previously and stands judicially settled. Therefore, any objection to the IoR on the ground that it has to be lower than that adopted for increase in the pay of the judges of the High Court is without cogent basis."

38. Having considered the constitutional foundations on the basis of which the recommendations of the SNJPC are to be considered, we will now proceed to examine the recommendations with respect to pay, pension, gratuity etc.

V.0 RECOMMENDATIONS ON PAY

39. We will first deal with the recommendation of SNJPC on pay structure. A summary of the relevant recommendations of SNJPC on pay are tabulated hereinbelow:

Recommendation No. Recommendation

44.1 States/High Courts shall take immediate steps to re-designate the officers in conformity with the All India pattern as recommended by FNJPC i.e. those who have not done it so far.

44.2 The new pay structure shall be as per the 'Pay Matrix' pattern on the model of VII CPC as against the 'Master Pay Scale' pattern so as to remove the

anomalies and to rationalize the pay structure and to ensure due benefit to the judicial officers of all cadres within the framework of established principles

44.3 The categorization of the Judicial officers shall be based on their status in the functional hierarchy reflected in horizontal range in Table-I below para 13.1 of the Report 44.4,

44.5 The initial pay for each rank of officer is about 2.81 times the existing entry pay of each rank except J-6 and J-7, which is in the same proportion of increase as that of the High Court Judge. Accordingly, the first row in the horizontal range (J-1 to J-7) denotes the entry pay for fresh recruits/appointees in that level.

44.6 The new Mean Pay percentage vis-a-vis the salary of High Court Judge in relation to each cadre and grade as per p.182 of the Report

44.7 The annual increment shall be @3% cumulative, meaning thereby that the increment @3% has to be calculated on the previous years basic pay instead of fixed amount increments recommended by FNJPC and JPC.

44.8 In the Pay Matrix pattern, there shall be now 37 stages instead of 44

44.9 The fitment/migration of the existing officers shall be as reflected in Table II at para 13.3, p.73

44.10 The procedure for migration/fitment of the serving Judicial officers and also the procedure for fixation of pay on promotion shall be as explained in paras 13.5 and 13.8.

44.11(i) As regards the date of accrual of increment, there shall be no change in the existing system which is being followed in various states/UTs i.e. the increment shall be once in a year as per the date of appointment or promotion or financial upgradation.

44.11(ii) The retiring Judicial officers shall have the benefit of increment becoming due the next day following their retirement. That increment shall be for the purposes of pension only and shall be subject to vertical ceiling of Rs. 2,24,100/-.

44.12 The pay of the judicial officers of all ranks/grades in the new pay matrix/pay structure shall be effective from 01.01.2016

44.13 Arrears of Pay w.e.f. 01.01.2016 shall be paid during the calendar year 2020, after adjusting the interim relief already paid under the Interim Report dated 09.03.2018.

44.14 The present practice of sanction of DA at the rates prescribed by Central Government from time to time shall continue. The Hon'ble Supreme Court may issue directions that the benefit of revised DA in conformity with the orders issued by the Central Government from time to time shall be paid to the Judicial officers without delay, and in any case, not later than 3 months from the date of issuance of the order by the Central Government. The benefit of revised rates of DA shall accrue from the effective date as specified in the Order issued by Central Government in this behalf.

44.15(i) Grant of 1st ACP to Civil Judge (Jr. Div.) shall not be based on the application of the existing norm of seniority-cum-merit. There shall be relaxed norms for assessing the performance in terms of output. The scrutiny shall be for the limited purpose of ascertaining whether there is anything positively adverse such as consistently poor/unsatisfactory performance or adverse report of serious nature leading to the inference that the Officer is unfit to have the benefit of ACP.

44.15(ii) If for any reason, delay in grant of ACP goes beyond one year, one additional increment for every year delay shall be granted subject to adjustment while drawing the arrears on grant of ACP.

44.16(i) The posts of District Judges (Selection Grade) shall be increased to 35% of the cadre strength as against the existing 25%, and the District Judges (Super Time Scale) shall be increased to 15% of the cadre strength as against the existing 10%. It will be effective from 01.01.2020

44.16(ii) The upgradation benefit shall be given to the District Judges by applying the principle of seniority-cum-merit instead of meritcumseniority.

44.16(iii) If the post remains or continues for three years it shall form part of cadre strength.

44.17 The Pay Revision benefit which is already available to the Presiding Judges of Industrial Tribunals/Labour Courts (outside the regular cadre of subordinate judiciary) in view of the recommendation of JPC, shall be extended to them also simultaneously with Judicial Officers of regular cadre without administrative delays.

44.18 The Judges of the Family Courts in Maharashtra who belong to a separate cadre have to be extended the benefit of pay of District Judge (Selection Grade) and District Judge (Super Time Scale) in the same ratio as prescribed for regular District Judges. The High Court to propose the minimum age for grant of Selection Grade, if considered necessary. The Principal Judge Family Court (ex-cadre) to be allotted quarters preferentially, in General Pool Accommodation.

44.19 Special Judicial Magistrates (Second Class)/Special Metropolitan Magistrates (dealing with petty criminal cases) shall get minimum remuneration of Rs.30,000/- per month in addition to conveyance allowance of Rs.5,000/- per month w.e.f. 01.04.2019 and to be suitably revised every five years.

V.1 ORDERS OF THIS COURT ON SNJPC RECOMMENDATIONS ON PAY

40. This Court has subsequently passed three detailed orders dealing with the objections of the States and the Union and rejected the same. The first is Order dated 27.07.2022,18 the second is Order dated 18.01.2023 and the final one is Order dated 05.04.2023. In the first Order, this Court accepted the revision of pay structure as recommended by SNJPC.

By Order dated 18.01.2023, this Court granted additional time to some States to comply with the Order dated 27.07.2022. Thereafter, some States and the Union filed review petitions against the Order dated 27.07.2022 passed by this Court. This Court dismissed the reviews on 05.04.2023.19 Thus, most of the recommendations of the SNJPC on the pay structure have become final.

V.2 CONSIDERATION OF RECOMMENDATIONS ON PAY

41. Individual recommendations made by the SNJPC on pay are considered hereinbelow.

I. Redesignation of Judicial Officers in Conformity with the All India Pattern (Recommendation 44.1)

42. As stated above, in India, the judiciary is unified. The designations of judges, therefore, ought to be uniform across the country. In this regard, the FNJPC suggested the following nomenclature to be adopted pan-India:

i. Civil Judge (Jr. Div);

ii. Civil Judge (Sr. Div);

iii. District Judge.

43. A thorough examination by the SNJPC revealed that these designations have not been adopted in few states. It was stated by the Commission that the State of Kerala still designates its judges as Munsiff and 'Subordinate Judge'. In the North-Eastern States too, it was seen that there was some divergence of designation. Uniformity would require these to be amended in order to be brought under the same umbrella. Pertinently, this recommendation had been

accepted in the FNJPC by virtue of judgment in All India Judges' Assn. (II) v. Union of India, (1993) 4 SCC 288.20 We may only reiterate that this direction be followed by the High Courts and all High Courts amend their designations in conformity with the suggestions of the FNJPC and SNJPC.

44. It is also relevant to note that in light of the pay matrix suggested by the SNJPC, without uniform designations, issues may arise in the future for fitment of the different designations which are used in the different states. Such complications ought to be avoided by this Court.

45. This Court thus accepts the recommendation of the Commission. Consequently, the High Courts are directed to ensure that the designation of judicial officers is uniformly the same as mentioned in the above paragraphs.

II. New Pay Structure as per Pay Matrix Model (Recommendation 44.2, 44.3)

46. The SNJPC has recommended that the pay matrix model, which was adopted by the 7th Central Pay Commission be adopted for Judicial Officers as well. This is desirable as it simplifies the matter of pay for judges. Notably, this Court has already accepted this recommendation by Order dated 27.07.2022.21 This has been confirmed in Order dated 05.04.2023. As the recommendation of the SNJPC is only to bring the pay structure in conformity with the 7th Central Pay Commission, there cannot be any objection on these recommendations. Thus, it is directed that the pay structure of the Judicial Officers be modified suitably, reflecting the recommendations suggested by the SNJPC.

III. Multiplier of 2.81 and Its Uniform Application (Recommendations 44.4-44.6)

47. The Multiplier/Index of Rationalization of 2.81 has been suggested by the SNJPC to be applied to all cadres of judicial officers. The objection of the States and the Union is that the IoR of 2.81 has not been suggested by the 7th CPC to all cadres of officers. It is their say that when the Central Pay Commission adopted a graduated fitment factor ranging from 2.57 for entry level officers to 2.81 for officers of the level of Secretary to the Government of India, the judicial officers could not have been granted a uniform multiplier/IoR of 2.81.

48. Their submission is erroneous because, as stated above, the pay of judicial officers is to be increased commensurate to the pay of the Judges of High Courts. When the judges of the High Courts were granted a multiplier of 2.81, the judicial officers were also to be granted the same multiplier. This has been the precedent set by the previous Judicial Pay Commissions and endorsed by this Court repeatedly.22

49. At the cost of repetition, it may be stated that this Court has already rejected the objections of the States and the Union and consequently accepted the multiplier/Index of Rationalization of 2.81 in Order dated 27.07.202223 and Order dated 05.04.202324. As stated above, the principled basis of the acceptance is that the pay of judicial officers in the District Judiciary can only be based on the pay of Judges of the High Court. This is because the Judiciary is independent from the Executive and as such, all aspects including pay cannot be based on the pay granted to the officers of the Executive Wing.

50. It is thus reiterated that the recommendation that the multiplier/index of rationalization as suggested by the SNJPC be accepted. Consequently, it is directed that the pay of the judicial officers be increased as per the Table-I annexed to the Order dated 27.07.2022.

IV. Increments (Recommendation 44.7, 44.11)

51. The SNJPC did not recommend any change in the existing system of accrual of increment once a year as per the date of appointment or promotion or the date of financial upgradation. The sole change it suggested was that judicial officers should have the benefit of increment falling due the next day following their retirement. The Commission suggested that this benefit of an additional increment shall be for the purposes of pension only and shall be subject to a vertical ceiling of Rs. 2,24,100/-.

52. An additional increment can be given to a retiring officer when he is not in service on the date of accrual. This is because the increment is a benefit for the year of service already rendered. Therefore, the last pay, for the purposes of calculation of pension should include the increment payable to the judicial officer.

53. Three sets of decisions had been rendered by different High Courts regarding this. The first view, which was taken by the High Courts of Madhya Pradesh, Gujarat and Allahabad, is that when the increment becomes due the next day after retirement, the employee ought not to be denied the benefit of the increment for the purposes of pay. The second view, which was taken by the High Courts of Madras, Orissa and Delhi is that the increment would accrue to officers only for the purpose of pension alone. The third view, taken by the Andhra Pradesh, Himachal Pradesh and Rajasthan High Courts is that the increment cannot be granted to the officers.

54. The law has now been settled by this Court in a recent judgment Director, KPTCL v. CP Mundinamani.25 This Court approved the judgment of the High Court of Allahabad's view in Nand Vijay Singh v. Union of India26 it was held:

"24. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India."

55. In such circumstances, the recommendations of the Commission in so far as it notionally grants the increment for the purposes of pension is completely justified. As a consequence of the acceptance of the recommendation, the calculation of pension must notionally include the increment for the purposes of calculation of pension. This will also obviate any confusion. It is therefore directed that the High Courts amend the applicable rule to state that the increment which becomes due to the judicial officer on the day after his retirement may be notionally included in the calculation of his pension as his last pay, subject to the vertical ceiling of Rs. 2,24,100/-.

V. Fitment and Migration from Master Pay Scale to Pay Matrix System (Recommendations 44.8, 44.9, 44.10)

56. The Court notes that the Commission has recommended the formula and method to ensure that the migration from the master pay scale to the pay matrix system is smooth. The Commission has devised the follow fitment/migration formula:

"i. Multiply the existing pay by the factor of 2.81.

ii. The figure so arrived at to be located in Table-I, in relation to the Level applicable to the Officer (i.e., J1, J2 etc.)

iii. Where there is an identical figure available in Table-I at the corresponding stage of the relevant level, the new revised pay shall be fixed at that stage.

iv. Where there is no identical figure available, the new revised pay has to be fixed at the very next higher stage in that level in Table- I."

57. In order to make matters clear, the Commission has also given illustrations so as to simplify the fitment/migration formula for the relevant authorities. These illustrations ought to be considered by the authorities while encoding the rules for the migration to the pay matrix system.27 It may be noted that the Commission has submitted a Corrigendum to its Report in March 2021 which has removed certain arithmetical mistakes from the Fitment Table. This is reflected in Part III of the Report dated March 2021.

58. It may be noted that a similar formula and illustrations have also been devised for fixation of pay of judicial officers who were promoted on or after 01.01.2016 in the following terms:

"i. Identify the level and the basic pay in Table I on the date of promotion.

ii. Add one increment in that level itself in terms of FR-22.

iii. The figure so arrived at or the next closest figure in the level to which s(he) is promoted will be the new pay on promotion."

The examples provided by the Commission also proceed thereafter to lend clarity to the formula for promotes as well.

59. While accepting this recommendation for fitment/migration as amended by the Corrigendum dated March 2021, it is also noted that the examples must form part of the relevant rules that are required to be encoded by the High Courts, the States and the Union. Therefore, we accept the recommendation and direct the authorities to implement the same keeping in mind the examples that have been given by the Commission, as stated above.

VI. Application of Recommendations from 01.01.2016 (Recommendation 44.12)

60. The 7th Central Pay Commission came into force from 01.01.2016. However, the last pay revision of the judicial officers was with effect from 01.01.2006. More than 17 years have passed since the judicial officers have received a pay revision. Noting this, the recommendation must be accepted by this Court. Pertinently, this has already been noticed by this Court in its Order dated 27.07.2022.28 Further, the previous Judicial Pay Commissions had also recommended revision of pay with effect from 01.01.1996 and 01.01.2006 respectively. No objection can therefore be made regarding the application of the pay structure from 01.01.2016. This recommendation thus merits acceptance. Thus, it is directed that the benefits of the recommendations as regards pay be given effect to with effect from 01.01.2016.

VII. Status of Compliance of Directions in Order dated 27.07.2022 (Modification of Recommendation No.44.13)

61. While the Commission suggested that the arrears of pay be given during the calendar year 2020, this Court after considering the submissions of the Union and the State that the payment of arrears at one go may not be possible and by Order dated 27.07.2022 directed that the payments be made in three separate installments. As per this Order as well, the final installment was payable by

30.06.2023. States had already sought extension of time to complete payments in the first two instalments. Considering the grievances of the States, by Order dated 18.01.2023, this Court directed:

"All the States/Union Territories which have made payment of only the first installment or the first two installments and the States and Union Territories which have come up with applications for extension of time, are permitted to make payment of arrears, at least within the time indicated in this order. The States and Union Territories which have not yet made payment of the first installment, shall make payment of the first installment by 31.03.2023. These States and Union Territories, as well as those who have already made payment of the first installment, shall make payment of the second installment by 30.04.2023. The third and final installment shall be made by 30.06.2023."

VIII. DA on basis of Rates fixed by Central Government (Recommendation 44.14)

62. The recommendation of the SNJPC is that Dearness Allowance may be paid at the rate fixed by the Central Government. It may be noted that the Commission has found that the rates fixed by the Central Government are normally accepted by the State across the country. The purpose of dearness allowance, as explained by this Court in Bengal Chemical & Pharmaceutical Works Ltd. v. Its Workmen (1969) 2 SCR 113, is "to neutralise a portion of the increase in the cost of living."

When the rates which are fixed by the Central Government are followed by most of the States, the recommendation of the SNJPC is reasonable. This recommendation is also in the interests of uniformity of service conditions of judicial officers across the country, which, as stated above, is a cardinal principle on the basis of which the present proceedings are based. Notably, a fixed rate of Dearness Allowance would also ensure that there is no lag in the accrual of the dearness allowance to the judicial officers.

63. Various States such as West Bengal, Assam, Nagaland and Manipur are agreeable to rates fixed by the Central Government. The States of Punjab, Tamil Nadu, Jharkhand, and Mizoram have argued that their rates must be adopted. Other States have not specifically stated anything with regard of rates of DA. It is observed that that a uniform rate of DA would achieve the goals of uniformity as well as efficiency. In such circumstances, the recommendation deserves acceptance.

IX. Grant of 1 s t ACP to Civil Judge (Jr Div) (Recommendation 44.15 (i))

64. The Commission suggested that the 1st Assured Career Progression be given to the Civil Judges (Jr Div) be granted on the basis of relaxed norms of performance. At present, a Civil Judge (Jr Div) would be entitled to the first ACP only after completing 5 years of service. A Civil Judge (Jr Div) is normally in the process of learning the work in his first two years.

Assessment of the officer's performance when the first two years are riddled with trainings and deputations cannot be done in a serious manner. This is especially so when, for the first two years, no real work output is expected out of the judicial officer. Therefore, the inability of the Officer to reach the prescribed targets of disposal or not satisfying the quantitative norms during the initial stage of judicial career need not be viewed seriously, especially having regard to the objective behind the ACP.

65. Another aspect is that judicial officers serving in the cadre of Civil Judge (Jr. Div.) have only two promotional avenues available to them, i.e., Civil Judge (Sr. Div.) and District Judge. Without any promotional avenues, the stagnation in the service causes loss of morale to judicial officers which has a direct bearing on their independence.

66. It may be noted that the Limited Competitive Examination which has been introduced by virtue of this Hon'ble Court's judgment in All India Judges Association v. Union of India29 only applies to the cadre of Civil Judges (Sr. Div.) to the cadre of District Judges. The percentage reserved for LCE was initially 25%. This was reduced to 10% by All India Judges' Assn. v. Union of India30.

67. This Court in All India Judges Assn. v. Union of India, relaxed the aforesaid conditions only for the Delhi Higher Judicial Services in so far as it permits candidates with experience of 10 years to appear for the Limited Competitive Examination for becoming District Judges.31 At the same time, it is noticed that the Maharashtra Judicial Service Rules, 2008 envisages an additional method for promotion for Civil Judges (Jr Div) by conducting a separate Limited Competitive Examination for them to be promoted to the position of Civil Judges (Sr Div).32 It may be noted that there is no rule for the participation of Civil Judge (Jr. Div.) in the Limited Competitive Examination to be recruited as District Judge.

68. As regards the relaxed norms which could apply for the 1st ACP, it is noted that the SNJPC has recommended that the scrutiny for the grant of First ACP will be limited to ascertaining whether there is anything positively adverse such as there is any poor/unsatisfactory performance or there being an adverse report of serious nature leading to the inference that the officer is unfit to have the benefit of the 1st ACP. A similar provision already exists in Rule 3(5) of the

Maharashtra Judicial Services Rules, 2008. This Rule prescribes that for the 1st ACP, the ACR rating required is only 'Average' and for the 2nd ACP, the Judicial Officer needs to be rated 'Good' for five continuous years. Such a rule is only an illustration. High Courts may devise other methods for these relaxed norms.

69. It is thus directed that the grant of 1st ACP to Civil Judge (Jr Div) be given on the basis of relaxed norms which may be devised by the High Courts, with reference to the suggestions of the Commission.

X. Delay in Grant of ACP (Recommendation 44.15(ii))

70. A perusal of the Commission's Report at para 19.4 and 19.5 shows that, in many states, the grant of ACP scale is delayed. The Commission found that in certain jurisdictions, even after completion of more than 10 years of service, ACP was not granted to Civil Judges (Jr Div) and Civil Judges (Sr Div). This is unpardonable. Stagnation of careers of judicial officers due to administrative delays causes loss of morale and enthusiasm in vital stages of their careers, where they are entitled to be considered for career progression.

71. The SNJPC's finding that the lack of timely preparation and scrutiny of ACR is the primary reason behind delay is concerning. ACRs are bound to be done in a timely manner and without delay so as to ensure that the whole judicial system is functioning in an efficient manner. Accordingly, the High Courts may be directed to ensure that the delay in making ACRs is avoided in the future.

72. Separately, to avoid this delay in the future, the Commission suggested that the process of grant of ACP should be initiated 3 months in advance from the date on which the judicial officers will be completing 5/10 years and the financial benefits should be paid to the judicial officer within a period of 6 months after the judicial officer steps into the 6th/ 11th year of Service. Therefore, the Commission recommended that if grant of ACP is delayed for every year, one additional increment shall be granted for every year of delay subject to the adjustment with the ACP arrears.

73. The recommendations of the Commission are reasonable. As stated above, delays ought to be avoided on the administrative side which have the effect of stagnating the career of a judicial officer. The suggestions of the Commission will bring about much needed efficiency and perhaps, a standard operating procedure for the grant of ACP in a timely manner. Thus, the recommendation merits acceptance.

XI. Changes in Percentage of District Judges (Selection Grade) and District Judges (Super Time Scale) (Recommendation 44.16)

74. The Commission has recommended the increase of percentage of district judges who will be entitled to District Judge (Selection Grade) and District Judge (Super Time Scale). The reasoning of the Commission is that due to the limited percentage of District Judge (Super Time Scale) and District Judge (Selection Grade), many judges from larger states are unable to reach higher posts before retirement even though they have spent considerable time in the District Judge Cadre. It also found that as of October, 2019 only 1515 judges out of a cadre strength of 7382 district judges were getting the benefit of Selection Grade and Super Time Scale.

75. The benefits of Super Time Scale and Selection Grade not reaching a majority of district judges prior to their retirement is a situation that should be avoided. The recommendation of the Commission that the Selection grade and Super Time Scale posts should be increased by 10% and 5% respectively merits acceptance. Essentially, this would entail that the District Judges at Entry level shall be 50%, selection grade 35% and Super Time Scale - 15% of the total cadre strength of District Judges.

76. The Recommendations 44.16 (ii) and (iii) are regarding the upgradation to be given to District Judges by applying the principle of seniority-cum-merit and further that if the post remains or continues for three years it shall form part of cadre strength. These recommendations of the SNJPC may be considered at the appropriate stage as they do not have a bearing on the issues of pay, which are being considered by this Court at this stage.

XII. Pay Revision to be Given to Presiding Judges of Industrial Tribunals/Labour Courts (Recommendation 44.19)

77. Though Labour Courts and Industrial Tribunals, both statutory courts created under the Industrial Disputes Act, 194733 are not presided over by judicial officers, they are entitled to equal pay as district judges based on the principle of equal pay for equal work. Following this principle, this Court in State of Kerala v. B. Renjith Kumar34 and State of Maharashtra v. Labour Law Practitioners' Assn.35 held that judicial officers of Labour Courts and Industrial Tribunal ought to be considered on par with judicial officers. The recommendation of the Tribunal that the pay revision be extended to judges of the Industrial Tribunals/Labour Courts, thus merits acceptance as it is only an extension of the law laid down by this Court.

XIII. Judges in Family Courts in Maharashtra (Recommendation 44.18)

78. The Commission noticed that the Judges in the Family Courts in Maharashtra are recruited through a separate process and the officers form part of a separate cadre. At the same time, Rule 8 of the Judges of the Family Courts

(Recruitment and Service Conditions) Maharashtra Rules, 1990 also provides that the judge shall draw pay and allowances at par with the judges (Principal Judge, Additional Principal Judge and Judge respectively) of the City Civil Court, Bombay and at other places pay and allowances as admissible to the District Judge.

79. The recommendation of the Commission is that the Judges of the Family Court also be entitled to the benefit of Selection Grade and Super Time Scale as well. The Commission further recommends that quarters also be given to them from the general pool of accommodation.

80. The recommendation of the SNJPC is in line with the same principles mentioned above in as laid down by this Court in State of Kerala v. B. Renjith Kumar36 and State of Maharashtra v. Labour Law Practitioners' Assn.37 for Labour Courts. When equal work is done by the judicial officers, their pay and conditions of service must also be equal. Thus, the recommendation of the Commission is accepted.

XIV. Minimum Remuneration to Special Judicial Magistrates (Second Class) and Special Metropolitan Magistrates (Recommendation 44.19)

81. A reading of para 36 of the report of the Commission shows that in some states, officials who have worked in the judiciary, retired executive officials possessing law degree etc. are appointed as Special Judicial Magistrates under Sections 11 and 13 of the CrPC, 1973. The Commission noted that in some states they are paid very meagre remuneration and consequently has recommended a minimum pay of Rs. 30,000 per month and a conveyance allowance of Rs. 5,000/-. The Commission has further recommended that this benefit shall be given from 01.04.2019.

82. The amicus has argued that even Rs. 30,000 is insufficient today and such a low amount might not meet the minimum wage requirements in certain states. Considering that under Section 261, CrPC, 1973 such Magistrates can try offences which are punishable with fine or imprisonment not exceeding 6 months, such Magistrates cannot be considered as discharging judicial functions that are incomparable to regular Magistrates. As such, their financial independence is as much a part of judicial independence as is for regular Magistrates. Thus, the recommendation of the Commission modified by fixing the remuneration at Rs. 45,000/- per month plus an additional sum of Rs. 5,000/- as conveyance allowance.

83. For the purpose of convenience, the recommendations and their modifications/acceptance is tabulated below:

Recommendation No.	Recommendation	Order of this Court
44.1	States/High Courts shall take immediate steps to re-designate the officers in conformity with the All India pattern as recommended by FNJPC i.e. those who have not done it so far.	Accepted
44.2	The new pay structure shall be as per the 'Pay Matrix' pattern on the model of VII CPC as against the 'Master Pay Scale' pattern so as to remove the anomalies and to rationalize the pay structure and to ensure due benefit to the judicial officers of all cadres within the framework of established principles	Accepted
44.3	The categorization of the Judicial officers shall be based on their status in the functional hierarchy reflected in horizontal range in Table- I below para 13.1 of the Report	Accepted
44.4, 44.5	The initial pay for each rank of officer is about 2.81 times the existing entry pay of each rank except J-6 and J-7, which is in the same proportion of increase as that of the High Court Judge. Accordingly, the first row in the horizontal range (J-1 to J-7) denotes the entry pay for fresh recruits/appointees in that level.	Accepted
44.6	The new Mean Pay percentage vis-a-vis the salary of High Court Judge in relation to each cadre and grade as per p.182 of the Report	Accepted
44.7	The annual increment shall be @3% cumulative, meaning thereby that the increment @3% has to be calculated on the previous years basic pay instead of fixed amount increments recommended by FNJPC and JPC.	Accepted
44.8	In the Pay Matrix pattern, there shall be now 37 stages instead of 44	Accepted

44.9	The fitment/migration of the existing officers shall be as reflected in Table II at para 13.3, p.73	Accepted - to be read with Corrigendum dated March 2021 submitted by the SNJPC
44.10	The procedure for migration/fitment of the serving Judicial officers and also the procedure for fixation of pay on promotion shall be as explained in paras 13.5 and 13.8.	Accepted - to be read with Corrigendum dated March 2021 submitted by the SNJPC
44.11(i)	As regards the date of accrual of increment, there shall be no change in the existing system which is being followed in various states/UTs i.e. the increment shall be once in a year as per the date of appointment or promotion or financial upgradation.	Accepted
44.11(ii)	The retiring Judicial officers shall have the benefit of increment becoming due the next day following their retirement. That increment shall be for the purposes of pension only and shall be subject to vertical ceiling of Rs. 2,24,100/-.	Accepted
44.12	The pay of the judicial officers of all ranks/grades in the new pay matrix/pay structure shall be effective from 01.01.2016	Accepted
44.13	Arrears of Pay w.e.f. 01.01.2016 shall be paid during the calendar year 2020, after adjusting the interim relief already paid under the Interim Report dated 09.03.2018.	Accepted
44.14	The present practice of sanction of DA at the rates prescribed by Central Government from time to time shall continue. The Hon'ble Supreme Court may issue directions that the benefit of revised DA in conformity with the orders issued by the Central Government from time to time shall	Accepted

	be paid to the Judicial officers without delay, and in any case, not later than 3 months from the date of issuance of the order by the Central Government. The benefit of revised rates of DA shall accrue from the effective date as specified in the Order issued by Central Government in this behalf.	
44.15(i)	Grant of 1st ACP to Civil Judge (Jr. Div.) shall not be based on the application of the existing norm of seniority-cum-merit. There shall be relaxed norms for assessing the performance in terms of output. The scrutiny shall be for the limited purpose of ascertaining whether there is anything positively adverse such as consistently poor/unsatisfactory performance or adverse report of serious nature leading to the inference that the Officer is unfit to have the benefit of ACP.	Accepted, the revised norms be developed by the High Courts in accordance with this judgment
44.15(ii)	If for any reason, delay in grant of ACP goes beyond one year, one additional increment for every year delay shall be granted subject to adjustment while drawing the arrears on grant of ACP.	Accepted
44.16(i)	The posts of District Judges (Selection Grade) shall be increased to 35% of the cadre strength as against the existing 25%, and the District Judges (Super Time Scale) shall be increased to 15% of the cadre strength as against the existing 10%. It will be effective from 01.01.2020	Accepted
44.16(ii)	The upgradation benefit shall be given to the District Judges by applying the principle of seniority-cum-merit instead of merit-cumseniority.	To be considered at the relevant stage
44.16(iii)	If the post remains or continues for three years it shall form part of cadre strength.	To be considered at the relevant stage

44.17	The Pay Revision benefit which is already available to the Presiding Judges of Industrial Tribunals/Labour Courts (outside the regular cadre of subordinate judiciary) in view of the recommendation of JPC, shall be extended to them also simultaneously with Judicial Officers of regular cadre without administrative delays.	Accepted
44.18	The Judges of the Family Courts in Maharashtra who belong to a separate cadre have to be extended the benefit of pay of District Judge (Selection Grade) and District Judge (Super Time Scale) in the same ratio as prescribed for regular District Judges. The High Court to propose the minimum age for grant of Selection Grade, if considered necessary. The Principal Judge Family Court (ex-cadre) to be allotted quarters preferentially, in General Pool Accommodation.	Accepted
44.19	Special Judicial Magistrates (Second Class)/Special Metropolitan Magistrates (dealing with petty criminal cases) shall get minimum remuneration of Rs.30,000/- per month in addition to conveyance allowance of Rs.5,000/- per month w.e.f. 01.04.2019 and to be suitably revised every five years	Accepted with modification of Rs. 45,000 per month and Rs. 5,000/- per month for conveyance

6. RECOMMENDATIONS ON PENSION, GRATUITY AND AGE OF RETIREMENT ETC

84. We will now deal with the recommendations of SNJPC on Pension, Gratuity etc. For the purposes of convenience, the recommendations are set out below:

Recommendation No.	Recommendation
39.1	No change in pension for those retiring after 01.01.2016- the pension/family pension shall be @50% / 30% of the last

	drawn pay at the time of retirement
39.2	Revised pension of retired judicial officers would be 50% of last drawn pay
39.3	Formulations as given in Report to apply for pension revision: (i) Multiplier factor of 2.81 to be applicable for pension; or (ii) Pensioners to be fitted appropriately in the fitment table (Table II, para 13.3, Ch. II, Vol. I, p. 73) whichever is higher
39.4	Judicial officers who retired prior to 01.01.2016 to be placed notionally at the corresponding stage.
39.5	For judicial Officers who retired prior to 01.01.1996, if no consequential re- fixation has been done by the Government concerned based on the directives of this Hon'ble Court, the said benefit shall be extended to them first without further delay.
39.6	The benefits of number of years of practice at bar subject to maximum of weightage of ten years will be given to direct recruits of HJS who retired prior to 01.01.2016.
Family Pension	
4.1	For family pensioners, no change is suggested in the existing percentage of family pension, that is, it shall be @30% of last drawn pay at the time of retirement of the Judicial officer
4.2	Family Pension @30% shall be paid to eligible family member(s) as given in Rule 54 CCS (Pension) Rules 1972 at par with the spouse, after the death of the spouse.
4.3	The quantum of family pension shall be worked out in the same manner as quantum of pension is worked out.
4.4	Income limit, if any prescribed by any State in relation to dependent family members (other than the spouse) for being eligible to get family pension shall be not less than Rs.30,000/- per month (rupees thirty thousand per month).
Additional Quantum of Pension/Family Pension	
21.1	Additional quantum of family pension on completion of age of and at the rates specified as per Table in p.49, Vol. II Part-I
21.2	This benefit of additional pension shall be available to all eligible pensioners/family pensioners w.e.f. 01.01.2016.
21.3	No recovery shall be effected from those who have availed the benefit of additional pension on completion of age of 65 or 70 years as per the extant orders of the some of the State

	Governments
21.4	The State Governments may also choose to continue to extend the prevailing benefits upto the age of 75 years to the retired Judicial officers as well.
Gratuity	
8.1	Retirement gratuity shall be calculated as per Rule 50(1)(a) of CCS (Pension) Rules 1972
8.2	The maximum limit for retirement gratuity/death gratuity shall be Rs. 20 lakhs which shall be increased by 25% whenever DA rises by 50%.
8.3	These recommendations shall be effective from 01.01.2016.
8.4	To the officers who have retired after 01.01.2016 and paid retirement gratuity as per pre-revised pay and the maximum limit at that time, the differential gratuity payable on account of revision of pay shall be paid subject to the revised maximum limit.
8.5	The death gratuity shall be paid as per table in p.52, Vol. II on the basis of length in service
Retirement Age of Judicial Officers	
	No change in retirement age of 60 years recommended
Financial Assistance in Case of Death	
9.1	The benefit of family pension as per Rule 54(3) of CCS (Pension) Rules, as amended vide notification dated 19.09.2019 shall be extended to the family members.
9.2	The other benefits such as one time lumpsum grant, compassionate appointment, permission to stay in official quarters etc. already in force in the States shall continue to apply, in addition to death gratuity.
Assistance to Pensioners/Family Pensioners	
11.1	Special attention shall be bestowed to them by rendering due assistance for processing the medical bills of the pensioners/family pensioners who are too old, infirm or differently abled or undergoing in-patient treatment for serious ailment
11.2	District Judge shall nominate a Nodal Officer for liasoning work, if required, in emergency in facilitating admission in the hospital and getting the medical bills of the pensioners/family pensioners cleared promptly.
11.3	Special Cell entrusted with the responsibility of the processing the representations of the pensioners/family pensioners and to initiate action as may be considered appropriate to redress the grievance expediously, shall be

	created in the High Court under the supervision of an officer of the rank of Joint Registrar, in the High Court.
11.4	A Judge of the High Court shall be nominated to oversee the functioning of Special Cell and issue necessary instructions.
11.5	The representatives of the Retired Judges Associations shall be permitted to meet the Registrar General of the High Court atleast once in a year to discuss the problems, if any.
11.6	The Registry of the High Courts to compile data of the pensioners and family pensioners.
National Pension Scheme	
31.1	The National Pension System (NPS)/Defined Contributory Pension Scheme shall not be applicable to all judicial officers.
31.2	The Defined Benefit Pension Scheme/Old Pension Scheme shall be applicable to all Judicial officers irrespective of the date of their joining the judicial service.
31.3	For those who have judicial service after 01.01.2004, the contributions together with the returns earned thereon will be refunded to them or transferred to their GPC account.
31.4	The Government shall facilitate opening of the GPF Account of the new entrants to the judicial service after 01.01.2004 and transfer their contribution with the returns earned thereon.

7. CONSIDERATIONS OF RECOMMENDATIONS ON PENSION, GRATUITY ETC

85. Individual recommendations made by the SNJPC on pension are considered hereinbelow.

I. No Change in Percentage of Pension for Retirees On or After 01.01.2016 (Recommendation 39.1)

86. The Commission has not recommended any change in the current percentage of pension, fixed at 50% of last drawn pay for pension and 30% for last drawn pay for family pension. The FNJPC had also recommended this position and this Court had accepted it. Therefore, when no change is recommended, no real objections can be raised regarding the recommendation.

II. Revised Pension of Retired Judicial Officers should be 50% of the Last Drawn Pay

87. After considering the opinions of the FNJPC and the One-Person Commission, the Commission recommended that for judicial officers who retired before 01.01.2016, the revised pension should be 50% of the last drawn pay of the post held at the time of retirement. This is also unchanged in its formulation and thus remains the same.

III. Multiplier and Fitment of Pensioners in Pay Matrix (Recommendation No.39.3, 39.4)

88. As a result of the recommendations of the SNJPC on pay, the pensioners also will be equally benefitted. The recommendation of the Commission is that the multiplier of 2.81 will equally apply to pensioners as well. As a consequence thereof, the pensioners will also be fitted into the table and pension will be paid to them on this basis. In other words, to ensure parity of pension between judicial officers who retired at the same level but under different pay scales, the pension must be brought on par. After extensive analysis, the Commission has also included certain illustrations to make its recommendations clear. The illustrations lend clarity to the recommendation and thus ought to be read along with the recommendation.

89. It may be noted that as with the recommendation on fitment in pay, the SNJPC has issued a corrigendum on fitment in its Supplemental Report dated March 2021. This Corrigendum corrects arithmetical mistakes made in the original report. Therefore, the fitment table must be construed in accordance with the corrected table on fitment.

90. There is merit in the recommendation of the Commission. The revision of pay must also reflect in the revision of pension. Therefore, the multiplier which applies to pay must also apply to pension. Consequently, the pensioners must be therefore fitted into the same scheme in the pay matrix. The recommendation is thus accepted.

IV. Consequential Re-fixation of Judicial Officers who Retired Prior to 01.01.1996 (Recommendation no. 39.5)

91. The Commission noted that due to a discrepancy in the report of the One-Person Commission, the pension granted to judicial officers who retired after 2006 was not being given in parity to those who retired before 2006. This Court in All India Judges Assn. v. Union of India, (2014) 14 SCC 444 (dated 08.10.2012) was apprised of the error committed by the One-Person Commission and directed this to be corrected.

However, the prayer in the application was limited to post-2006 retirees. In a second38 and third round39 of litigation, the Supreme Court directed all the

State Governments to follow its Order dated 08.10.2012 and directed revision of pension for those who retired post-1996. By way of abundant caution, the Commission recommended that those States which have not granted this benefit to those who retired before 1996, must be given the same benefit.

92. The recommendation of the Commission is only in furtherance of parity. State Governments have, in the past, been directed to undertake the consequential re-fixation before. However, if such consequential re-fixation has not been undertaken, the officers who had retired prior to 1996, and who would have aged significantly would be discriminated against. Such a situation ought to be avoided and thus the recommendation merits acceptance. This Court directs this recommendation to be implemented immediately and without delay.

V. Benefit of Years of Practice at the Bar while calculating pension (Recommendation no. 39.6)

93. After considering the judgments rendered by this Court in Government of NCT Delhi v All India Young Lawyers Association (2009) 14 SCC 49, the Commission, recommended that the number of years of practice at the Bar subject to the maximum of weightage of 10 years shall be given while calculating pension and other retiral benefits. This Court in Government of NCT Delhi reasoned that this would be required as otherwise a direct recruit from the bar who becomes a District Judge would not be entitled to full pension. The recommendation, being the implementation of the judgment of this Court, merits acceptance. It is accordingly ordered.

VI. Recommendations on Family Pension (Recommendation Nos. 4.1 to 4.4)

94. As regards family pension, the Commission has not recommended any change in the existing percentage, i.e., 30% of the last drawn pay. Therefore, this recommendation, as such, does not warrant any further deliberation as it is the mere continuation of the existing regime. The recommendation is accepted.

95. At the same time, the Commission has recommended payment of family pension @ 30% to the eligible family member after the death of the spouse. This benefit has been given in light of Rule 54 CCS (Pension) Rules, 1972, which grants similar benefits to members of the central civil services. This recommendation is also thus accepted as it has been granted to members of the central civil services.

96. Obviously, the quantum of family pension must be increased as per the same multiplier/index of rationalization applicable for pension. This is because the same factors which are applicable to pay and pension leading to their increase also equally apply to family pension. The Commission has also recommended

the same. We accept the recommendation and direct that the quantum of family pension also worked out in the same manner as quantum of pension is worked out.

97. The last recommendation is that on the income limit prescribed by States to be eligible for family pension. The minimum limit prescribed by the Commission was Rs. 30,000/-. This limit is reasonable but it must be left to the discretion of the States to prescribe a higher limit which is more beneficial to the judicial officers. Thus, the recommendation is accepted.

VII. Recommendations on Additional Quantum of Pension/Family Pension (Recommendation Nos. 21.1 to 21.4)

98. On account of the additional assistance required on increasing age, it has been the policy of the Central Government to grant additional quantum of pension. The Commission has recommended the payment of additional quantum of pension from the age of 75 years onwards at the rates mentioned in the table on p.44 of the Report.

99. It is seen that different states have different ages for the grant of additional quantum of pension and family pension. The 7th CPC suggested the age of 80 years as the minimum. High Court and Supreme Court judges also receive additional quantum of pension at the age of 80 years. It was however argued by Gourab Banerji, Senior Advocate that as District Judges retire at a younger age, the additional quantum of pension should accrue to them at a younger age as well.

100. Given that many of the States granted this benefit from the age of 70 and the Commission recommended the grant of additional quantum of pension from the age of 75. This reasoning of the Commission merits acceptance. If States have been granting more beneficial pension rates, it cannot be denied to the judicial officers. Judicial Officers cannot be left worse off than officers of the State. Therefore, this Court accepts this recommendation.

101. The Commission has further recommended that this benefit be paid from 01.01.2016. As with the other similar recommendations for the aspects of pay and pension, this recommendation is accepted.

102. The concern of the Commission, reflected in Recommendation No.21.3, that recovery will be initiated against officers who have been given additional pension from the age of 65 or 70 is genuine. If judicial officers have already been granted a more beneficial regime and are moved to the regime suggested by the Commission and accepted by the Court, no recovery ought to be made

against them. Consequently, it is left to the States to continue the benefits upto the age of 75 years as well. These recommendations are accordingly accepted.

VIII. Recommendations on Gratuity (Recommendation Nos. 21.1 to 21.4)

103. The first recommendation on Gratuity by the Commission is to bring the calculation of gratuity on par with Rule 50(1)(a) of the Central Civil Services (Pension) Rules, 1972. There cannot be any dispute regarding this recommendation as it is to bring about uniformity in conditions of service. Therefore, this recommendation merits acceptance by this Court.

104. The Commission further recommended that the maximum limit for retirement gratuity/death gratuity shall be Rs. 20 lakhs which shall be increased by 25% whenever DA rises by 50%. This recommendation has also been made in accordance with the Report of the 7th CPC, and the purpose of the same is to ensure that the cost of living does not make the gratuity without purpose. Therefore, this recommendation also merits acceptance by the Court.

105. The third recommendation is to make the recommendations effective from 01.01.2016. This has now been settled by this Court before and has been reiterated in the present judgment as well. The recommendations must come into force from 01.01.2016. Consequentially, those judicial officers who retired after 01.01.2016 must also benefit from the acceptance of the Report. Thus, the Commission has suggested that the differential gratuity be paid to them subject to the revised maximum limit. This is merely consequential and is accepted by this Court. It is accordingly ordered.

106. The final recommendation made by the Commission on the subject of gratuity is that death gratuity be paid on the same lines as the 7th CPC. Accordingly, the recommendation is accepted as it is in line with the already accepted principles laid down by this Court.

IX. Recommendations on Retirement Age

107. No change has been recommended by the Commission to the retirement age of judicial officers. No opinion, therefore, is expressed on this subject by this Court.

X. Recommendations on Financial Assistance in Case of Death

108. The Commission has recommended that where a judicial officer dies while in service, the family pension and death cum retirement gratuity as per the applicable rules is payable to the spouse/dependent, of the deceased officer. The recommendation of the Commission is in terms of Rule 54 of the CCS (Pension)

Rules, 1972. This recommendation is reasonable and in furtherance of the principle of uniformity across services. Therefore, it merits acceptance by this Court.

XI. Recommendations on Assistance to Pensioners

109. The Commission has made some well-considered recommendations on assistance to be given to pensioners and family pensioners. While they may merit acceptance, it is appropriate to consider them at a later stage as they do not require any change in principles or amendments to any rules but are merely executive in nature. Therefore, this Court is of the opinion that the recommendations may be considered at a later stage.

XII. Recommendations on Abolition of New Pension Scheme

110. This Court has been apprised of the recommendations made by the Commission regarding the non-applicability of the New Pension Scheme to judicial officers. However, given the objections raised to this issue by a number of States, the issue may be dealt with separately after hearing the states. Therefore, this recommendation too will be considered at a later stage.

111. The resultant position on the recommendations is tabulated below for convenience:

Recommendation No.	Recommendation	Order of this Court
39.1	No change in pension for those retiring after 01.01.2016- the pension/family pension shall be @50% / 30% of the last drawn pay at the time of retirement	Accepted
39.2	Revised pension of retired judicial officers would be 50% of last drawn pay	Accepted
39.3	Formulations as given in Report to apply for pension revision: (i) Multiplier factor of 2.81 to be applicable for pension; or (ii) Pensioners to be fitted appropriately in the fitment table (Table II, para 13.3, Ch. II, Vol. I, p. 73) whichever is higher	Accepted - read with the Corrigendum dated March, 2021
39.4	Judicial officers who retired prior to 01.01.2016 to be placed notionally at the corresponding stage.	Accepted - read with the Corrigendum dated March, 2021

39.5	For judicial Officers who retired prior to 01.01.1996, if no consequential re-fixation has been done by the Government concerned based on the directives of this Hon'ble Court, the said benefit shall be extended to them first without further delay.	Accepted - directed to be implemented immediately
39.6	The benefits of number of years of practice at bar subject to maximum of weightage of ten years will be given to direct recruits of HJS who retired prior to 01.01.2016.	Accepted
Family Pension		
4.1	For family pensioners, no change is suggested in the existing percentage of family pension, that is, it shall be @30% of last drawn pay at the time of retirement of the Judicial officer	Accepted
4.2	Family Pension @30% shall be paid to eligible family member(s) as given in Rule 54 CCS (Pension) Rules 1972 at par with the spouse, after the death of the spouse.	Accepted
4.3	The quantum of family pension shall be worked out in the same manner as quantum of pension is worked out.	Accepted
4.4	Income limit, if any prescribed by any State in relation to dependent family members (other than the spouse) for being eligible to get family pension shall be not less than Rs.30,000/- per month (rupees thirty thousand per month).	Accepted - with liberty to States to grant more beneficial position
Additional Quantum of Pension/Family Pension		
21.1	Additional quantum of family pension on completion of age of and at the rates specified as per Table in p.49, Vol. II Part-I	Accepted
21.2	This benefit of additional pension shall be available to all eligible pensioners/family pensioners w.e.f. 01.01.2016.	Accepted
21.3	No recovery shall be effected from those who have availed the benefit of	Accepted

	additional pension on completion of age of 65 or 70 years as per the extant orders of the some of the State Governments	
21.4	The State Governments may also choose to continue to extend the prevailing benefits upto the age of 75 years to the retired Judicial officers as well.	Accepted
Gratuity		
8.1	Retirement gratuity shall be calculated as per Rule 50(1)(a) of CCS (Pension) Rules 1972.	Accepted
8.2	The maximum limit for retirement gratuity/death gratuity shall be Rs. 20 lakhs which shall be increased by 25% whenever DA rises by 50%.	Accepted
8.3	These recommendations shall be effective from 01.01.2016.	Accepted
8.4	To the officers who have retired after 01.01.2016 and paid retirement gratuity as per pre-revised pay and the maximum limit at that time, the differential gratuity payable on account of revision of pay shall be paid subject to the revised maximum limit.	Accepted
8.5	The death gratuity shall be paid as per table in p.52, Vol. II on the basis of length in service	Accepted
Retirement Age of Judicial Officers		
	No change in retirement age of 60 years recommended	Accepted
Financial Assistance in Case of Death		
9.1	The benefit of family pension as per Rule 54(3) of CCS (Pension) Rules, as amended vide notification dated 19.09.2019 shall be extended to the family members.	Accepted
9.2	The other benefits such as one time lumpsum grant, compassionate appointment, permission to stay in official quarters etc. already in force in the States shall continue to apply, in addition to death gratuity.	Accepted

Assistance to Pensioners/Family Pensioners		
11.1	Special attention shall be bestowed to them by rendering due assistance for processing the medical bills of the pensioners/family pensioners who are too old, infirm or differently abled or undergoing in-patient treatment for serious ailment	To be considered at a later stage
11.2	District Judge shall nominate a Nodal Officer for liasoning work, if required, in emergency in facilitating admission in the hospital and getting the medical bills of the pensioners/family pensioners cleared promptly.	
11.3	Special Cell entrusted with the responsibility of the processing the representations of the pensioners/family pensioners and to initiate action as may be considered appropriate to redress the grievance expediously, shall be created in the High Court under the supervision of an officer of the rank of Joint Registrar, in the High Court.	
11.4	A Judge of the High Court shall be nominated to oversee the functioning of Special Cell and issue necessary instructions.	
11.5	The representatives of the Retired Judges Associations shall be permitted to meet the Registrar General of the High Court atleast once in a year to discuss the problems, if any.	
11.6	The Registry of the High Courts to compile data of the pensioners and family pensioners.	
National Pension Scheme		
31.1	The National Pension System (NPS)/Defined Contributory Pension Scheme shall not be applicable to all judicial officers.	To be considered at a later stage
31.2	The Defined Benefit Pension Scheme/Old Pension Scheme shall be applicable to all Judicial officers	

	irrespective of the date of their joining the judicial service.	
31.3	For those who have judicial service after 01.01.2004, the contributions together with the returns earned thereon will be refunded to them or transferred to their GPC account.	
31.4	The Government shall facilitate opening of the GPF Account of the new entrants to the judicial service after 01.01.2004 and transfer their contribution with the returns earned thereon.	

8. CONSEQUENTIAL DIRECTIONS

112. Ultimately, the effect of the acceptance of the recommendations of this Court is that necessary amendments must be carried out in Service Rules of the Judicial Officers across all jurisdictions. It is thus directed that the High Courts and the competent authorities, wherever applicable, bring the rules in conformity with the recommendations accepted by this Court above within a period of 3 months. Compliance affidavits be placed on record by the High Courts, the States and the Union within four months.

113. In the case of payment of arrears of pay, this Court had by Orders dated 27.07.2022 and 18.01.2023 already directed that all arrears of pay be cleared by 30.06.2023. In this regard, it is directed that compliance affidavits must be filed by all States and Union Territories by 30.07.2023 that the arrears of pay have been positively credited into the accounts of the concerned officers.

114. The revised rates of pension, which have been approved by this Court, shall be payable from 01.07.2023. For the payment of arrears of pension, additional pension, gratuity and other retiral benefits as well, following the Orders dated 27.07.2022 and 18.01.2023, it is directed that 25% will be paid by 31.08.2023, another 25% by 31.10.2023, and the remaining 50% by 31.12.2023.

115. List on 17.7.2023 for further compliance on pay and pension on which date this Court will take up the recommendations on allowances.

.....CJI. [Dr. Dhananjaya Y. Chandrachud]

.....J. [V. Ramasubramanian]

.....J. [Pamidighantam Sri Narasimha]

New Delhi;

May 19, 2023

1 No longer should this Court refer to the District Judiciary as 'subordinate judiciary'. Not only is this a misnomer because the District Judge is not per se subordinate to any other person in the exercise of her jurisdiction but also is disrespectful to the constitutional position of a District Judge.

Our Constitution recognizes and protects a District Judge as a vital cog in the judicial system. Respect ought to be accorded to this institution and its contribution to the country. See also, Upendra Baxi, The judiciary as a resource for Indian democracy, India Seminar, November 2010 - available at https://www.india-seminar.com/2010/615/615_upendra_baxi.htm.

2 All India Judges' Association (II) v. Union of India, (1993) 4 SCC 288.

3 All India Judges' Association (III) v. Union of India, (2002) 4 SCC 247.

4 All India Judges Association (3) v. Union of India (2010) 15 SCC 170.

5 All India Judges Association. v. Union of India, (2019) 12 SCC 314.

6 Notified vide Notification No. 19018/01/2017 dated 16.11.2017 by the Department of Justice.

7 Hereinafter, "Review Order".

8 All India Judges Association (II) v. Union of India (1993) 4 SCC 288 at para 14.

9 All India Judges' Assn. (II) v. Union of India, (1993) 4 SCC 288 at para 7.

10 In All India Judges' Assn. (II) v. Union of India, (1993) 4 SCC 288 at para 10:

"It would be against the spirit of the Constitution to deny any role to the judiciary in that behalf, for theoretically it would not be impossible for the executive or the legislature to turn and twist the tail of the judiciary by using the said power. Such a consequence would be against one of the seminal mandates of the Constitution, namely, to maintain the independence of the judiciary."

11 Commonwealth ex rel Carroll vs. Tate, 274 A.2d. 193. Approved by this Court in Brij Mohan Lal v. Union of India, (2012) 6 SCC 502 at para 110 - 111.

12 Order dated 28.02.2020 in WP(C) No.643/2015 at para 7.

13 Order dated 27.07.2022 in WP(C) No.643/2015 at para 13.

14 Order dated 05.04.2023 in Review Petition (Diary No) 34780/2022 at para 19.

15 S.P. Gupta v. Union of India, 1981 Supp SCC 87; Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441; Special Reference No. 1 of 1998, In re, (1998) 7 SCC 739; Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1.

16 The Preamble guarantees that "JUSTICE, social, economic and political;" shall be secured to all the citizens of India.

17 See: Hussainara Khatoon (I) v. Home Secy., State of Bihar, (1980) 1 SCC 81, Commissioner of Police Delhi v. Registrar, Delhi High Court [(1996) 6 SCC 323, para 16]; Mohd. Hussain v. Govt. of NCT of Delhi [(2012) 9 SCC 408, para 1.

18 Order dated 27.07.2022 in WP(C) No.643/2015 at para 17.

19 Order dated 05.04.2023 in Review Petition (Diary No) 34780/2022 at para 19.

20 All India Judges' Assn. (II) v. Union of India, (1993) 4 SCC 288 at para 19 and 20.

21 Order dated 27.07.2022 in WP(C) No.643/2015 at para 17.

22 See Para 15.50 of FNJPC report and Para 4.8 of the Padmanabhan Commission Report. Also see, the Orders of this Court in All India Judges Association v Union of India (2002) 4 SCC 247 and All India Judges Association v. Union of India (2010) 14 SCC 720 at para 6.

23 Order dated 27.07.2022 in WP(C) No.643/2015 at para 15 - 16.

24 Order dated 05.04.2023 in Review Petition (Diary No) 34780/2022 at para 19.

25 (2023) SCC Online SC 401 at para 18.

26 Nand Vijay Singh v. Union of India (2021) SCC Online All 1090 at para 24.

27 See Paras 13.5 at p.75 - 80 and Para 13.8 at p.81 - 82 of the Report.

28 Order dated 27.07.2022 in WP(C) No.643/2015 at Para 21.

29 All India Judges' Assn. v. Union of India (2002) 4 SCC 247 at para 28.

30 All India Judges' Assn. v. Union of India (2010) 15 SCC 170 (para 7-8).

31 All India Judges Assn. v. Union of India (2022) 7 SCC 494.

32 Rule 5, Maharashtra Judicial Service Rules, 2008.

33 Section 7 and 7A of the Industrial Tribunals Act, 1947 respectively.

34 State of Kerala v. B. Renjith Kumar, (2008) 12 SCC 219 at para 19.

35 State of Maharashtra v. Labour Law Practitioners' Assn., (1998) 2 SCC 688 at para 20.

36 State of Kerala v. B. Renjith Kumar, (2008) 12 SCC 219 at para 19.

37 State of Maharashtra v. Labour Law Practitioners' Assn., (1998) 2 SCC 688 at para 20.

38 Order dated 14.07.2016 in All India Judges Assn. v. Union of India in WP(C) No.1022/1989.

39 Order dated 13.03.2018 in All India Judges Assn. v. Union of India in WP(C) No.1022/1989.

IN THE SUPREME COURT OF INDIA

The Animal Welfare Board of India & Ors.
Vs.
Union of India & Anr.

[Writ Petition (Civil) No. 23 of 2016]
[Writ Petition (Civil) No. 6 of 2018]
[Writ Petition (Civil) No. 10 of 2018]
[Civil Appeal No._____ of 2023 arising out of SLP (Civil) No. 3528 of 2018]
[Writ Petition (Civil) No. 1193 of 2017]
[Writ Petition (Civil) No. 1152 of 2018]
[Writ Petition (Civil) No. 24 of 2016]
[Writ Petition (Civil) No. 25 of 2016]
[Writ Petition (Civil) No. 26 of 2016]
[Writ Petition (Civil) No. 27 of 2016]
[Writ Petition (Civil) No. 88 of 2016]
[Writ Petition (Civil) No. 1011 of 2017]
[Writ Petition (Civil) No. 1059 of 2017]
[Writ Petition (Civil) No. 1188 of 2017]
[Transferred Case 60 of 2021]

HEADNOTE – Upholds Laws allowing Jallikattu, Kambala & Bull-Cart racing in Tamil Nadu, Karnataka & Maharashtra

JUDGMENT

Aniruddha Bose, J.

1. Leave granted in Special Leave Petition (C) No. 3528 of 2018.

2. In the case of Animal Welfare Board of India -vs- A. Nagaraja and Others [(2014) 7 SCC 547], a Division Bench of this Court had essentially outlawed two common sports practised in the States of Tamil Nadu and Maharashtra popularly referred to as 'Jallikattu' and 'Bullock Cart Race' respectively. These bovine sports were held to be contrary to the provisions of Sections 3, 11(1)(a) and (m) of the Prevention of Cruelty to Animals Act, 1960 ("1960 Act") which is a Statute enacted by the Parliament.

The two Judge Bench had construed the said provisions in the Constitutional backdrop of Article 51-A (g) and (h) as also Articles 14 and 21 of the Constitution of India. This judgment was delivered on 7th May 2014. At that

point of time, Jallikattu was regulated by a State Act in Tamil Nadu, being Tamil Nadu Regulation of Jallikattu Act, 2009. The Bench held that this State Act was repugnant to the provisions of the 1960 Act and was held to be void, having regard to the provisions of Article 254 (1) of the Constitution of India.

On 7th January 2016, a notification was issued by the Ministry of Environment, Forest and Climate Change ("MoEF&CC") [bearing number GSR 13 (E)]. This notification was issued in exercise of the powers conferred by Section 22 of the 1960 Act and prohibited exhibition or training of bulls as performing animals.

However, an exception was carved and it was specified in this notification that bulls might be continued to be trained as performing animals at events such as Jallikattu in Tamil Nadu and Bullock Cart Races in Maharashtra, Karnataka, Punjab, Haryana, Kerala and Gujarat in the manner by the customs of common community or practice traditionally under the customs or as part of culture in any part of the country. In the State of Karnataka, the race involved male buffaloes, known in that State as "Kambala".

This exception, however, was made subject to certain conditions seeking to reduce the pain and suffering of bulls while being used in such sports. A batch of writ petitions i.e. W.P. (C) Nos. 23 of 2016, 24 of 2016, 25 of 2016, 26 of 2016, 27 of 2016, 88 of 2016, 1059 of 2017, 1011 of 2017, 1188 of 2017, 1193 of 2017, SLP(C) No.3528 of 2018 and SLP(C) Nos. 3526-3527 of 2018 were instituted before a Division Bench of this Court questioning legality of the said notification. The petitioners in those proceedings also sought compliance with the directions of this Court contained in the case of A. Nagaraja (supra).

3. The first of these writ petitions have been brought by Animal Welfare Board of India and others including one Anjali Sharma, but in course of hearing, the Animal Welfare Board changed its stance and sought to support the stand of the State and Union of India mainly on the ground that the 1960 Act and certain State Amendments which were enacted in the year 2017 were not repugnant and the Board had framed guidelines to prevent suffering of the bovine species during holding of the aforesaid events.

We shall refer to the three State Amendment Acts later in this judgment. However, the second writ petitioner- Anjali Sharma, a practicing advocate of this Court and also a member of the Board prosecuted the aforesaid writ petition as a single writ petitioner.

4. In connection with W.P.(C) No.1188 of 2017, an Interlocutory Application (170346 of 2022) has been filed by one Vikramsinh Nivrutti Bhosale on the strength of his being an agriculturalist in Maharashtra. He has argued that the challenge to the Maharashtra Amendment Act, if sustained, could hamper lives

of farmers still associated with Bullock Cart Race. It is also his argument that the Amendment Act of Maharashtra is also relatable to entry 15 of List II of the Seventh Schedule of the Constitution of India which stipulates:-

"Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice".

5. The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017,("Tamil Nadu Amendment Act"), The Prevention of Cruelty to Animals (Maharashtra Amendment) Act, 2017 ("Maharashtra Amendment Act") and The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act, 2017 ("Karnataka Amendment Act") were enacted by the respective State Legislatures and had received Presidential assent.

We shall refer to these Acts in greater details in this judgment. These Amendment Acts in substance seek to legitimise various types of bovine sports including Jallikattu in Tamil Nadu, Bullock Cart Race in Maharashtra and Kambala in Karnataka. The term Jallikattu as defined in the Tamil Nadu Amendment Act is as follows:-

"(dd) "Jallikattu" means an event involving bulls conducted with a view to follow tradition and culture on such days from the months of January to May of a calendar year and in such places, as may be notified by the State Government, and includes "manjuviratu", "vadamadu" and "erudhuvidumvizha"."

In the Karnataka Amendment Act, the term Kambala has been defined, upon Amendment of the parent Statute as:-

"(aa) "Bulls race or Bullock cart race" means any form of bulls race including race of Bullock cart as a traditional sports involving Bulls whether tied to cart with the help of wooden yoke or not (in whatever name called) normally held as a part of tradition and culture in the state on such days and places, as may be notified by the State Government."; and

(ii) after clause (d), the following shall be inserted, namely:-

(dd) "Kambala" means the traditional sports event involving Buffalo's (male) race normally held as a part of tradition and culture in the state on such days and places, as may be notified by the State Government."

Bullock Cart Race as held in Maharashtra has been defined under Section 2 of the Amendment Act as:-

"(bb) "bullock cart race" means an event involving bulls or bullocks to conduct a race, whether tied to cart with the help of wooden yoke or not (by whatever name called), with or without a cartman with a view to follow tradition and culture on such days and in any District where it is being traditionally held at such places, as may be previously approved by the District Collector, and also known as "Bailgada Sharyat", "Chhakadi" and "Shankarpat" in the State of Maharashtra."

6. A Public Interest Litigation ("PIL") was brought before the High Court of Judicature at Bombay, registered as PIL (stamp) number 23132 of 2017 (Ajay Marathe vs. The State of Maharashtra and Others) challenging certain proposed Rules brought by the State of Maharashtra under the heading "The Maharashtra Prevention of Cruelty to Animals (Conduct of Bullock Cart Race) Rules, 2017" permitting Bullock Cart Race and on 11th October 2017, the High Court restrained conducting of Bullock Cart Races within the State of Maharashtra. The aforesaid Rules sought to regulate organisation of Bullock Cart Races.

7. A farmer from that State, Vikramsinh Nivrutti Bhosale from the District of Sanghli, has instituted Special Leave Petition (Civil) 3528 of 2018 assailing that order passed by the Bombay High Court and in this reference, we shall deal with certain points raised in the said special leave petition as well.

8. A Division Bench of this Court by an order passed on 2nd February 2018 formulated five questions to be answered by a Constitution Bench and the papers were directed to be placed before the Hon'ble Chief Justice of India. The Division Bench had formulated the following 5 questions which we have to answer in this judgment:-

i. "Is the Tamil Nadu Amendment Act referable, in pith and substance, to Entry 17, List III of the Seventh Schedule to the Constitution of India, or does it further and perpetuate cruelty to animals; and can it, therefore, be said to be a measure of prevention of cruelty to animals? Is it colourable legislation which does not relate to any Entry in the State List or Entry 17 of the Concurrent List?

ii. The Tamil Nadu Amendment Act states that it is to preserve the cultural heritage of the State of Tamil Nadu. Can the impugned Tamil Nadu Amendment Act be stated to be part of the cultural heritage of the people of the State of Tamil Nadu so as to receive the protection of Article 29 of the Constitution of India?

iii. Is the Tamil Nadu Amendment Act, in pith and substance, to ensure the survival and well-being of the native breed of bulls? Is the Act, in pith and substance, relatable to Article 48 of the Constitution of India?

iv. Does the Tamil Nadu Amendment Act go contrary to Articles 51A(g) and 51A(h), and could it be said, therefore, to be unreasonable and violative of Articles 14 and 21 of the Constitution of India?

v. Is the impugned Tamil Nadu Amendment Act directly contrary to the judgment in A. Nagaraja (supra), and the review judgment dated 16th November, 2016 in the aforesaid case, and whether the defects pointed out in the aforesaid two judgments could be said to have been overcome by the Tamil Nadu Legislature by enacting the impugned Tamil Nadu Amendment Act?"

9. The Presidential assent was sought for by the three States in terms of Article 254(2) of the Constitution of India. On behalf of the petitioners, the very act of assent of the President has been questioned and citing the judgment of this Court in the case of Gram Panchayat of Village Jamalpur -vs- Malwinder Singh and Others [(1985) 3 SCC 661] it has been argued that for obtaining such assent, complete details were not disclosed before the President.

The judgment of this Court in Hoechst Pharmaceuticals Ltd. and Others -vs- State of Bihar and Others [(1983) 4 SCC 45] was also cited by the petitioners to contend that such assent of the President is relevant only if the legislation is relatable to an Entry in List III of Seventh Schedule of the Constitution.

But in our view, the Amendment Statutes are relatable to Entry 17 of List III of Seventh Schedule and hence we do not consider it necessary to deal with the ratio laid down in the case of Hoechst Pharmaceuticals (supra). Certain other judgments were also cited in support of this proposition. We shall express our opinion on this point in subsequent part of this judgment.

10. In W.P. (C) No.1152 of 2018, the legality of the Karnataka Amendment Act has been challenged. This petition was tagged with W.P.(C) No.1059 of 2017 by an order dated 7.12.2018. W.P.(C) No.1059 of 2017 was heard along with T.C. (C) No.60 of 2021, a three-Judge Bench of this Court took cognizance of the Karnataka and Maharashtra Amendment Acts and in an order passed by the said Bench on 16.12.2021, it was observed:-

"The entire matter in relation to similar amendments made by the State of Tamil Nadu and State of Karnataka is now referred to the Constitution Bench, including to consider the question whether these amendment Acts (of State of Tamil Nadu) overcome the defects pointed out in the two judgments of this Court. Similar question would arise in these writ petitions and transferred case from Maharashtra concerning the provisions of State of Maharashtra. Hence, these writ petitions be heard along with writ petitions pertaining to the State of Tamil Nadu and State of Karnataka."

11. In the judgment of A. Nagaraja (supra), dealing with Jallikattu and Bullock Cart Race in Maharashtra, the Division Bench of this Court found bulls to be non-suitable for being involved in any sports. The Bench found that the bulls were not performing animals having no natural inclination for running like a horse. The reasoning of the Bench in the case of A. Nagaraja (supra) would appear, inter-alia, from paragraphs 33, 37, 41, 44, 53 and 73. It has been held by the Court in these paragraphs:-

"33. The PCA Act is a welfare legislation which has to be construed bearing in mind the purpose and object of the Act and the directive principles of State policy. It is trite law that, in the matters of welfare legislation, the provisions of law should be liberally construed in favour of the weak and infirm. The court also should be vigilant to see that benefits conferred by such remedial and welfare legislation are not defeated by subtle devices.

The court has got the duty that, in every case, where ingenuity is expanded to avoid welfare legislations, to get behind the smokescreen and discover the true state of affairs. The court can go behind the form and see the substance of the devise for which it has to pierce the veil and examine whether the guidelines or the regulations are framed so as to achieve some other purpose than the welfare of the animals.

Regulations or guidelines, whether statutory or otherwise, if they purport to dilute or defeat the welfare legislation and the constitutional principles, the court should not hesitate to strike them down so as to achieve the ultimate object and purpose of the welfare legislation. The court has also a duty under the doctrine of parens patriae to take care of the rights of animals, since they are unable to take care of themselves as against human beings."

"37. Section 11 generally deals with the cruelty to animals. Section 11 confers no right on the organisers to conduct Jallikattu/bullock cart race. Section 11 is a beneficial provision enacted for the welfare and protection of the animals and it is penal in nature. Being penal in nature, it confers rights on the animals and obligations on all persons, including those who are in charge or care of the animals, AWBI, etc. to look after their well-being and welfare."

"41. Section 11(3) carves out exceptions in five categories of cases mentioned in Sections 11(3)(a) to (e), which are as follows:

"11. (3) Nothing in this section shall apply to-

(a) the dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner; or

(b) the destruction of stray dogs in lethal chambers or by such other methods as may be prescribed; or

(c) the extermination or destruction of any animal under the authority of any law for the time being in force; or

(d) any matter dealt with in Chapter IV; or

(e) the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering."

Exceptions are incorporated based on the "doctrine of necessity". Clause (b) to Section 11(3) deals with the destruction of stray dogs, out of necessity, otherwise, it would be harmful to human beings. Clause (d) to Section 11(3) deals with matters dealt with in Chapter IV, incorporated out of necessity, which deals with the experimentation on animals, which is for the purpose of advancement by new discovery of physiological knowledge or of knowledge which would be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants, which is not prohibited and is lawful.

Clause (e) to Section 11(3) permits killing of animals as food for mankind, of course, without inflicting unnecessary pain or suffering, which clause is also incorporated "out of necessity". Experimenting on animals and eating their flesh are stated to be two major forms of speciesism in our society. Over and above, the legislature, by virtue of Section 28, has favoured killing of animals in a manner required by the religion of any community. Entertainment, exhibition or amusement do not fall under these exempted categories and cannot be claimed as a matter of right under the doctrine of necessity."

"44. Bulls, therefore, in our view, cannot be performing animals, anatomically not designed for that, but are forced to perform, inflicting pain and suffering, in total violation of Section 3 and Section 11(1) of the PCA Act. Chapter V of the PCA Act deals with the performing animals. Section 22 of the PCA Act places restriction on exhibition and training of performing animals, which reads as under:

"22.Restriction on exhibition and training of performing animals.-

No person shall exhibit or train-

(i) any performing animal unless he is registered in accordance with the provisions of this Chapter;

(ii) as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal."

"53. The Statement of Objects and Reasons of the TNRJ Act refers to ancient culture and tradition and does not state that it has any religious significance. Even the ancient culture and tradition do not support the conduct of Jallikattu or bullock cart race, in the form in which they are being conducted at present.

Welfare and the well-being of the bull is Tamil culture and tradition, they do not approve of infliction of any pain or suffering on the bulls, on the other hand, Tamil tradition and culture are to worship the bull and the bull is always considered as the vehicle of Lord Shiva. Yeru Thazhuvu, in Tamil tradition, is to embrace bulls and not overpowering the bull, to show human bravery. Jallikattu means, silver or gold coins tied to the bull's horns and in olden days those who got at the money to the bull's horns would marry the daughter of the owner. Jallikattu or the bullock cart race, as practised now, has never been the tradition or culture of Tamil Nadu."

"73. Jallikattu and other forms of bulls race, as the various reports indicate, cause considerable pain, stress and strain on the bulls. Bulls, in such events, not only do move their head showing that they do not want to go to the arena but, as pain inflicted in the vadi vasal is so much, they have no other go but to flee to a situation which is adverse to them. Bulls, in that situation, are stressed, exhausted, injured and humiliated.

Frustration of the bulls is noticeable in their vocalisation and, looking at the facial expression of the bulls, ethologist or an ordinary man can easily sense their suffering. Bulls, otherwise are very peaceful animals dedicating their life for human use and requirement, but they are subjected to such an ordeal that not only inflicts serious suffering on them but also forces them to behave in ways, namely, they do not behave, force them into the event which does not like and, in that process, they are being tortured to the hilt.

Bulls cannot carry the so-called performance without being exhausted, injured, tortured or humiliated. Bulls are also intentionally subjected to fear, injury-both mentally and physically-and put to unnecessary stress and strain for human pleasure and enjoyment, that too, a species which has totally dedicated its life for human benefit, out of necessity."

12. The 1960 Act has been enacted in pursuance of legislative power contained in Entry 17 of List III of the Seventh Schedule to the Constitution of India. The impact of the Amendment Acts on the main Statute would be revealed from the comparative table given below:-

Provisions	**The Prevention of Cruelty to Animals Act, 1960 ("Principal Act")**	**The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017**	**The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act, 2017**	**The Prevention of Cruelty to Animals (Maharashtra Amendment) Act, 2017**
Scope	An Act to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals.	An Act to amend the Prevention of Cruelty to Animals Act, 1960 so as to preserve the cultural heritage of the State of Tamil Nadu and to ensure the survival and wellbeing of the native breeds of bulls.	An Act further to amend the Prevention of Cruelty to Animals Act, 1960 in its application to the State of Karnataka.	An Act to amend the Prevention of Cruelty to Animals Act, 1960, in its application to the State of Maharashtra.
Section 2	Defintions.- In this Act, unless the context otherwise requires,- (a) "animal" means any living creature other than a human being; [(b) "Board" means the	In section 2 of the Prevention of Cruelty to Animals Act, 1960 (Central Act 59 of 1960) (hereinafter referred to as the Principal Act after clause (d), the following clause shall be inserted, namely:- "(dd) "Jallikattu" means an event involving bulls	- In section 2 of the Prevention of Cruelty to Animals Act, 1960 (Central Act 59 of 1960) (hereinafter referred to as the Principal Act),- (i) after clause (a), the following shall be	In section 2 of the Prevention of Cruelty to Animals Act, 1960, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), after clause (b), the following clause shall be inserted,

	Board established under section 4, and as reconstituted from time to time under section 5A;] (c) "captive animal" means any animal (not being a domestic animal) which is in captivity or confinement, whether permanent or temporary, or which is subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement or which is pinioned or which is or appears to be maimed; (d)	conducted with a view to follow tradition and culture on such days from the months of January to May of a calendar year and in such places, as may be notified by the State Government, and includes "manjuviratu", "vadamadu" and "erudhuvidumvizha"."	inserted, namely:- "(aa) "Bulls race or Bullock cart race" means any form of bulls race including race of Bullock cart as a traditional sports involving Bulls whether tied to cart with the help of wooden yoke or not (in whatever name called) normally held as a part of tradition and culture in the state on such days and places, as may be notified by the State Government."; and (ii) after clause (d), the following shall be inserted, namely:- "(dd) "Kambala" means the traditional sports event	namely:- "(bb) "bullock cart race" means an event involving bulls or bullocks to conduct a race, whether tied to cart with the help of wooden yoke or not (by whatever name called), with or without a cartman with a view to follow tradition and culture on such days and in any District where it is being traditionally held at such places, as may be previously approved by the District Collector, and also known as "Bailgada Sharyat', "Chhakadi" and "Shankarpat" in the State of Maharashtra".

	"domestic animal" means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tamed; (e) "local authority" means a municipal committee, district board or other authority for the time being invested by law with the control and administrati		involving Buffalo's (male) race normally held as a part of tradition and culture in the state on such days and places, as may be notified by the State Government."	

	on of any matters within a specified local area; (f) "owner", used with reference to an animal, includes not only the owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the owner; (g) "phooka" or "doom dev" includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal any			

	secretion of milk; (h) "prescribed" means prescribed by rules made under this Act; (i) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.			
Section 3	Duties of persons having charge of animals.-It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and	Section 3 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following subsection shall be added, namely:- "(2)Notwithstanding anything contained in sub-section (1), conduct of 'Jallikattu', subject to such rules and regulations as may be framed by the	Section 3 of the principal Act, shall be renumbered as subsection (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:- "(2) Notwithstanding anything contained in subsection (1)	Section 3 of the principal Act shall be re-numbered as sub-section (1) thereof; and after sub-section (1) as so renumbered, the following sub-sections shall be added, namely :- "(2)Notwithstanding anything contained in sub-section (1), the bullock cart race may be conducted with the prior

	to prevent the infliction upon such animal of unnecessary pain or suffering.	State Government, shall be permitted.".	conduct of "Kambala" or "Bulls race or Bullock cart race" shall be permitted, subject to condition that no unnecessary pain or suffering is caused to the animals, by the person in charge of that animal used to conduct "Kambala" or "Bulls race or Bullock cart race" as the case may be and subject to such other conditions as may be specified, by the State Government, by notification."	permission of the Collector, subject to the condition that no pain or suffering as envisaged by or under the Act is caused to the animal by any person or person in charge of the animal used to conduct bullock cart race and subject to such other conditions as may be prescribed by rules under section 38B by the State Government. (3) If any person or person in charge of the animals conducts bullock cart race in contravention of the conditions laid down in sub-section (2) or rules made thereunder relating to the bullock cart race or causes pain or suffering to the animal, he shall be punished with fine which may extend upto rupees five lakhs or imprisonment

				for a term which may extend upto three years."
Section 11	Treating animals cruelly.- (1) If any person- (a) beats, kicks, over-rides, overdrives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or (b) [employs in any work or labour or for any purpose any animal which, by reason of its age or any disease], infirmity, wound, sore or other	In section 11 of the principal Act, in sub-section (3), after clause (e), the following clause shall be added, namely:- "(f) the conduct of 'Jallikattu' with a view to follow and promote tradition and culture and ensure preservation of native breeds of bulls as also their safety, security and wellbeing."	In section 11 of the principal Act, in sub-section (3), after clause (e), the following shall be inserted, namely:- "(f) the conduct of "Kambala" with a view to follow and promote tradition and culture and ensure preservation of native breed of buffalos as also their safety, security and wellbeing. (g) the conduct of "Bulls race or Bullock cart race" with a view to follow and promote tradition and culture and ensure preservation of native	In section 11 of the principal Act, in sub-section (3), after clause (c),the following clause shall be inserted, namely :- "(c-1) the conduct of bullock cart race in accordance with the provisions of sub-section (2) of section 3 or participation therein with a view to follow and promote tradition and culture and ensure preservation of native breeds of bulls as also their purity, safety, security and well being; or".

	cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed; or (c) wilfully and unreasonably administers any injurious drug or injurious substance to 2 [any animal] or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by 2 [any animal]; or (d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or		breed of cattle as also their safety, security and wellbeing."	

	position as to subject it to unnecessary pain or suffering; or (e) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or (f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or (g) being the owner, neglects to exercise or			

	cause to be exercised reasonably any dog habitually chained up or kept in close confinement ; or (h) being the owner of [any animal] fails to provide such animal with sufficient food, drink or shelter; or (i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or (j) wilfully permits any animal, of which he is the owner, to go at			

	large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or (k) offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or 1[(l) multilates any animal			

	or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; or] 2 [(m) solely with a view to providing entertainment- (i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or (ii) incites any animal to fight or bait any other animal; or] (n) 3 ***			

	organises, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or (o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting; he shall be			

	punishable, 4 [in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both]. (2) For the purposes of			

	sub-section (1), an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence: Provided that where an owner is convicted of permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine. (3) Nothing in this section shall apply to- (a) the dehorning			

	of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner; or (b) the destruction of stray dogs in lethal chambers or 5 [by such other methods as may be prescribed]; or (c) the exterminati on or destruction of any animal under the authority of any law for the time being in force; or (d) any matter dealt with in Chapter IV; or (e) the commission or omission of any act in			

	the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.			
Section 22	Restriction on exhibition and training of performing animals.- No person shall exhibit or train- (i) any performing animal unless he is registered in accordance with the provisions of this Chapter; (ii) as a	The following proviso shall be added to section 22 of the principal Act, namely:- "Provided that nothing contained in this section shall apply to conduct of 'Jallikattu'.".	In section 22 of the principal Act, at the end, the following proviso shall be inserted, namely:- "Provided that nothing contained in this section shall apply to conduct of "Kambala" or "Bulls race or Bullock cart race" as the case may be."	In section 22 of the principal Act, the following proviso shall be added, namely:- "Provided that, nothing contained in this section shall apply to the conduct of bullock cart race in accordance with the provisions of sub-section (2) of section 3.".

	performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.			
Section 27	Exemptions .-Nothing contained in this Chapter shall apply to- (a) the training of animals for bona fide military or police purposes or the exhibition of any animals so trained; or (b) any animals kept in any zoological garden or by any society or	In section 27 of the principal Act, after clause (b), the following clause shall be added, namely:- "(c) the conduct of 'Jallikattu' with a view to follow and promote tradition and culture and ensure survival and continuance of native breeds of bulls.".	In section 27 of the principal Act, after clause (b), the following shall be inserted, namely:- "(c) the conduct of "Kambala" with a view to follow and promote tradition and culture and ensure survival and continuance of native breeds of buffaloes. (d) the conduct of "Bulls race or	In section 27 of the principal Act, after clause (a), the following clause shall be inserted, namely :- "(a-1) the conduct of bullock cart race in accordance with the provisions of sub-section (2) of section 3, with a view to follow and promote tradition and culture and ensure survival and continuance of native breeds of bulls; or "

	association which has for its principal object the exhibition of animals for educational or scientific purposes.		Bullock cart race" with a view to follow and promote tradition and culture and ensure survival and continuance of native breeds of cattle."	
Insertion of 28A	-	After Section 28 of the principal Act, the following section shall be inserted, namely:- "Nothing Contained in this Act shall apply to 'Jallikattu' conducted to follow and promote tradition and culture and such conduct of 'Jallikattu' shall not be an offence under this Act."	After Section 28 of the principal Act, the following section shall be inserted, namely:- Nothing contained in this Act, shall apply to "Kambala" or "Bulls race or Bullock cart race" conducted to follow and promote tradition and culture and such conduct of "Kambala" or "Bulls race or Bullock cart race" shall not be an offence under this Act."	After Section 28 of the principal Act, the following section shall be inserted, namely:- "28A Nothing contained in this Act shall apply to the bullock cart race conducted in accordance with the provisions of sub-section (2) of Section 3 to follow and promote tradition and culture and such conduct shall not be an offence under this Act."
Insertion	-	-	-	After Section

of 38B				38A of the principal Act, the following section shall be inserted, namely:- "(1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette, make the rules, not inconsistent with the rules made by the Central Government, if any, for carrying into effect the provisions of sub-section (2) of section 3 of the Act (2) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if,

				before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule"

13. After the aforesaid three Amendment Acts received Presidential assent, the States of Tamil Nadu and Maharashtra formulated Rules for conducting the aforesaid bovine sports. The Tamil Nadu Rules were titled "The Tamil Nadu Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017" and for

the State of Maharashtra, "The Maharashtra Prevention of Cruelty to Animals (Conduct of Bullock Cart Race) Rules, 2017" was formulated.

So far as the State of Karnataka is concerned, a Notification was issued on similar lines by a Memorandum No. PSM 257 SLV-2014 dated 17th December 2015. These Rules/Notification seek to rigidly regulate conducting the aforesaid bovine sports. They postulate provisions for application for permission of holding the sports, for participating in the race. For organising of Bullock Cart Race, Rules stipulate for the manner in which such races could be conducted with specifications for length of the track, rest period and isolation of the track from general public.

The Tamil Nadu Rules specifically provides for examination of bulls, with specifications for the arena, bull collection yard as also setting up of spectators' gallery. These instruments in substance prohibit causing any physical disturbance to the bulls like beating and poking them with sharp objects, sticks, pouring chilli powder in their eyes, twisting their tails amongst other such pain inflicting acts.

14. The main theme of the submissions of the petitioners/parties who are assailing the Amendment Acts are founded on two planks. Mr. Shyam Divan, Mr. Anand Grover, Mr. Sidharth Luthra, Mr. Krishnan Venugopal and Mr. V. Giri, learned Senior Advocates have appeared for the parties assailing continued performance of these sports which are considered to be cruel. The Respondents' cases supporting the continuation of these sports have been mainly argued by Mr. Tushar Mehta, ld. Solicitor General, Mr. Kapil Sibal, Mr. Mukul Rohatgi and Mr. Rakesh Dwivedi, learned Senior Advocates.

For the petitioners, their main case is that even after the State Amendments, the activities sought to be legitimised still remain destructive and contrary to the provisions of Sections 3, 11(1) (a) and (m) of the 1960 Act. It is their contention that the Amendment Acts do not cure the defects or deficiencies brought about by the judgment of A. Nagaraja (supra). The ratio of the said judgment is sought to be bypassed through these Amendment Acts, which is impermissible in law.

It has also been argued that the expression "person" as used in Article 21 of the Constitution of India includes sentient animals and their liberty is sought to be curtailed by legitimising the aforesaid bovine sports and the instrument of such legitimisation being the three Amendment Acts is unreasonable and arbitrary, thereby not meeting the standard of Article 14 of the Constitution of India. In fact, that is the fourth point of question of reference which we shall be addressing in this judgment.

The petitioners seek to inter-weave Articles 14, 21, 48, 51-A (h) and (g) to set up a rights-regime for the animals. Their contention is that the Fundamental Duty of Indian citizens to have compassion for living creatures and to develop humanism result in corresponding rights for sentient animals to be protected for distress and pain inflicting activities only having entertainment value for human beings.

15. The other argument advanced is that these sports cannot be held to be part of cultural heritage of the State of Tamil Nadu which is so provided in the Preamble of the Amendment Act of that State. Preamble of the Tamil Nadu Amendment Act provides that the object of the said Statute is to preserve the cultural heritage of the State of Tamil Nadu and to ensure the survival and wellbeing of native breeds of bulls.

The said Act inserted [clause 2(d)] in the definition clause of the 1960 Act and amended Section 11(3) of the same Statute, adding sub-clause (f) thereto. There are two more Amendments which would appear from the table we have given above, but those are primarily to exempt Jallikattu from the restrictive provisions of the 1960 Act. In the judgment of A. Nagaraja (supra) it was inter-alia held on the point of tradition and culture of Jallikattu:-

"54. The PCA Act, a welfare legislation, in our view, overshadows or overrides the so-called tradition and culture. Jallikattu and bullock cart races, the manner in which they are conducted, have no support of Tamil tradition or culture. Assuming, it has been in vogue for quite some time, in our view, the same should give way to the welfare legislation, like the PCA Act which has been enacted to prevent infliction of unnecessary pain or suffering on animals and confer duties and obligations on persons in charge of animals.

Of late, there are some attempts at certain quarters, to reap maximum gains and the animals are being exploited by the human beings by using coercive methods and inflicting unnecessary pain for pleasure, amusement and enjoyment. We have a history of doing away with such evil practices in society, assuming such practices have the support of culture and tradition, as tried to be projected in the TNRJ Act.

Professor Salmond states that custom is the embodiment of those principles which have commended themselves to the national conscience as the principles of justice and public utility. This Court, in N. Adithayan v. Travancore Devaswom Board [(2002) 8 SCC 106] (2002) 8 SCC 106, while examining the scope of Articles 25(1), 26(a), 26(b), 17, 14 and 21, held as follows: (SCC p. 125, para 18)

"18. Any custom or usage irrespective of even any proof of their existence in pre-constitutional days cannot be countenanced as a source of law to claim any

rights when it is found to violate human rights, dignity, social equality and the specific mandate of the Constitution and law made by Parliament. No usage which is found to be pernicious and considered to be in derogation of the law of the land or opposed to public policy or social decency can be accepted or upheld by courts in the country."

55. As early as 1500-600 BC in Isha-Upanishads, it is professed as follows:

"The universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above nature. Let no one species encroach over the rights and privileges of other species."

In our view, this is the culture and tradition of the country, particularly the States of Tamil Nadu and Maharashtra.

56. The PCA Act has been enacted with an object to safeguard the welfare of the animals and evidently to cure some mischief and age old practices, so as to bring into effect some type of reform, based on eco-centric principles, recognising the intrinsic value and worth of animals. All the same, the Act has taken care of the religious practices of the community, while killing an animal vide Section 28 of the Act."

16. On this basis, arguments have been advanced on behalf of the petitioners that the Amendment Act of Tamil Nadu having regard to its Preamble seeks to invalidate conclusive judicial opinion without curing the defects specified in that decision in the conduct of Jallikattu. So far as the Karnataka Amendment Act is concerned, in the definition clauses of "Bulls Race or Bullock Cart Race" and "Kambala", they have been described as part of tradition and culture of the State. In the Maharashtra Act also the source of Bullock Cart Race has been identified to be the tradition and culture of specified parts of that State in the definition clause of Bullock Cart Race.

17. The argument of the petitioners and the interveners supporting in substance the ban on performance of these sports have been that the Statutes seek to validate the provisions that were held to be illegal by this Court without curing the defects outlined in the judgment of A. Nagaraja (supra). In such circumstances, the Amendment Acts could not be held to be in exercise of legitimate legislative power in the light of the constitutional provisions and these enactments are colourable legislations.

The authorities in support of this proposition cited by the petitioners are Shri Prithvi Cotton Mills Ltd. and Another -vs- Broach Borough Municipality and Others [(1969) 2 SCC 283], Bhubaneshwar Singh and Another -vs- Union of India and Others [(1994) 6 SCC 77], Indra Sawhney -vs- Union of India and

Others [(2000) 1 SCC 168], Amarendra Kumar Mohapatra and Others -vs- State of Orissa and others [(2014) 4 SCC 583], State of M.P. -vs- Mahalaxmi Fabric Mills Ltd. and Others [1995 Supp (1) SCC 642], D.C. Wadhwa DR and Others -vs- State of Bihar and Others [(1987) 1 SCC 378], Sri Sri Sri K. C. Gajapati Narayan Deo -vs- State of Orissa [1954 SCR 1], S.S. Bola and Others -vs- B.D. Sardana and Others [(1997) 8 SCC 522], State of Tamil Nadu -vs- State of Kerala and Another [(2014) 12 SCC 696], Madan Mohan Pathak and Another -vs- Union Of India and Others [(1978) 2 SCC 50], National Agricultural Cooperative Marketing Federation of India Ltd. and Another -vs- Union of India and Others [(2003) 5 SCC 23], In Re Punjab Termination of Agreement Act, 2004 [(2017) 1 SCC 121], Mafatlal Industries Ltd. and Others -vs- Union of India and Others [(1997) 5 SCC 536], S. T. Sadiq -vs- State of Kerala and Others [(2015) 4 SCC 400], A.R. Antulay -vs- R.S. Nayak and Another [(1988) 2 SCC 602] and Maneka Gandhi -vs- Union of India and Another [(1978) 1 SCC 248]. The judgment of the Maneka Gandhi (supra) was also relied upon to contend that in order to protect Fundamental Rights, the effect of the law has to be looked at and not just theories and provisions of law.

18. Corollary submissions of the petitioners are that after Presidential assent was given to the three Statutes, they legitimised the three aforesaid events but the manner in which they are conducted is contrary to the provisions of Sections 3, 11(1)(a) and (m) as was held in the A. Nagaraja (supra) case. Hence, the attempt of the Amendment Acts is to override a judicial verdict without addressing the grounds on which this Court had found Jallikattu and Bullock Cart Race in the States of Tamil Nadu and Maharashtra respectively to be in violation of the 1960 Act.

This legislative exercise, as argued by the petitioners, go contrary to Constitutional scheme. The authorities cited on this point are State of Tamil Nadu -vs- State of Kerala (supra), Chief Secretary to the Government, Chennai, Tamil Nadu and Others -vs- Animal Welfare Board and Another [(2017) 2 SCC 144] and Rupa Ashok Hurra -vs- Ashok Hurra and Another [(2002) 4 SCC 388].

19. In the case of A. Nagaraja (supra), the two Judge Bench, on the basis of affidavit of the Animal Welfare Board of India and MoEF&CC described the manner in which Jallikattu was being performed. The preparation of the bulls for these sports entail, but not limited to, ear cutting/mutilation, twisting of tail, resulting in fracture and dislocation of tail bones.

It was also stated that 95% of the bulls that were used in the process of participation in these sports were soiled with faeces from below the base of their tails and across the large part of their hindquarters. Additionally, bovine species were forced to stand together in accumulated waste for hours. At one of the

locations of the events, the Animal Welfare Board found that in the "collection area", a bull died due to injuries caused as a result of head-on collision with a moving passenger bus.

Injuries were caused to muscle bones, nerves and blood vessels also as the bulls were subjected to tail-biting, poking them with sharp objects to excite them, use of irritants in the eyes and nose. Vadi vassal (the cattle bull entry place in Jallikattu) were narrow entry corridors which had cramping conditions and bulls were made to move sideways which is an unnatural movement for them. There was also lack of food and water at the respective locations and instances of spectators beating, biting and agitating the bulls.

Such abhorrent practises surfaced from investigation reports relied on by the petitioners. In paragraph 67 of A. Nagaraja (supra), as reported in the aforesaid journal, substantial emphasis has been laid on Article 48 of the Constitution of India read with Fundamental Duties enshrined in Article 51-A (g) and (h). On that basis, argument was advanced that sentient species should be accorded the protective umbrella of Article 21 of the Constitution.

We shall deal with that aspect later in this judgment. In fact, argument in this line has been advanced on the basis that sentient animals have natural rights to live a life with dignity without any infliction of cruelty. The other line of submission on behalf of the petitioners is that the subject dealt with by the three Amendment Acts does not relate to List III.

On this count the authorities cited were State of Bihar and Others -vs- Indian Aluminium Company and Others [(1997) 8 SCC 360], Hoechst Pharmaceuticals Ltd. (supra), M. Karunanidhi -vs- Union of India and Another [(1979) 3 SCC 431] and K.T. Plantation Private Ltd. and Another -vs- State of Karnataka [(2011) 9 SCC 1].

20. It has also been the argument of the petitioners that making exception for bulls to carve them out of the protective mechanism of the 1960 Act was not based on any intelligible criteria but on an arbitrary selection. Learned Counsel for the petitioners relied on Director of Education (Secondary) and Another -vs- Pushpendra Kumar and Others [(1998) 5 SCC 192], Harbilas Rai Bansal -vs- State of Punjab and Another [(1996) 1 SCC 1], State of Gujarat and Another -vs- Raman Lal Keshav Lal Soni and Others [(1983) 2 SCC 33] and Shayara Bano -vs- Union of India and Others [(2017) 9 SCC 1] to substantiate this argument.

21. We shall first deal with the argument advanced on behalf of the petitioners that animals have rights. In fact, what has been urged before us is that animals have Fundamental Rights as also legal rights. It has been held in A. Nagaraja (supra) case at paragraph 66 (in the Report):-

"66. Rights guaranteed to the animals under Sections 3, 11, etc. are only statutory rights. The same have to be elevated to the status of fundamental rights, as has been done by few countries around the world, so as to secure their honour and dignity. Rights and freedoms guaranteed to the animals under Sections 3 and 11 have to be read along with Article 51-A(g) and (h) of the Constitution, which is the magna carta of animal rights."

22. The concept of animal rights has been anchored by the petitioners on dual foundation. It has been submitted that our jurisprudence does not recognise rights only for human beings and Narayan Dutt Bhatt -vs- Union of India [(2018) SCC OnLine Utt 645] has been cited to demonstrate that animals are legal entities having a distinct persona with corresponding rights, duties and liabilities as that of a legal person.

In order to put emphasis on this concept of evolving rights, petitioners have submitted that our legal system is both organic and dynamic in nature and with passage of time law must change. (Saurabh Chaudri and Others -vs- Union of India and Others [(2003) 11 SCC 146], Chief Justice of Andhra Pradesh and Others -vs- L.V.A. Dixitulu and Others [(1979) 2 SCC 34], Video Electronics Pvt. Ltd. and Another -vs- State of Punjab and Another [(1990) 3 SCC 87] and Ashok Kumar Gupta and Another v. State of U.P. and Others, [(1997) 5 SCC 201]).

In this regard, certain international authorities being Argentina, Case No.P-72.254/2015 has been cited. Further, our attention has been drawn to the Animal Wellbeing (Sentience) Act, 2022 recognising animals as sentient beings in the United Kingdom. It has also been asserted that rights of sentient animals have been recognised by the Constitutional Court of Ecuador.

On behalf of the respondents, the factum of existence of animal rights has not been directly contested but the stand of the respondents on this point is that the rights which the sentient animal would have enjoyed ought to be subject to the legislative provisions and in a case of this nature, which is likely to have seminal impact not only on our jurisprudence but our society as well, legislature would be a better judge to determine what would be the nature, contours and limitations of such rights.

The effect of this argument is that the rights of sentient animals can be recognised by law but such rights would be in a nature as determined by the appropriate law-making body and not by judicial interpretation.

23. On the point of recognizing rights of animals, the legislative approach appears to us to be two-fold. Of course, the animals cannot demand their right in the same way human beings can assert for bringing a legislation, but as part of

the social and cultural policy the law makers have recognised the rights of animals by essentially imposing restriction on human beings on the manner in which they deal with animals. By virtue of Article 48 of the Constitution of India which essentially operates as a national guideline for law makers, a two-way path has been devised.

The first is imposing duty on the State to organise agriculture and animal husbandry on modern and scientific lines. The second is emphasising the duty of the State to take steps for preserving and improving the breeds and prohibiting slaughter of cows and calves and other milch and draught cattle. Under the chapter on Fundamental Duties, a citizen is required to protect and improve the natural environment including forests, lakes, rivers and wildlife ought to have compassion for living creatures.

The petitioners want us to interpret the Amendment Acts in light of these two constitutional provisions and want us to scrutinise the three Statutes taking into cognizance pain and suffering that would be caused to them, so that the bovine species are not compelled to participate in the aforesaid sports organised by human beings for the latter's own pleasure. It is the petitioners' stand that wherever the 1960 Act enjoins human beings from performing certain acts vis-à-vis animals, the obligations ought to be translated jurisprudentially into rights of the animals not to be subjected to such prohibited acts.

The line of reasoning in this regard on behalf the petitioners is that the very manner in which these sports activities are undertaken directly offend the aforesaid two provisions of the 1960 Act. Merely by introducing these three Amendment Acts, the organisers of these events cannot be saved from the offences specified in the 1960 Act, which aspect has been dealt with in detail in the judgment of this Court in the case of A. Nagaraja (supra).

24. On the question of conferring fundamental right on animals we do not have any precedent. The Division Bench in the case of A. Nagaraja (supra) also does not lay down that animals have Fundamental Rights. The only tool available for testing this proposition is interpreting the three Amendment Acts on the anvil of reasonableness in Article 14 of the Constitution of India.

While the protection under Article 21 has been conferred on person as opposed to a citizen, which is the case in Article 19 of the Constitution, we do not think it will be prudent for us to venture into a judicial adventurism to bring bulls within the said protected mechanism. We have our doubt as to whether detaining a stray bull from the street against its wish could give rise to the constitutional writ of habeas corpus or not.

In the judgment of A. Nagaraja (supra), the question of elevation of the statutory rights of animals to the realm of fundamental rights has been left at the advisory level or has been framed as a judicial suggestion. We do not want to venture beyond that and leave this exercise to be considered by the appropriate legislative body.

We do not think Article 14 of the Constitution can also be invoked by any animal as a person. While we can test the provisions of an animal welfare legislation, that would be at the instance of a human being or a juridical person who may espouse the cause of animal welfare.

25. We shall next test the argument of the authorities, i.e., the Union, the three States as also the Animal Welfare Board (in their changed stance) that bovine sports are part of the culture and tradition of the respective States. We have already referred to the relevant provisions of the three Amendment Acts which carries expression to this effect.

26. Ordinarily, whether a particular practice or event is part of culture or tradition is to be decided by the custom and usage of a particular community or a geographical region which can be translated into an enactment by the appropriate legislature. But here the continuance of the subject sports have been found to be in breach of a Central Statute by a Division Bench of this Court and these three Amendment Acts seek to revive the earlier position. That is the petitioners' argument.

27. In order to come to a definitive conclusion on this question, some kind of trial on evidence would have been necessary. It is also not Court's jurisdiction to decide if a particular event or activity or ritual forms culture or tradition of a community or region. But if a long lasting tradition goes against the law, the law Courts obviously would have to enforce the law. Learned counsel appearing for the parties, however, have cited different ancient texts and modern literature to justify their respective stands.

In Public Interest Litigations, this Court has developed the practice of arriving at a conclusion on subjects of this nature without insisting on proper trial to appreciate certain social or economic conditions going by available reliable literature. In paragraphs 53 and 73 in the case of A. Nagaraja (supra), there is judicial determination about the practice being offensive to the provisions of the Central Statute.

It would be trite to repeat that provisions of a Statute cannot be overridden by a traditional or cultural event. Thus, we accept the argument of the petitioners that at the relevant point of time when the decision in the case of A. Nagaraja (supra) was delivered, the manner in which Jallikattu was performed did breach the

aforesaid provisions of the 1960 Act and hence conducting such sports was impermissible.

28. But that position of law has changed now and the Amendment Acts have introduced a new regime for conducting these events. It is a fact that the Amendment Acts per se seeks to legitimize the aforesaid three bovine sports by including them by their respective names and the body of the Statute themselves do not refer to any procedure by which these sports shall be held.

If that was the position these Amendment Acts would have fallen foul of the ratio of the decisions of this Court in the cases of S.S. Bola and Others (supra), State of Tamil Nadu -vs- State of Kerala (supra), Madan Mohan Pathak (supra), National Agricultural Cooperative Marketing Federation of India Ltd. (supra), In Re Punjab Agreement Act (supra), Mafatlal (supra), S.T. Sadiq (supra) and A.R. Antulay (supra).

The stand of the respondents however is that many of the offending elements of Jallikattu, Kambala or Bullock Cart Race have been eliminated by the Rules made under the Tamil Nadu and Maharashtra Amendment Acts and the State of Karnataka has issued statutory notification laying down rigid regulatory measures for conducting these sports. These Rules specify isolated arena for the sports or events to be conducted including setting up of both bull run and bull collection area, galleries separating spectators from directly coming into contact with bulls.

The learned counsel for the respondents want us to read the Statutes and the Rules together to counter the argument of the petitioners that the Amendment Acts merely reintroduce the offending sports into the main Statute for their respective States without correcting or removing the defects pointed out by this Court in the case of A. Nagaraja (supra).

In the case of State of U.P. and Others -vs- Babu Ram Upadhya [(1961) 2 SCR 679], it was inter alia observed that the fundamental principle of construction was that the Rules made under the Statute must be treated as a part and parcel thereof as if they were contained in the parent Act. In the case of Peerless General Finance and Investment Co. Ltd. and Another -vs- Reserve Bank of India [(1992) 2 SCC 343], it was held:-

"52. In State of U.P. v. Babu Ram Upadhya [(1961) 2 SCR 679 : AIR 1961 SC 751 : (1961) 1 Cri LJ 773] this Court held that rules made under a statute must be treated, for all purposes of construction or obligations, exactly as if they were in that Act and are to the same effect as if they were contained in the Act and are to be judicially noticed for all purposes of construction or obligations. The statutory rules cannot be described or equated with administrative directions.

In D.K.V. Prasada Rao v. Government of A.P. [AIR 1984 AP 75 : (1983) 2 Andh WR 344] the same view was laid down. Therefore, the directions are incorporated and become part of the Act itself. They must be governed by the same principles as the statute itself. The statutory presumption that the legislature inserted every part thereof for a purpose and the legislative intention should be given effect to, would be applicable to the impugned directions."

29. The Tamil Nadu Amendment Act contains stipulation to the effect that conduct of Jallikattu subject to such Rules and regulations as may be framed by the State Government shall be permitted. Section 38-B of the Maharashtra Act provides Rule making power of the State consistent with the Rules made by the Central Government. Both these Statutes have become part of the 1960 Act in their respective States and specifically confer Rule making power to the States and Rules have been framed.

In such circumstances, as held by this Court in the case of Peerless General Finance and Investment Co. Ltd. (supra), our opinion is that these Rules have to be read along with the Amendment Acts for their proper interpretation. So far as the Karnataka Amendment Act is concerned, two fresh restrictions have been imposed in conducting Kambala by virtue of introduction of Section 3(2) in the main Act after Amendment.

These conditions ban unnecessary pain or suffering that would be caused to the animals by the person in charge of the animals conducting Kambala and make such practice subject to the conditions as may be specified by the State Government by notification. Following the same analogy which we have expressed earlier while reading the Amendment Acts of Tamil Nadu and Maharashtra, in our opinion the Notification issued by the State of Karnataka ought to be accorded same status as Rule and has also to be read as integral part of the Statute, as amended.

These Rules and the Notification ought not to be segregated from the Amendment Acts for appreciating their true scope while examining the petitioners' claim that the Amendment Acts, analysed in isolation from the said Rules and the Notification would be contrary to the findings of this Court in the case of A. Nagaraja (supra).

30. In our opinion, the expressions Jallikattu, Kambala and Bull Cart Race as introduced by the Amendment Acts of the three States have undergone substantial change in the manner they were used to be practiced or performed and the factual conditions that prevailed at the time the A. Nagaraja (supra) judgment was delivered cannot be equated with the present situation. We cannot come to the conclusion that in the changed circumstances, absolutely no pain or suffering would be inflicted upon the bulls while holding these sports.

But we are satisfied that the large part of pain inflicting practices, as they prevailed in the manner these three sports were performed in the pre-amendment period have been substantially diluted by the introduction of these statutory instruments. Argument was advanced that in reality these welfare measures may not be practiced and the system as it prevailed could continue.

We, however, cannot proceed in exercise of our judicial power on the assumption that a law ought to be struck down on apprehension of its abuse or disobedience. All the three bovine sports, after Amendment, assume different character in their performance and practice and for these reasons we do not accept the petitioners' argument that the Amendment Acts were merely a piece of colourable legislation with cosmetic change to override judicial pronouncement.

Once we read the amended Statutes with the respective Rules or Notification, we do not find them to encroach upon the Central legislation. Respondents have cited a large body of authorities to defend their stand that these are not cases of colourable legislation but we do not consider it necessary to refer to all these judgments individually as we have come to this conclusion after analysing various statutory instruments covering the field.

31. Can the Amendment Acts be struck down for being arbitrary? There is a body of cases in which legislations have been invalidated on this ground. So far as the subject of the present controversy is concerned, the bulls form a distinct species referred to as draught or pack animals as opposed to horses, which are adapted to run. But we decline to hold that just because bulls lack the natural ability to run like a horse, the subject-sports which are seasonally held shall be held to be contrary to the provisions of the 1960 Act.

In fact, on behalf of the respondents it was argued that these genre of bulls are specially bred and have natural ability to run. There are contrary views on this point. But in our opinion, no irrational classification as regards these bull sports have been made by the legislature so as to attract the mischief which Article 14 of the Constitution of India seeks to prevent. The validity of a legislative Act can also be negated on the ground of it being unreasonable.

The element of unreasonableness here is that the bovine species involved herein are being subjected to unnecessary pain and suffering mainly for entertainment purpose. But the 1960 Act itself categorizes several activities which cause pain and suffering, even to a sentient animal. The judgment in the case of A. Nagaraja (supra) was largely founded on factual basis that bulls were sentient animals, and the sports involved were unnecessary, as opposed to being necessary for human survival.

But the 1960 Act, on which the petitioners' case largely rests, proceeds on the basis of perceived human necessity to employ animals in certain load carrying and entertainment activities. For instance, while other means of carriage of goods are available, why should bulls be permitted to undertake such activities - which are apparently involuntary and subject these sentient bovine species to pain and suffering? Horse racing is allowed under Performing Animals (Registration) Rules, 2001.

Horse is also a sentient animal. But the fact remains that by making them perform in races, some element of pain and suffering must be caused to horses. Here, the focus shifts from causing pain and suffering to the degree of pain and suffering to which a sentient animal is subjected to while being compelled to undertake certain activities for the benefit of human beings.

Similarly, proponents of vegetarianism may argue that slaughtering animals is not necessary as human beings can survive without animal protein. In our opinion, we should not take up this balancing exercise which has societal impact in discharge of our judicial duties. This kind of exercise ought to be left for the legislature to decide upon.

32. We shall now turn to the petitioners' case assailing the legality of the State Amendments by invoking the "Doctrine of Pith and Substance". On that count, their submission is based on two principles. First, it has been urged that even after the Amendment, the performance of these sports continue to inflict pain and injury on the participating bulls and secondly, it was found by this Court in A. Nagaraja (supra), that these sports are in violation of the aforesaid provisions of the 1960 Act at the time when the three State Amendments were not enacted.

On the face of it, learned counsel appearing for the petitioners argued, that the Amendment Acts does not in any way provide remedial measures which could have rendered the three sports cured of the legal failing as is postulated in the said provisions. According to the petitioners, these Acts seek to only introduce the Jallikattu, Kambala and Bullock Cart Race as permissible activities within the provisions of the 1960 Act. Even if certain sports by their names are included within the ambit of permissible activity, the provisions of Sections 3, 11(1) (a) and (m) of the 1960 Act are not rendered otiose.

The other point raised by the petitioners is that the subject of Jallikattu does not come within the ambit of Entry 17 of List III of the Seventh Schedule to the Constitution of India and hence the State Assemblies lacked the legislative competence to enact the Amendment Acts. Presidential assent would not cure the said incompetency, it is urged by the petitioners. We have found no flaw in the process of obtaining Presidential assent having regard to the provisions of Article 254(2) of the Constitution of India.

33. The "Doctrine of Pith and Substance" has been explained in the well-known text, "Principles of Statutory Interpretation" by G.P. Singh. We quote below the extract from 14th Edition of that text:-

"The question whether the Legislature has kept itself within the jurisdiction assigned to it or has encroached upon a forbidden filed is determined by finding out the true nature and character or pith and substance of the legislation which may be different from its consequential effects. If the pith and substance of the legislation is covered by an entry within the permitted jurisdiction of the Legislature any incidental encroachment in the rival field is to disregarded.

There is a presumption of constitutionality of statutes and hence, prior to determining whether there is any repugnancy between a Central Act and a State Act, it has to determined whether both Acts relate to the same entry in List III, and whether there is a 'direct' and 'irreconcilable' conflict between the two, applying the doctrine of 'pith and substance'.

The petitioners have relied on a several authorities explaining this doctrine. These are State of Rajasthan -vs- Shri G. Chawla and Dr Pohumal [(1959) Supp (1) SCR 904], Ishwari Khetan Sugar Mills (P) Ltd. and Others -vs- State of U.P. and Others [(1980) 4 SCC 136], Federation of Hotel & Restaurant Association of India, etc. -vs- Union of India and Others [(1989) 3 SCC 634], State of A.P. and Others -vs- McDowell & Co. and Others [(1996) 3 SCC 709], State of W.B. -vs- Kesoram Industries Ltd. and Others [(2004) 10 SCC 201] and Hoechst Pharmaceuticals Ltd. (supra).

34. First we shall examine as to whether conducting these bovine sports is relatable to Item 17 of the concurrent list. It stipulates:-

"Prevention of Cruelty to Animals."

In the case of I.N Saksena -vs- State of Madhya Pradesh [(1976) 4 SCC 750], this Court had laid down that legislative lists in the Constitution ought to be interpreted in a wide amplitude. The 1960 Act in whole and the subjects of the three Amendments directly deal with the question of prevention of cruelty to animals. There is no other entry in any of the lists to which this subject could be connected with.

In such circumstances, we reject the contention of the petitioners that the State Legislatures inherently lacked jurisdiction to bring these Amendments, which subsequently received Presidential assent. On behalf of the respondents, several decisions have been relied upon in support of this argument. Having regard to the view that we have already taken, we do not consider it necessary to reproduce all these decisions.

35. Next comes the question as to whether even after the said Amendments, Jallikattu and the other two activities could be held to be beyond legislative competence of the three legislative bodies. We have already held that the three Amendment Acts have to be read together with the consequential Rules or Notifications.

In our view, these Rules, once treated as part of the Acts, alter the manner of conducting these sports and once these provisions are implemented, the mischief sought to be remedied by the aforesaid two provisions of 1960 Act (i.e. Sections 3 and 11(1)(a) and (m)) would not be attracted anymore. Thus, the argument that the Amendment Acts are void because they seek to override the judgment of A. Nagaraja (supra) cannot be sustained as the basis of that judgment having regard to the nature and manner in which the offending activities were carried on has been altered.

36. Petitioners contend that even after changed procedure contemplated by the three statutory instruments, the very participation of the bulls in these sports involve a strong element of involuntariness as well as some element of pain and suffering.

In the cases of T.N. Godavarman Thirumulpad -vs- Union of India and Others [(2012) 4 SCC 362], Centre for Environmental Law, World Wide Fund-India -vs- Union of India and Others [(2013) 8 SCC 234] and N.R. Nair and Others -vs- Union of India and Others [(2001) 6 SCC 84], it has been broadly held that animals have inherent right in natural law to live a dignified life without infliction of cruelty and this principle is sought to extended to proscribe Jallikattu, Kambala and Bullock Cart Race.

In the case of N.R. Nair (supra), it was held that animals have capability to bear pain and suffering and that they have a fear from restrictions on their spaces and bodies and other forms of physical discomfort. But we need not refer to these authorities as we accept the obligation of human beings to ensure that animals do not suffer from pain and injury.

Our jurisdiction, however, does not extend to provide an absolute protection to the animals from any manner of infliction of pain and suffering. What the broad theme of 1960 Act is that the animals must be protected from unnecessary pain and suffering. This aspect has been dealt with in the case of A. Nagaraja (supra).

This approach would be apparent from a plain reading of Section 11 of the 1960 Act itself even before the three Amendments where the legislature appears to have undertaken a balancing exercise without disturbing the concept of ownership of animal by an individual and such individual's right to employ these

animals in the aforesaid sports. We have already expressed our views on the point earlier in this judgment.

37. As we proceed on the basis that the Constitution does not recognise any Fundamental Right for animals, we shall have to test the legality of the three Statutes against the provisions of 1960 Act along with the constitutional provisions of Articles 48, 51-A (g) and (h).

The three Statutes will also have to meet the test of arbitrariness, which has become the foundation of our constitutional jurisprudence after this Court delivered the judgment in the cases of E.P. Royappa -vs- State of Tamil Nadu and Another [(1974) 4 SCC 3], Ajay Hasia and Others -vs- Khalid Mujib Sehravardi and Others [(1981) 1 SCC 722] and Joseph Shine -vs- Union of India [(2018) 2 SCC 189].

38. Factual arguments have been advanced that prohibition on the practice of particularly Bullock Cart Race could result in ultimate collapse of a particular genre of cattle which are useful for agricultural purpose and hence the aforesaid Amendment Acts to be treated to be relatable to Entry 15 of List II of the Seventh Schedule to the Constitution of India. But having regard to the nature of challenge, we are of the view that in pith and substance, the Amendment Acts seek to address the question of prevention of cruelty to animals.

The tenor of the Maharashtra Amendment Act and its Preamble point to that interpretation and the object of the Amendments primarily is relatable to Item 17 of the Concurrent List. Hence, we reject the argument that the Maharashtra Amendment Act has been legislated for the preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice.

So far as the argument that livelihood of farmers and people associated with Bullock Cart Race could be adversely affected if the prohibition which the writ petitioners want us to impose by striking down the aforesaid Amendment Statute is concerned, we do not need to address this argument. We have, in this judgment dealt with the question as to whether provisions of 1960 Act are being violated or not, as was held in the case of A. Nagaraja (supra), decided prior to the three Amendment Statutes.

The effect of the said prohibition upon the livelihood of the people of that State is said to be espoused in I.A. No.170346 of 2022. If we were to hold that these bovine sports offended the provisions of the 1960 Act, the deprivation apprehended would have come within the reasonable restriction clause enshrined in Article 19(6) of the Constitution of India. In such a situation, a law made in

that regard would also be protected in relation to the challenge on the basis of Article 21 of the Constitution of India being procedure established by law.

39. In the judgment of A. Nagaraja (supra), the Division Bench of this Court, while examining the claim of the petitioners therein held that Jallikattu is dangerous not only to bulls but also to human and many participants and spectators sustained injury in course of such events. So far as human beings are concerned, their injuries would attract the principle of Tort known in common law as "voluntary non fit injuria".

40. In the light of what we have already discussed, we answer the five questions referred to us in the following terms:-

(i) The Tamil Nadu Amendment Act is not a piece of colourable legislation. It relates, in pith and substance, to Entry 17 of List III of Seventh Schedule to the Constitution of India. It minimises cruelty to animals in the concerned sports and once the Amendment Act, along with their Rules and Notification are implemented, the aforesaid sports would not come within the mischief sought to be remedied by Sections 3, 11(1) (a) and (m) of the 1960 Act.

(ii) Jallikattu is a type of bovine sports and we are satisfied on the basis of materials disclosed before us, that it is going on in the State of Tamil Nadu for at least last few centuries. This event essentially involves a bull which is set free in an arena and human participants are meant to grab the hump to score in the "game". But whether this has become integral part of Tamil culture or not requires religious, cultural and social analysis in greater detail, which in our opinion, is an exercise that cannot be undertaken by the Judiciary.

The question as to whether the Tamil Nadu Amendment Act is to preserve the cultural heritage of a particular State is a debateable issue which has to be concluded in the House of the People. This ought not be a part of judicial inquiry and particularly having regard to the activity in question and the materials in the form of texts cited before us by both the petitioners and the respondents, this question cannot be conclusively determined in the writ proceedings.

Since legislative exercise has already been undertaken and Jallikattu has been found to be part of cultural heritage of Tamil Nadu, we would not disrupt this view of the legislature. We do not accept the view reflected in the case of A. Nagaraja that performance of Jallikattu is not a part of the cultural heritage of the people of the State of Tamil Nadu. We do not think there was sufficient material before the Court for coming to this conclusion. In the Preamble to the Amendment Act, Jallikattu has been described to be part of culture and tradition of Tamil Nadu.

In the case of A. Nagaraja (supra), the Division Bench found the cultural approach unsubstantiated and referring to the manner in which the bulls are inflicted pain and suffering, the Division Bench concluded that such activities offended Sections 3 and 11(1)(a) and (m) of the 1960 Act. Even if we proceed on the basis that legislature is best suited branch of the State to determine if particular animal-sports are part of cultural tradition of a region or community, or not, if such cultural event or tradition offends the law, the penal consequence would follow. Such activities cannot be justified on the ground of being part of cultural tradition of a State.

In A. Nagaraja (supra), the sports were held to attract the restriction of Sections 3 and 11(1)(a) and (m) of the 1960 Act because of the manner it was practiced. The Amendment Act read with the Rules seek to substantially minimise the pain and suffering and continue with the traditional sports. The Amendment having received Presidential assent, we do not think there is any flaw in the State action. "Jallikattu" as bovine sports have to be isolated from the manner in which they were earlier practiced and organising the sports itself would be permissible, in terms of the Tamil Nadu Rules.

(iii) The Tamil Nadu Amendment Act is not in pith and substance, to ensure survival and well-being of the native breeds of bulls. The said Act is also not relatable to Article 48 of the Constitution of India. Incidental impact of the said Amendment Act may fall upon the breed of a particular type of bulls and affect agricultural activities, but in pith and substance the Act is relatable to Entry 17 of List III of the Seventh Schedule to the Constitution of India.

(iv) Our answer to this question is in the negative. In our opinion, the Tamil Nadu Amendment Act does not go contrary to the Articles 51-A (g) and 51-A(h) and it does not violate the provisions of Articles 14 and 21 of the Constitution of India.

(v) The Tamil Nadu Amendment Act read along with the Rules framed in that behalf is not directly contrary to the ratio of the judgment in the case of A. Nagaraja (supra) and judgment of this Court delivered on 16th November 2016 dismissing the plea for Review of the A. Nagaraja (supra) judgment as we are of the opinion that the defects pointed out in the aforesaid two judgments have been overcome by the State Amendment Act read with the Rules made in that behalf.

41. Our decision on the Tamil Nadu Amendment Act would also guide the Maharashtra and the Karnataka Amendment Acts and we find all the three Amendment Acts to be valid legislations.

42. However, we direct that the law contained in the Act/Rules/Notification shall be strictly enforced by the authorities. In particular, we direct that the District

Magistrates/competent authorities shall be responsible for ensuring strict compliance of the law, as amended along with its Rules/Notifications.

43. All the I.As. for Intervention are allowed in the above terms. As we have answered the referred questions, we do not think any purpose would be served in keeping the writ petitions pending. All the writ petitions shall stand dismissed. The appeal and the Transferred Case shall also stand disposed of in the above terms.

44. Other pending applications, if any, are also disposed of.

45. There shall be no order as to costs.

.....J. (K.M. Joseph)

.....J. (Ajay Rastogi)

.....J. (Aniruddha Bose)

.....J. (Hrishikesh Roy)

.....J. (C.T. Ravikumar)

New Delhi;

May 18, 2023

IN THE SUPREME COURT OF INDIA

Government of NCT of Delhi
Vs.
Union of India

[Civil Appeal No. 2357 of 2017]

HEADNOTE – Delhi Govt. Vs. LG Case - Democratically elected Govt. should have power to control its officers to ensure accountability

JUDGMENT

Dr. Dhananjaya Y. Chandrachud, CJI

INDEX

A. The Reference

1. This case before us deals with the asymmetric federal model of governance in India, involving the contest of power between a Union Territory and the Union Government. The issue is who would have control over the "services" in the National Capital Territory of Delhi1: the Government of NCTD2 or the Lieutenant Governor acting on behalf of the Union Government. The question arose subsequent to a notification3 dated 21 May 2015 issued by the Union Ministry of Home Affairs, which stated as follows:

"in accordance with the provisions contained in article 239 and sub-clause (a) of clause (3) of 239AA, the President hereby directs that - subject to his control and further orders, the Lieutenant Governor of the National Capital Territory of Delhi, shall in respect of matters connected with 'Public Order', 'Police', 'Land' and 'Services' as stated hereinabove, exercise the powers and discharge the functions of the Central Government, to the extent delegated to him from time to time by the President.

Provided that the Lieutenant Governor of the National Capital Territory of Delhi may, in his discretion, obtain the views of the Chief Minister of the National Capital Territory of Delhi in regard to the matter of 'Services' wherever he deems it appropriate."

The notification provided that the Lieutenant Governor of NCTD shall exercise control "to the extent delegated to him from time to time by the President" over "services", in addition to "public order", "police", and "land." The Lieutenant Governor may seek the views of the Chief Minister of NCTD at his "discretion".

2. "Services" are covered under Entry 41 of the State List of the Seventh Schedule to the Constitution. The 2015 notification excludes Entry 41 of the State List, which has as its subject, "State Public Services; State Public Services Commission", from the scope of powers of GNCTD. The notification stipulates that the rationale for excluding "services" from the ambit of the legislative and executive power of NCTD is that NCTD does not have its own State public services:

"Further, the Union Territories Cadre consisting of Indian Administrative Service and Indian Police Service personnel is common to Union Territories of Delhi, Chandigarh, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu, Dadra and Nagar Haveli, Puducherry and States of Arunachal Pradesh, Goa and Mizoram which is administered by the Central Government through the Ministry of Home Affairs; and similarly DANICS and DANIPS are common services catering to the requirement of the Union Territories of Daman & Diu, Dadra Nagar Haveli, Andaman and Nicobar Islands, Lakshadweep including the National Capital Territory of Delhi which is also administered by the Central Government through the Ministry of Home Affairs. As such, it is clear that the National Capital Territory of Delhi does not have its own State Public Services. Thus, 'Services' will fall within this category.

And whereas it is well established that where there is no legislative power, there is no executive power since executive power is co-extensive with legislative power. And whereas matters relating to Entries 1, 2 & 18 of the State List being 'Public Order', 'Police' and 'Land' respectively and Entries 64, 65 & 66 of that list in so far as they relate to Entries 1, 2 & 18 as also 'Services' fall outside the purview of Legislative Assembly of the National Capital Territory of Delhi and consequently the Government of NCT of Delhi will have no executive power in relation to the above and further that power in relation to the aforesaid subjects vests exclusively in the President or his delegate i.e. the Lieutenant Governor of Delhi."

3. The above notification was assailed through a batch of petitions before the High Court of Delhi. The validity of the notification was upheld by the High Court as it declared that "the matters connected with 'Services' fall outside the purview of the Legislative Assembly of NCT of Delhi."4

On appeal, a two-Judge Bench of this Court was of the opinion that the matter involved a substantial question of law about the interpretation of Article 239AA, which deals with "Special provisions with respect to Delhi", and hence referred the issue of interpretation of Article 239AA to a Constitution Bench on 15 February 2017.

4. Article 239AA provides as under:

"239-AA. Special provisions with respect to Delhi.-

(1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union Territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the Administrator thereof appointed under Article 239 shall be designated as the Lieutenant Governor.

(2)(a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by Members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of Articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the Members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the Members thereof respectively; and any reference in Articles 326 and 329 to "appropriate legislature" shall be deemed to be a reference to Parliament.

(3)(a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List insofar as any such matter is applicable to Union Territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List insofar as they relate to the said Entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union Territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory: Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten per cent of the total number of Members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except insofar as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(7)(a) Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.

(b) Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of Article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.

(8) The provisions of Article 239-B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union Territory of Puducherry, the Administrator and its legislature, respectively; and any reference in that Article to "clause (1) of Article 239-A" shall be deemed to be a reference to this Article or Article 239-AB, as the case may be."

5. The Constitution Bench pronounced its judgment5 on 4 July 2018. The judgment contained three judicial opinions. The opinion of the majority was authored by Chief Justice Dipak Misra, in which Justice A.K. Sikri, and Justice A.M. Khanwilkar joined.6 One of us (Dr. D.Y. Chandrachud, J.) and Justice Ashok Bhushan delivered separate concurring opinions.

The Constitution Bench dealt with the constitutional status of NCTD and the modalities of its administration based on the division of powers, functions and responsibilities of the elected government of NCTD and the Lieutenant Governor, who as the nominee of the President of India, serves as the representative of the Union Government. We shall discuss the principles laid down in that judgment in Section C of this judgment.

6. Upon deciding the interpretation of Article 239AA, the appeals were directed to be listed before a regular Bench to decide the specific issues. On 14 February 2019, a two-Judge Bench of Justice A.K. Sikri and Justice Ashok Bhushan delivered two separate judgments. The judges differed on whether "services" are excluded in view of Article 239AA(3)(a) from the legislative and executive domain of GNCTD.7

7. The matter fell for consideration before a Bench of three Judges. There, the Union argued that the 2018 Constitution Bench did not analyze two crucial phrases in Article 239AA(3)(a): (i) "in so far as any such matter is applicable to Union Territories"; and (ii) "Subject to the provisions of this Constitution". By an order dated 6 May 2022, the three-judge Bench observed that:

"8. From the reference application moved by the Union of India, as well as the rival contentions of the parties, the main bone of contention relates to the interpretation of the phrases:

"in so far as any such matter is applicable to Union Territories" and "Subject to the provisions of this Constitution" as contained in Article 239AA(3)(a) of the Constitution. On perusing the Constitution Bench judgment, it appears that all the issues except the one pending consideration before this bench, have been elaborately dealt with. Therefore, we do not deem it necessary to revisit the issues that already stand settled by the previous Constitution Bench.

9. The limited issue that has been referred to this Bench, relates to the scope of legislative and executive powers of the Centre and NCT Delhi with respect to the term "services". The Constitution Bench of this Court, while interpreting Article 239AA(3)(a) of the Constitution, did not find any occasion to specifically interpret the impact of the wordings of the same with respect to Entry 41 in the State List.

10. We therefore deem it appropriate to refer the above limited question, for an authoritative pronouncement by a Constitution Bench in terms of Article 145(3) of the Constitution." The above reference forms the subject of adjudication before this Constitution Bench. The limited issue for the consideration of this Constitution Bench only relates to the "scope of legislative and executive powers of the Centre and NCTD with respect to the term "Services." That is to say,

whether the NCTD or the Union government has legislative and executive control over "services." We will now turn to the arguments made by counsel on opposing sides.

B. Submissions

8. Dr. A M Singhvi, learned Senior Counsel appearing for the appellant, made the following submissions:

a. The Legislative Assembly of NCTD has the power to enact laws under Entry 41 of List II of the Seventh Schedule. The power cannot be excluded merely because the entry uses the term "state public services" and not "Union Territory public services". In fact, the Delhi Legislative Assembly has enacted laws that fall within Entry 41;

b. Even if it is found that the legislature of NCTD has not exercised legislative power related to Entry 41 of List II, it does not imply that the power ceases to exist;

c. NCTD has legislative power and executive power over all entries in List II other than entries 1,2, and 18 which have been expressly excluded by Article 239AA;

d. The phrase "insofar as such matter is applicable to Union Territories" in Article 239AA is inclusionary and not exclusionary. Multiple entries in List II and List III use the term "State." The phrase "insofar as such matter is applicable to Union Territories" is a facilitative phrase which permits such entries being made available to the Union Territory of NCTD without an amendment of the Lists in the Seventh Schedule. Without the facilitative phrase, NCTD would not have legislative competence over those entries in Lists II and III which use the term "State";

e. NCTD is sui generis. It cannot be brought within the common class of 'Union Territories';

f. This Court in Union of India v. Prem Kumar Jain8 has recognised that the provisions of Part XIV of the Constitution extend to Union territories;

g. The report of the Balakrishnan Committee opined against the inclusion of "services" within the legislative and executive ambit of NCTD, does not have any relevance because:

(i) It preceded the inclusion of Article 239AA, by which three entries from List II have been expressly excluded from the legislative competence of NCTD;

(ii) The conclusion that only States (and not Union territories) can have services is conceptually wrong;

(iii) The judgment of this Court in Prem Kumar Jain (supra) was not considered; and

(iv) The opinion of the majority in the 2018 Constitution Bench judgment expressly notes that the report of the Balakrishnan Committee will not be used as an aid to interpret Article 239AA. h. Personnel belonging to All-India Services and Central Government Services are governed by the Indian Administrative Service (Cadre) Rules 1954 and the All-India Services (Joint Cadre) Rules 1972 respectively.

In terms of these rules, while it is the prerogative of the Joint Cadre Authority to make an officer available to GNCTD, the actual posting of the officer within the departments of GNCTD is the prerogative of the latter. Similarly, under DANICS and DANIPS Rules 2003, once an officer is alloted to NCTD, it is the Administrator who appoints that officer to a post within NCTD.

9. Mr. Shadan Farasat, learned counsel appearing for the appellant, provided an overview of the control of services in national capital territories across the world. He argued that regardless of the level of devolution of power in countries across the world, even in countries with centralized forms of government, the power to control "services" has been devolved upon the local government of the National Capital Territory.

10. Mr. Tushar Mehta, learned Solicitor General, made the following submissions on behalf of the Union of India:

a. Entry 41 of List II is not available to Union Territories, as it cannot have either a State Public Service or a State Public Service Commission;

b. The 2018 Constitution Bench judgment did not decide whether NCTD has legislative competence over Entry 41 of List II;

c. Delhi, being the national capital, enjoys a special status which requires the Union to have control over services, in the absence of which it would become impossible for the Union to discharge its national and international responsibilities;

d. The expression "in so far as any such matter is applicable to Union Territories" in Article 239AA means that the entries contained in List II are available to NCTD to the limited extent to which they are applicable to Union Territories. The legislative powers of NCTD shall extend to only those matters

which are 'applicable' to Union Territories. Since the Constitution uses the term 'applicable' and not 'relating' to Union Territories, the legislative power of NCTD will extend to an Entry only when that Entry is clearly and unequivocally applicable to Union Territories as a class. Consequently, List II has to be read contextually and certain entries can be excluded from the domain of GNCTD;

e. The control of Union of India over "services" has not led to any issue pertaining to the governance of NCTD; and

f. The Transaction of Business Rules 1993 provide enough powers to Ministers of GNCTD to ensure supervisory and functional control over civil services to ensure their proper functioning; the rules applicable to the civil services indicate that administrative control vests with the Union.

11. The arguments advanced indicate that this Constitution Bench is called upon to decide the limited question of whether NCTD has the power to legislate under Entry 41 of the State List, and the meaning of the term "in so far as any such matter is applicable to Union Territories" in Article 239AA(3)(a). This Bench will refer to the principles laid down in the 2018 Constitution Bench judgment to facilitate the analysis.

Though both sides relied on the subordinate rules referred to above to argue that they have control over postings of officers, we do not deem it appropriate to interpret each of these rules to elucidate on the framework of governance in each of the cadres. The reference is limited to the scope of executive and legislative power of NCTD over "services" with reference to the interpretation of Article 239AA(3)(a).

C. Interpretation of Article 239AA: The 2018 Constitution Bench judgment

(a) Delhi: A sui generis model

12. The 2018 Constitution Bench decision held that NCTD is not similar to other Union Territories. The decision elucidates the manner in which the insertion of Article 239AA accorded a "sui generis" status to NCTD setting it apart from other Union Territories.

The judgment noted that the constitutional entrenchment of a Legislative Assembly, Council of Ministers, and Westminster style cabinet system of government brought into existence the attributes of a representative form of government. As a consequence, the residents of Delhi have been, through their elected representatives, afforded a voice in the governance of NCTD, while balancing the national interests of Union of India. The majority decision, speaking through Chief Justice Dipak Misra, held:

"196. Thus, NDMC [NDMC v. State of Punjab, (1997) 7 SCC 339] makes it clear as crystal that all Union Territories under our constitutional scheme are not on the same pedestal [...]

S. Essence of Article 239-AA of the Constitution

206. It is perceptible that the constitutional amendment conceives of conferring special status on Delhi. This has to be kept in view while interpreting Article 239-A.

207. At the outset, we must declare that the insertion of Articles 239-AA and 239-AB, which specifically pertain to NCT of Delhi, is reflective of the intention of Parliament to accord Delhi a sui generis status from the other Union Territories as well as from the Union Territory of Puducherry to which Article 239-A is singularly applicable as on date. The same has been authoritatively held by the majority judgment in NDMC case to the effect that the NCT of Delhi is a class by itself.

209. The exercise of establishing a democratic and representative form of Government for NCT of Delhi by insertion of Articles 239-AA and 239-AB would turn futile if the Government of Delhi that enjoys the confidence of the people of Delhi is not able to usher in policies and laws over which the Delhi Legislative Assembly has power to legislate for NCT of Delhi.

210. Further, the Statement of Objects and Reasons for the Constitution (Seventy-fourth Amendment) Bill, 1991 which was enacted as the Constitution (Sixty-ninth Amendment) Act, 1991 also lends support to our view as it clearly stipulates that in order to confer a special status upon the National Capital, arrangements should be incorporated in the Constitution itself."

13. The concurring opinion of Justice Chandrachud emphasized the significance legislative and constitutional history in interpreting Article 239AA. In that context, the judgment notes:

"383. Having regard to this history and background, it would be fundamentally inappropriate to assign to the NCT a status similar to other Union Territories. Article 239-AA(4) is a special provision which was adopted to establish a special constitutional arrangement for the governance of the NCT, albeit within the rubric of Union Territories. In interpreting the provisions of Article 239-AA, this Court cannot adopt a blinkered view, which ignores legislative and constitutional history. While adopting some of the provisions of the Acts of 1963 and 1966, Parliament in its constituent capacity omitted some of the other provisions of the legislative enactments which preceded the Sixty-ninth Amendment [...]"

14. Having imparted a purposive interpretation to Article 239AA, the judgment underscores that the governance structure which Parliament adopted for NCTD is unique and different from that of other Union Territories. It was held that the constituent power of Parliament was exercised "to treat the Government of NCT of Delhi as a representative form of Government". The judgment of the majority held:

"213. Article 239-A gives discretion to Parliament to create by law for the Union Territory of Puducherry a Council of Ministers and/or a body which may either be wholly elected or partly elected and partly nominated to perform the functions of a legislature for the Union Territory of Puducherry.

214. On the other hand, Article 239-AA clause (2), by using the word "shall", makes it mandatory for Parliament to create by law a Legislative Assembly for the National Capital Territory of Delhi. Further, sub-clause (a) of clause (2) declares very categorically that the Members of the Legislative Assembly of the National Capital Territory of Delhi shall be chosen by direct election from the territorial constituencies in the National Capital Territory of Delhi.

Unlike Article 239-A clause (1) wherein the body created by Parliament by law to perform the functions of a legislature for the Union Territory of Puducherry may either be wholly elected or partly elected and partly nominated, there is no such provision in the context of the Legislative Assembly of NCT of Delhi as per which Members can be nominated to the Legislative Assembly. This was a deliberate design by Parliament.

215. We have highlighted this difference to underscore and emphasise the intention of Parliament, while inserting Article 239-AA in the exercise of its constituent power, to treat the Legislative Assembly of the National Capital Territory of Delhi as a set of elected representatives of the voters of NCT of Delhi and to treat the Government of NCT of Delhi as a representative form of Government.

216. The Legislative Assembly is wholly comprised of elected representatives who are chosen by direct elections and are sent to Delhi's Legislative Assembly by the voters of Delhi. None of the Members of Delhi's Legislative Assembly are nominated. The elected representatives and the Council of Ministers of Delhi, being accountable to the voters of Delhi, must have the appropriate powers so as to perform their functions effectively and efficiently."

(emphasis supplied)

15. In his concurring opinion, Justice Chandrachud also held that NCTD is "special class among Union Territories". It was held:

"384. All Union territories are grouped together in Part VIII of the Constitution. While bringing them under the rubric of one constitutional pairing, there is an unmistakable distinction created between them by the Constitution.

388. Delhi presents a special constitutional status Under Article 239AA. This is fortified when those provisions are read in contrast with Articles 239A and 240. Article 239AA does not incorporate the language or scheme of Article 240(1), which enables the President to frame Regulations for peace, progress and good government of the Union territories referred to in Article 240(1). This proviso to Article 240(1) indicates that once a Parliamentary law has been framed, the President shall not frame Regulations for Puducherry.

In the case of Delhi, Article 239AA does not leave the constitution of a legislature or the Council of Ministers to a law to be framed by Parliament in future. Article 239AA mandates that there shall be a legislative assembly for the NCT and there shall be a Council of Ministers, with the function of tendering aid and advice to the Lieutenant Governor.

The "there shall be" formulation is indicative of a constitutional mandate. Bringing into being a legislative assembly and a Council of Ministers for the NCT was not relegated by Parliament (in its constituent power) to its legislative wisdom at a future date upon the enactment of enabling legislation. Clause 7(a) of Article 239AA enables Parliament by law to make provisions to give effect to or to supplement the provisions contained in that Article. Parliament's power is to enforce, implement and fortify Article 239AA and its defining norms.

389. The above analysis would indicate that while Part VIII brings together a common grouping of all Union territories, the Constitution evidently did not intend to use the same brush to paint the details of their position, the institutions of governance (legislative or executive), the nature of democratic participation or the extent of accountability of those entrusted with governance to their elected representatives."

(emphasis supplied)

16. Thus, it is evident from the 2018 Constitution Bench judgment that the constitutional status of NCTD is not similar to other Union Territories, which are covered under Part VIII of the Constitution.

17. The judgment of the majority in the 2018 Constitution Bench decision underscores the importance of interpreting the Constitution to further democratic ideals. It was held:

"284.1. While interpreting the provisions of the Constitution, the safe and most sound approach for the constitutional courts to adopt is to read the words of the Constitution in the light of the spirit of the Constitution so that the quintessential democratic nature of our Constitution and the paradigm of representative participation by way of citizenry engagement are not annihilated. The courts must adopt such an interpretation which glorifies the democratic spirit of the Constitution."

(emphasis supplied)

Therefore, in adjudicating the present dispute, it becomes imperative to adopt an interpretation which upholds the spirit of the unique constitutional democratic mandate provided to the Government of NCTD by the inclusion of Article 239AA.

(b) Legislative and executive power of NCTD

18. Article 239AA(3)(a) stipulates that the Legislative Assembly of Delhi shall have the power to make laws for the whole or any part of NCTD with respect to matters in the State List and the Concurrent List "insofar as any such matter is applicable to Union Territories" except for certain subjects expressly excluded.

The provision expressly excludes entries 1, 2, and 18 of the State List, and entries 64, 65 and 66 of List II insofar as they relate to the entries 1, 2, and 18. Article 239AA(3)(b) confers on Parliament the power "to make laws with respect to any matter" for a Union Territory or any part of it. Thus, while the Legislative Assembly of NCTD has legislative competence over entries in List II and List III except for the excluded entries of List II, Parliament has legislative competence over all matters in List II and List III in relation to NCTD, including the entries which have been kept out of the legislative domain of NCTD by virtue of Article 239AA(3)(a).

This is where there is a departure from the legislative powers of Parliament with respect to States. While Parliament does not have legislative competence over entries in List II for States, it has the power to make laws on entries in List II for NCTD. This was the view taken in the 2018 Constitution Bench judgment. As the concurring opinion of Justice Chandrachud held:

"316. Unlike State Legislative Assemblies which wield legislative power exclusively over the State List, under the provisions of Article 246(3), the legislative assembly for NCT does not possess exclusive legislative competence over State List subjects. By a constitutional fiction, as if it were, Parliament has legislative power over Concurrent as well as State List subjects in the Seventh Schedule.

Sub Clause (c) of Clause 3 of Article 239AA contains a provision for repugnancy, similar to Article 254. A law enacted by the legislative assembly would be void to the extent of a repugnancy with a law enacted by Parliament unless it has received the assent of the President. Moreover, the assent of the President would not preclude Parliament from enacting legislation in future to override or modify the law enacted by the legislative assembly."

19. The 2018 Constitution Bench judgment held that the executive power of NCTD is co-extensive with its legislative power, that is, it shall extend to all matters with respect to which it has the power to legislate. Article 239AA(4) provides that the Council of Ministers shall aid and advise the Lieutenant Governor in the exercise of the functions of the latter in relation to matters with respect to which the Legislative Assembly has the power to make laws.

Thus, the executive power of NCTD shall extend over entries in List II, except the excluded entries. After analysing the provision of Article 239AA(4), it was held in the opinion of the majority in the 2018 Constitution Bench judgment that the Union has executive power only over the three entries in List II over which NCTD does not have legislative competence, that is, entries 1,2, and 18 in List II. It was held:

"222. A conjoint reading of Article 239-AA(3)(a) and Article 239-AA(4) reveals that the executive power of the Government of NCT of Delhi is coextensive with the legislative power of the Delhi Legislative Assembly which is envisaged in Article 239-AA(3) and which extends over all but three subjects in the State List and all subjects in the Concurrent List and, thus, Article 239-AA(4) confers executive power on the Council of Ministers over all those subjects for which the Delhi Legislative Assembly has legislative power.

223. Article 239-AA(3)(a) reserves Parliament's legislative power on all matters in the State List and Concurrent List, but clause (4) nowhere reserves the executive powers of the Union with respect to such matters. On the contrary, clause (4) explicitly grants to the Government of Delhi executive powers in relation to matters for which the Legislative Assembly has power to legislate. The legislative power is conferred upon the Assembly to enact whereas the policy of the legislation has to be given effect to by the executive for which the Government of Delhi has to have coextensive executive powers.

224. Article 239-AA(4) confers executive powers on the Government of NCT of Delhi whereas the executive power of the Union stems from Article 73 and is coextensive with Parliament's legislative power. Further, the ideas of pragmatic federalism and collaborative federalism will fall to the ground if we are to say that the Union has overriding executive powers even in respect of matters for which the Delhi Legislative Assembly has legislative powers.

Thus, it can be very well said that the executive power of the Union in respect of NCT of Delhi is confined to the three matters in the State List for which the legislative power of the Delhi Legislative Assembly has been excluded under Article 239-AA(3)(a). Such an interpretation would thwart any attempt on the part of the Union Government to seize all control and allow the concepts of pragmatic federalism and federal balance to prevail by giving NCT of Delhi some degree of required independence in its functioning subject to the limitations imposed by the Constitution.

284.16. As a natural corollary, the Union of India has exclusive executive power with respect to NCT of Delhi relating to the three matters in the State List in respect of which the power of the Delhi Legislative Assembly has been excluded. In respect of other matters, the executive power is to be exercised by the Government of NCT of Delhi. This, however, is subject to the proviso to Article 239-AA(4) of the Constitution. Such an interpretation would be in consonance with the concepts of pragmatic federalism and federal balance by giving the Government of NCT of Delhi some required degree of independence subject to the limitations imposed by the Constitution."

20. The judgment of the majority, however, clarified that if Parliament makes a law in relation to any subject in List II and List III, the executive power of GNCTD shall then be limited by the law enacted by Parliament. It was held:

"284.15. A conjoint reading of clauses (3)(a) and (4) of Article 239-AA divulges that the executive power of the Government of NCTD is coextensive with the legislative power of the Delhi Legislative Assembly and, accordingly, the executive power of the Council of Ministers of Delhi spans over all subjects in the Concurrent List and all, but three excluded subjects, in the State List. However, if Parliament makes law in respect of certain subjects falling in the State List or the Concurrent List, the executive action of the State must conform to the law made by Parliament. (sic)"

(emphasis supplied)

21. The above view was also taken by Justice Chandrachud in his concurring opinion:

"316. the provisions of Clause 2 and Clause 3 of Article 239AA indicate that while conferring a constitutional status upon the legislative assembly of NCT, the Constitution has circumscribed the ambit of its legislative Powers firstly, by carving out certain subjects from its competence (vesting them in Parliament) and secondly, by enabling Parliament to enact law on matters falling both in the State and Concurrent lists. Moreover, in the subjects which have been assigned

to it, the legislative authority of the Assembly is not exclusive and is subject to laws which are enacted by Parliament."

22. The 2018 Constitution Bench judgment authoritatively held that the legislative and executive power of NCTD extends to all subjects in Lists II and III, except those explicitly excluded. However, in view of Article 239AA(3)(b), Parliament has the power to make laws with respect to all subjects in List II and III for NCTD.

(c) "Insofar as any such matter is applicable to Union Territories"

23. It has been argued by the Union of India that the phrase 'in so far as any such matter is applicable to Union Territories' in Article 239AA has not been construed by the Constitution Bench, and that the phrase limits the legislative power of NCTD.

24. However, reference has to be made to the concurring opinion of Justice Chandrachud in the 2018 Constitution Bench judgment, which dealt with the above phrase. It was held:

"Insofar as any such matter is applicable to Union Territories

460. In the State List and the Concurrent List of the Seventh Schedule, there are numerous entries which use the expression "State". These entries are illustratively catalogued below: [...]

461. Article 239-AA(3)(a) permits the Legislative Assembly of the NCT to legislate on matters in the State List, except for Entries 1, 2 and 18 (and Entries 64, 65 and 66 insofar as they relate to the earlier entries) and on the Concurrent List, "insofar as any such matter is applicable to Union Territories". In forming an understanding of these words of Article 239-AA(3)(a), it has to be noticed that since the decision in Kanniyan right through to the nine-Judge Bench decision in NDMC, it has been held that the expression "State" in Article 246 does not include a Union Territory.

The expression "insofar as any such matter is applicable to Union Territories" cannot be construed to mean that the Legislative Assembly of NCT would have no power to legislate on any subject in the State or Concurrent Lists, merely by the use of the expression "State" in that particular entry. This is not a correct reading of the above words of Article 239-AA(3)(a). As we see below, that is not how Parliament has construed them as well.

462. Section 7(5) of the GNCTD Act provides that salaries of the Speaker and Deputy Speaker of the Legislative Assembly may be fixed by the Legislative

Assembly by law. Section 19 provides that the Members of the Legislative Assembly shall receive salaries and allowances as determined by the Legislative Assembly by law. Section 43(3) similarly provides that the salaries and allowances of Ministers shall be determined by the Legislative Assembly. However, Section 24 provides that a Bill for the purpose has to be reserved for the consideration of the President. Parliament would not have enacted the above provisions unless legislative competence resided in the States on the above subject.

The subjects pertaining to the salaries and allowances of Members of the Legislature of the State (including the Speaker and Deputy Speaker) and of the Ministers for the State are governed by Entry 38 and Entry 40 of the State List. The GNCTD Act recognizes the legislative competence of the Legislative Assembly of NCT to enact legislation on these subjects. The use of the expression "State" in these entries does not divest the jurisdiction of the Legislative Assembly. Nor are the words of Article 239-AA(3)(a) exclusionary or disabling in nature.

463. The purpose of the above narration is to indicate that the expression "State" is by itself not conclusive of whether a particular provision of the Constitution would apply to Union Territories. Similarly, it can also be stated that the definition of the expression State in Section 3(58) of the General Clauses Act (which includes a Union Territory) will not necessarily govern all references to "State" in the Constitution. If there is something which is repugnant in the subject or context, the inclusive definition in Section 3(58) will not apply.

This is made clear in the precedent emanating from this Court. In certain contexts, it has been held that the expression "State" will not include Union Territories while in other contexts the definition in Section 3(58) has been applied. Hence, the expression "insofar as any such matter is applicable to Union Territories" is not one of exclusion nor can it be considered to be so irrespective of subject or context."

(emphasis supplied)

It is evident that the concurring opinion held that the phrase "insofar as any such matter is applicable to Union Territories" is an inclusive term, and "not one of exclusion". Justice Chandrachud interpreted the term to mean that the Legislative Assembly of NCTD shall have the power to legislate on any subject in the State or Concurrent Lists, except the excluded subjects. 25. In his concurring opinion in the 2018 Constitution Bench judgment, Justice Bhushan also interpreted the said phrase in the following terms:

"551. The provision is very clear which empowers the Legislative Assembly to make laws with respect to any of the matters enumerated in the State List or in the Concurrent List except the excluded entries. One of the issue is that power to make laws in State List or in Concurrent List is hedged by phrase "in so far as any such matter is applicable to Union territories".

552. A look of the Entries in List II and List III indicates that there is no mention of Union Territory. A perusal of the List II and III indicates that although in various entries there is specific mention of word "State" but there is no express reference of "Union Territory" in any of the entries. For example, in List II Entry 12, 26, 37, 38, 39, 40, 41, 42 and 43, there is specific mention of word "State". Similarly, in List III Entry 3, 4 and 43 there is mention of word "State".

The above phrase "in so far as any such matter is applicable to Union Territory" is inconsequential. The reasons are two fold. On the commencement of the Constitution, there was no concept of Union Territories and there were only Part A, B, C and D States. After Seventh Constitutional Amendment, where First Schedule as well as Article 2 of the Constitution were amended which included mention of Union Territory both in Article 1 as well as in First Schedule.

Thus, the above phrase was used to facilitate the automatic conferment of powers to make laws for Delhi on all matters including those relatable to the State List and Concurrent List except where an entry indicates that its applicability to the Union Territory is excluded by implication or any express Constitutional provision.

553. Thus, there is no difficulty in comprehending the Legislative power of the NCTD as expressly spelled out in Article 239AA."

(emphasis supplied)

26. Justice Bhushan also agreed that the phrase "in so far as any such matter is applicable to Union territories" cannot be used to restrict the legislative power of the Legislative Assembly of Delhi. He held that the "phrase was used to facilitate the automatic conferment of powers to make laws for Delhi on all matters including those relatable to the State List and Concurrent List" except for excluded entries.

27. The judgment of the majority did not make a direct observation on the interpretation of the said phrase. However, the reasoning indicates that the phrase was to be considered in a broader sense. As noted previously, the judgment of the majority held that the executive power of NCTD is coextensive with its legislative power on subjects except the excluded subjects under Article 239AA(3)(a).

This means that the executive power flows from the legislative power, that is, if NCTD has executive power on a subject in List II, it is because it has legislative power under the entries of that List. The judgment of the majority held that the Union shall have exclusive executive power with respect to NCTD only for "the three matters in the State List in respect of which the power of the Delhi Legislative Assembly has been excluded".

It was further held that in respect of "all other matters," executive power is to be exercised by GNCTD. This would mean that NCTD has executive power on "all other matters". This indicates that the judgment of the majority interpreted Article 239AA(3)(a) and the phrase "in so far as any such matter is applicable to Union Territory" to give legislative power to NCTD on "all other matters" except the three matters in the State List in respect of which the power of the Legislative Assembly of NCTD has been excluded.

28. The above discussion implies that all the five Judges in the 2018 Constitution Bench judgment did not construe the phrase "in so far as any such matter is applicable to Union Territories" in Article 239AA to be exclusionary.

29. However, in his opinion in the 2019 split verdict, Justice Bhushan was of the contrary view. He held that the majority opinion in the 2018 Constitution bench judgment did not interpret the phrase "insofar as any such matter is applicable to Union Territories":

"187. As noticed above, the Constitution Bench in para 39 extracted above has noticed the submissions of the counsel for the respondent that words "insofar as any such matter is applicable to Union Territories" in Article 239-AA(3)(a) restrict the legislative power of the Legislative Assembly of Delhi to only those entries which are only applicable to Union Territories and not all.

The elaborate discussion on its answer is not found in the majority opinion expressed by Justice Dipak Misra, C.J. (as he then was). The submission having been made before the Constitution Bench which submission was considered in other two opinions expressed by Dr Justice D.Y. Chandrachud and myself, it is useful to notice as to what has been said in other two opinions in the Constitution Bench.

191. Dr D.Y. Chandrachud, J., thus, held that the expression "State" is by itself not conclusive of whether a particular provision of the Constitution would apply to Union Territories. His Lordship opined that the expression "insofar as any such matter is applicable to Union Territories" is not one of exclusion nor can it be considered to be so irrespective of subject or context.

192. I had also dealt with the above submission in paras 500, 551 and 552 in the following words:

[...]

193. In the above paragraphs, the opinion is expressed that all matters including those relatable to the State List and Concurrent List are available to the Legislative Assembly of Delhi except where an entry indicates that its applicability to the Union Territory is excluded by implication or by any express constitutional provision. The conclusion is, thus, that all entries of List II and List III are available to Legislative Assembly for exercising legislative power except when an entry is excluded by implication or by any express provision.

194. The majority opinion delivered by Dipak Misra, C.J. (as he then was) having not dealt with the expression "insofar as any such matter is applicable to Union Territories", it is, thus, clear that no opinion has been expressed in the majority opinion of the Constitution Bench."

(emphasis supplied)

30. We are unable to agree with the view of Justice Bhushan in the 2019 split verdict. As indicated previously, the majority decision in the 2018 Constitution Bench judgement rendered a broad interpretation of Article 239AA(3)(a) to provide NCTD with vast executive and co-extensive legislative powers except in the excluded subjects. A combined reading of the majority opinion and the concurring opinions of Justice Chandrachud and Justice Bhushan indicates that the phrase "in so far as any such matter is applicable to Union Territories" does not restrict the legislative powers of NCTD.

31. While the 2018 Constitution Bench judgment provides sufficient clarity on the interpretation of the phrase "in so far as any such matter is applicable to Union Territories", we find it necessary to deal with the arguments made by the Union of India that the phrase must be read in a restrictive manner to limit the legislative power of NCTD on certain subjects (in addition to already excluded subjects) in List II.

D. The 'class' of Union territories

32. The opinion of the majority in the 2018 Constitution Bench judgment acknowledged the special status of NCTD. A reference to the historical background which led to the conceptualization of Union Territories would be useful to assess the argument of the Union that there exists a class of Union territories. When the Indian Constitution was adopted, the States of the Indian

Union were classified into Part A, Part B, and Part C States. Delhi was a Part C State and was governed by the Government of Part C States Act 1951.

The Act provided for a Council of Ministers and a legislature of elected representatives for Delhi with the power of making laws with respect to any of the matters enumerated in the State List or the Concurrent List except for the subjects which were expressly excluded. The excluded subjects corresponded to those in Article 239AA along with the subject of 'Municipal Corporations.' These powers were limited in nature and subject to the legislative power of Parliament.

33. The Constitution (Seventh Amendment) Act 1956,9 based broadly on the recommendations of the Fazl Ali Commission and designed to implement the provisions of the States Reorganization Act 1956, inter alia did away with the erstwhile classification of States into Part A, Part B, and Part C States, and Part D territories. Instead, it introduced States and Union Territories. The newly created Union Territories were to be administered by the President acting through an Administrator in terms of Article 239 of the Constitution.

34. However, it is important to note that the Fazl Ali Commission was alive to the special needs of Delhi and the importance of accounting for local needs and wishes of the residents of NCTD. It noted that:

"593. [...] Having taken all these factors into account, we are definitely of the view that municipal autonomy in the form of a corporation, which will provide greater local autonomy than is the case in some of the important federal capitals, is the right and in fact the only solution of the problem of Delhi State."

35. Soon thereafter, in 1962, Article 239A was inserted in the Constitution by the Constitution (Fourteenth Amendment) Act 1956. This envisaged the creation of local legislatures or a Council of Ministers or both for certain Union Territories.

Thus, a significant change was introduced in the governance structure for Union Territories. Article 239A created a separate category of Union Territories since all Union Territories were no longer envisaged to be administered only by the President. The introduction of Article 239A was followed by the Government of Union Territories Act 1963. Currently, the Union Territory of Puducherry is administered in terms of the governance structure envisaged by this enactment.

36. By the Constitution (Sixty-ninth Amendment) Act 199110, Article 239AA was inserted in the Constitution. It introduced a unique structure of governance for NCTD vis-à-vis the Union Territories. The Statement of Objects and Reasons of provides as follows:

"1. After such detailed inquiry and examination, it recommended that Delhi should continue to be a Union Territory and provided with a Legislative Assembly and a Council of Ministers responsible to such Assembly with appropriate powers to deal with matters of concern to the common man. The Committee also recommended that with a view to ensure stability and permanence, the arrangements should be incorporated in the Constitution to give the National Capital a special status among the Union Territories."

(emphasis supplied)

37. The 1991 Constitution Amendment brought a fresh dimension to the governance of Union Territories. By virtue of the provisions of Article 239AA, NCTD became the only Union Territory with a special status of having a constitutionally mandated legislature and Council of Ministers. This was a departure from the earlier model of governance for Union territories. Article 239AA, in contrast, constitutionally mandates a legislature and prescribes the scope of legislative and executive power for NCTD.

38. Article 239AA creates a wide variation in structures of governance of NCTD as compared to other Union Territories, with differences even as regards the manner in which legislative powers have been bestowed upon them. For instance, Article 239A provides that Parliament "may" create a legislature for Puducherry. On the other hand, for NCTD, the Constitution itself (in terms of Article 239AA) has created a Legislative Assembly and a Council of Ministers. The constitutionally coded status of NCTD results in a creation of a significant degree of variance in the governance structure when compared to other States and Union territories.

39. The concurring opinion of Justice Chandrachud in the 2018 Constitution Bench judgment expressly discussed this aspect and held that no single homogeneous class of Union Territories exits. Instead, Union Territories fall in various categories:

"453. The judgment of the majority [New Delhi Municipal Council v State of Punjab] also holds that all Union Territories are not situated alike. The first category consists of Union Territories which have no legislature at all. The second category has legislatures created by a law enacted by Parliament under the Government of Union Territories Act, 1963. The third category is Delhi which has "special features" under Article 239-AA. Though the Union Territory of Delhi "is in a class by itself", it "is certainly not a State within the meaning of Article 246 or Part VI of the Constitution". Various Union Territories - the Court observed - are in different stages of evolution.

475.1. The introduction of Article 239-AA into the Constitution was the result of the exercise of the constituent power. The Sixty-ninth Amendment to the Constitution has important consequences for the special status of Delhi as the National Capital Territory, albeit under the rubric of a Union Territory governed by Part VIII of the Constitution."

(emphasis supplied)

40. This variance in the constitutional treatment of Union Territories as well as the absence of a homogeneous class is not unique only to Union Territories. The Constitution is replete with instances of special arrangements being made to accommodate the specific regional needs of States in specific areas. Therefore, NCTD is not the first territory which has received a special treatment through a constitutional provision, but it is another example - in line with the practice of the Constitution - envisaging arrangements which treat federal units differently from each other to account for their specific circumstances.

For instance, Article 371 of the Constitution contains special provisions for certain areas in various States as well as for the entirety of some States. The marginal notes to various articles composed under the rubric of Article 371 provide an overview of a number of States for which arrangements in the nature of asymmetric federalism are made in the spirit of accommodating the differences and the specific requirements of regions across the nation:

"371. Special provision with respect to the States of [* * *] Maharashtra and Gujarat

371-A. Special provision with respect to the State of Nagaland

371-B. Special provision with respect to the State of Assam

371-C. Special provision with respect to the State of Manipur

371-D. Special provisions with respect to the State of Andhra Pradesh or the State of Telangana]

371-E. Establishment of Central University in Andhra Pradesh

371-F. Special provisions with respect to the State of Sikkim

371-G. Special provision with respect to the State of Mizoram

371-H. Special provision with respect to the State of Arunachal Pradesh

371-I. Special provision with respect to the State of Goa

371-J. Special provisions with respect to State of Karnataka"

41. The design of our Constitution is such that it accommodates the interests of different regions. While providing a larger constitutional umbrella to different states and Union territories, it preserves the local aspirations of different regions. "Unity in diversity" is not only used in common parlance, but is also embedded in our constitutional structure. Our interpretation of the Constitution must give substantive weight to the underlying principles.

42. Therefore, we are unable to agree with the argument of the Solicitor General that the legislative power of NCTD does not extend to those subjects which are not available to Union Territories as a class because Article 239AA employs the term "any such matter is applicable to Union Territories". The analysis in this section clarifies that there is no homogeneous class of Union territories with similar governance structures.

E. Maintaining the balance between local interests and national interests

43. The Union of India has submitted that the phrase "in so far as any such matter is applicable to Union Territories" in Article 239AA cannot be interpreted inclusively as the Union has a preponderance of interest in the governance of the national capital and therefore the phrase must be read in a narrow manner. It has submitted that as Delhi is the seat of the Union Government, national interests take precedence over and beyond the quibbles of local interests. We find that this argument does not hold merit in light of the text of Article 239AA(3). This argument was already addressed in the 2018 Constitution Bench judgment.

44. Article 239AA(3)(a) confers legislative power to NCTD. However, it does not confer legislative power to NCTD over all entries in List II. Article 239AA(3) provides multiple safeguards to ensure that the interest of the Union is preserved. First, sub-clause (a) of clause (3) removes three entries in List II from the legislative domain of NCTD. It provides that NCTD shall not have the power to enact laws on "matters with respect to entries 1, 2 and 18 of the State List and entries 64, 65 and 66 of that List in so far as they relate to the said entries 1, 2 and 18".

Second, sub-clause (b) of clause (3) clarifies that Parliament has the power to legislate on "any matter" for a Union Territory (including on subjects with respect to which NCTD has legislative power under Article 239AA(3)(a)). In other words, Parliament has the plenary power to legislate on a subject in any of the three Lists of the Seventh Schedule for NCTD. Third, Article 239AA(3)(c) provides that where there is a repugnancy between a law enacted by the Legislative Assembly of NCTD and a law enacted by Parliament, the latter will

prevail, and the law enacted by the legislative assembly shall, "to the extent of the repugnancy, be void".

Unlike Article 254, which provides for the overriding power of Parliament only on subjects in the Concurrent List, Parliament has overriding power in relation to the NCTD over subjects in both List II and List III. Fourth, the second proviso to Article 239AA(c) provides that Parliament may enact "at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly" of NCTD.

Fifth, under Article 239AA(7)(a), Parliament may by law make provisions for giving effect to, or supplementing the provisions in the forgoing clauses of Article 239AA and for "all matters incidental or consequential thereto". Article 239AA(7)(b) stipulates that such law shall not be deemed to be an amendment of the Constitution for the purposes of Article 368, which deals with the power and procedure to amend the Constitution. Thus, Article 239AA(3) balances between the interest of NCTD and the Union of India.

45. This constitutional balance has been analyzed in the concurring opinion of Justice Chandrachud in the 2018 Constitution Bench judgment in the following terms:

"While bearing [...] fundamental constitutional principles of a democracy in mind, a balance has to be struck with the second of the above elements which recognises the special status of the NCT. The NCT represents the aspirations of the residents of its territory. But it embodies, in its character as a capital city the political symbolism underlying national governance.

The circumstances pertaining to the governance of the NCT may have a direct and immediate impact upon the collective welfare of the nation. This is the rationale for the exclusion of the subjects of public order, police and land from the legislative power and necessarily from the executive power of the NCT. These considerations would necessarily require a careful balance between the two principles."

46. Thus, it is evident that the Legislative Assembly of NCTD does not exercise exclusive legislative powers over all the entries in the State List. It is only in a demarcated constitutional sphere that it is able to exercise its legislative power. Parliament, by virtue of the 1991 Constitution Amedndment, has already reserved certain subjects of national importance to itself. Furthermore, Parliament has overriding legislative powers in relation to NCTD in terms of sub-clauses (b) and (c) of Article 239AA(3) and Article 239AA(7).

The intent and purpose of Article 239AA(3(b) and Article 239AA(7) is to confer an expanded legislative competence upon Parliament, when it comes to GNCTD clearly since it is the capital of the country and therefore, must be dealt with different considerations. In this manner, Parliament acting in its constituent power while introducing Article 239AA has provided sufficient safeguards and was cognizant of the necessity to protect concerns related to national interests.

The Constitution confers powers to Parliament to such an extent that it would have the effect of amending the Constitution. As discussed, the legislative powers of NCTD are limited. If we interpret the phrase "in so far as any such matter is applicable to Union Territories" is interpreted in a manner to exclude a greater number of entries than what is already excluded by Article 239A(3), it will defeat the very purpose of granting a "special status" to NCTD.

F. Inclusive interpretation of "insofar as any such matter is applicable to Union territories"

47. The Union of India submitted that the phrase "insofar as any such matter is applicable to Union territories" is specifically a term of exclusion and not a term of inclusion. It argued that the phrase was introduced to limit the legislative and executive power over entries in List II over and beyond the entries which have been expressly excluded by Article 239AA. We shall now refer to other provisions of the Constitution to analyse the above arguments.

48. The power of Parliament and legislatures of States to legislate upon entries in the Union List, State List and Concurrent List flows from Article 246 of the Constitution. Article 246(3) confers exclusive power to the legislatures of States to make laws for that State with respect to the matters enumerated in the State List. Article 246(4) provides that Parliament has the power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

49. Article 366 provides meanings of various expressions used in the Constitution, unless the context otherwise requires. The provision stipulates that unless the context otherwise requires, the expressions defined in an Article shall have the meanings respectively assigned to them in the provision.

Article 366(26B) provides that 'State' with reference to Articles 246A, 268, 269, 269A and 279A includes a Union Territory with a legislature. Articles 366(26B), incorporated in the Constitution by the Constitution (One Hundred and First Amendment) Act 2016, provides the meaning of 'State' only with reference to five other Articles in the Constitution, to enable the proper functioning of the goods and services tax regime.

However, a universal definition of 'State' has not been provided under Article 366. 50. Article 367(1) provides that unless the context otherwise requires, the General Clauses Act 189711, subject to any adaptations and modifications that may be made therein by any Presidential Order made under Article 372 to bring it in conformity with the provisions of the Constitution, is to apply for the interpretation of the Constitution:

"367(1): Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under Article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India."

51. Article 372(2) stipulates that the President may by order make modifications and adaptations to the provisions of any law in force in the territory of India to bring it in accordance with the provisions of the Constitution. This power under Article 372(3) was only granted to the President for three years and thus, it expired on 25 January 1953.

52. The 1956 Constitution Amendment was introduced to make necessary amendments to the provisions of the Constitution to give effect to the reorganisation of States. Article 372A which was introduced pursuant to the 1956 Constitution Amendment confers on the President the power to make modifications and adaptations in provisions of law, in force in India immediately before the amendment, to bring it in consonance with the provisions of the Constitution.

53. The President amended Section 3(58) of the General Clauses Act by the Adaptation of Laws (No. 1) Order, 1956. Subsequent to the amendment in 1956. Section 3(58) stipulates that the phrase 'State' with respect to any period before the commencement of the 1956 Constitution Amendment shall mean a Part A State, a Part B State, or a Part C State, and with respect to the period after the amendment shall include a State specified in the First Schedule to the Constitution and shall include a Union Territory:

"(58) "State"- (a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and (b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory;]"

54. In Advance Insurance Corporation Limited v. Gurudasmal, 12 the question before a Constitution Bench of this Court was whether the word 'State' in Entry 80 of List I could be read to include Union territories. Entry 80 read as follows:

"80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State."

55. Justice Hidayatullah writing for the Constitution Bench rejected the argument that the amended definition of 'State' under General Clauses Act will not apply to the interpretation of provisions of the Constitution. He observed that Article 372A provides the President with a fresh power of adaptation and this power is equal and analogous to the power that the President held under Article 372(2). This Court held that unless the context otherwise requires, the definition provided under the General Clauses Act and as modified by the order under Article 372A shall be applied.

56. However, a separate Constitution Bench of this Court in Shiv Kirpal Singh v. VV Giri,13 held that definitions under the General Clauses Act as modified by the President under the adaptation order by virtue of the power conferred under Article 372A do not apply to the interpretation of the Constitution. In this case, the issue was whether the phrase "elected members of the Legislative Assemblies of the States" in Article 54 (which constitutes the electoral college for the election of the President) would include the elected members of the Legislative Assemblies of Union territories.

This Court answered in the negative. This Court held that the modifications under Article 372A was limited only to the interpretation of laws of Parliament and would not apply to the interpretation of the Constitution because Article 367 stipulates that the General Clauses Act shall apply to the interpretation of the Constitution, subject to such adaptations made under Article 372. The provision does not provide that the interpretation must also be subject to the adaptation made under Article 372A.

Parliament responded to the anomaly created by the judgment in Shiv Kirpal Singh (supra), and inserted an Explanation to Article 54 by the Constitution (Seventeenth Amendment) Act 1992. The Explanation clarifies that the reference to 'State' in Articles 54 and 55 would include the National Capital Territory of Delhi and the Union Territory of Pondicherry for constituting the electoral college for the election of the President. In Shiv Kirpal Singh (supra), this Court did not refer to the decision in Advance Insurance (supra). Thus, the decision in Shiv Kirpal Singh is per incuriam to the extent of interpretation of Article 372A.

57. The provisions of the General Clauses Act as modified by the President in exercise of the power under Article 372A shall apply to the interpretation of the Constitution. It cannot be held otherwise merely because Article 367 does not refer to Article 372A. To interpret Article 367 in such a manner would render Article 372A and the amendments in the Constitution by the 1956 Constitution Amendment otiose.

The power to make adaptations and modifications was granted to the President by Article 372A to bring the provisions of law in accordance with the Constitution, as amended by the 1956 Constitution amendment. If Article 367 is interpreted as excluding modifications under Article 372A, there would be an apparent inconsistency between the interpretation of the Constitution and the interpretation of statutes.

While in the case of the former, the definition of State prior to the 1956 amendment would apply, in the case of the latter, the definition as amended by the 1956 amendment would apply. Thus, a literal interpretation of Article 367 would render the Constitution unworkable and would not give effect to the 1956 Constitution Amendment. This Court must render a purposive interpretation of Article 367.

Article 367 must be read to mean that the General Clauses Act, as amended by adaptation and modification orders under Article 372 and Article 372A shall apply to the interpretation of the Constitution, unless the context requires. Thus, unless the context otherwise requires, the term "State" in the Constitution must be read to include Union territories. Accordingly, we agree with the interpretation of Article 367 rendered by this Court in Advance Insurance (supra).

58. The findings in Advance Insurance (supra) were later reiterated by this Court in Prem Kumar Jain (supra). In Prem Kumar Jain (supra), a four-Judge Bench of this Court held that Article 372A is a special provision introduced to make the 1956 Constitution amendment workable:

"7. [...] The definition of the expression "State" as it stood before November 1, 1956, became unsuitable and misleading on the coming into force of the Constitution (Seventh Amendment) Act, 1956, from November 1, 1956, and it will, for obvious reasons, be futile to contend that it should have continued to be applicable for all time to come and remained "the final definition of 'State'" merely because the period of three years provided by clause (3)(a) of Article 372 of the Constitution expired and was not extended by an amendment of that clause, or because Article 367(1) was not amended by the Seventh Amendment Act "to say that adaptations made in the General clauses Act otherwise than

those made under Article 372(2) would be applicable to the interpretation of the Constitution". [...]

It was a special provision, and it was meant to serve the purpose of making the Seventh Amendment Act workable. As has been held by this Court in Management of Advance Insurance Co. Ltd. v. Shri Gurudasmal [(1970) 1 SCC 633 : (1970) 3 SCR 881] , Article 372-A gave a fresh power to the President which was equal and analogous to the power under Article 372(2)."

59. We shall now deal with the decisions of this Court which have held that the expression 'State' in Article 246 does not include a Union Territory. In T.M. Kanniyan v. CIT14,, a Constitution Bench of this Court discussed the applicability of Section 3(58) of the General Clauses Act 1897 to Article 246, and held that the inclusive definition of 'State' under the General Clauses Act would not apply to Article 246. Such an interpretation, it was held, would be repugnant to the subject and context of Article 246:

"4. Parliament has plenary power to legislate for the Union territories with regard to any subject. With regard to Union territories there is no distribution of legislative power. Article 246(4) enacts that "Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the state list." R.K. Sen v. Union it was pointed out that having regard to Article 367, the definition of "State" in Section 3(58) of the General clauses Act, 1897 applies for the interpretation of the Constitution unless there is anything repugnant in the subject or context.

Under that definition, the expression "State" as respects any period after the commencement of the Constitution (Seventh Amendment) Act, 1956 "shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory". But this inclusive definition is repugnant to the subject and context of Article 246. There, the expression "States" means the State specified in the First Schedule. There is a distribution of legislative power between Parliament and the legislatures of the States.

Exclusive power to legislate with respect to the matters enumerated in the State List is assigned to the legislatures of the States established by Part VI. There is no distribution of legislative power with respect to Union territories. That is why Parliament is given power by Article 246(4) to legislate even with respect to matters enumerated in the State List.

If the inclusive definition of "State" in Section 3(58) of the General Clauses Act were to apply to Article 246(4), Parliament would have no power to legislate for the Union territories with respect to matters enumerated in the State List and

until a legislature empowered to legislate on those matters is created under Article 239-A for the Union territories, there would be no legislature competent to legislate on those matters; moreover, for certain territories such as the Andaman and Nicobar Islands no legislature can be created under Article 239-A, and for such territories there can be no authority competent to legislate with respect to matters, enumerated in the State List. Such a construction is repugnant to the subject and context of Article 246."

(emphasis supplied)

60. The position that Section 3(58) of the General Clauses Act is inapplicable to Article 246 was reiterated by a nine Judge Bench of this Court in NDMC v. State of Punjab15. The Seventh Schedule was inserted under Article 246. In view of the position laid down in Kanniyan (supra) and NDMC (supra), the word "State" used in entries in the Seventh Schedule would also not include Union Territories. Thus, the legislative competence of NCTD would not extend to entries which mention 'State'. The usage of the phrase "insofar as such matter is applicable to Union Territories" was included to avert such a consequence. The phrase has extended the legislative power of NCTD to all the entries in List II, which use the word "State".

61. Any amendment to the State List as well as the Concurrent List, being an amendment to the Seventh Schedule must be in accordance with Article 368 of the Constitution. The proviso to Article 368(2) of the Constitution stipulates that an amendment to the Seventh Schedule would need a special majority of two-thirds of the members of each House of Parliament present and voting. The amendment would also need to be ratified by the legislatures of not less than one-half of the States.

If the phrase "insofar as such matter is applicable to Union Territories" was not included in Article 239AA, Parliament and the Legislature of States would have been required to amend all entries in the Seventh Schedule where the term "State" is used to "State and Union territories". This would have required a special majority. It was to avoid this time consuming process that the expansive phrase of "insofar as such matter is applicable to Union Territories" was used in Article 239AA.

62. Article 239AA expressly excludes entries 1,2, and 18 of List II from the ambit of the legislative competence of the Legislative Assembly of NCTD. Article 239AA also stipulates that the legislative power of NCTD is excluded with respect to entries 64,65, and 66 of List II insofar as they relate to entries 1,2, and 18.

Entry 1 deals with public order, Entry 2 deals with police, and Entry 18 deals with Land. Entry 64 deals with "offences against laws with respect to any of the matters in this List", Entry 65 states "jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List", and Entry 66 states "fees in respect of any of the matters in this List, but not including fees taken in any court".

The exclusion of entries 64,65, and 66 to the extent that it relates to entries 1,2, and 18 from the legislative competence of NCTD indicates that the governance structure envisaged in Article 239AA for NCTD was only to exclude the specific entries 1, 2, and 18 from its legislative competence. To read the phrase "insofar as such matter is applicable to the Union Territories" as introducing an implied exclusion of the legislative powers of NCTD with respect to certain other entries would be contrary to the plain meaning of the provision.

63. Article 239AA establishes a Legislative Assembly for NCTD. The seats in the Assembly are filled by a direct election from the constituencies of NCTD. The Legislative Assembly of NCTD embodies the constitutional principle of representative democracy similar to the Legislative Assembly of the State. The members of the Legislative Assembly of NCTD are selected by the electorate of Delhi to represent their interests.

Article 239AA must be interpreted to further the principle of representative democracy.16 To interpret the phrase "insofar as any such matter is applicable to Union territories" in a restrictive manner would limit the legislative power of the elected members of the assembly. The members of the Legislative Assembly have been chosen by the electorate to act in their stead. Thus, the legislative competence of NCTD must be interpreted to give full impetus to the will of the electorate.

64. We find that the phrase 'insofar as any such matter is applicable to Union Territories' in Article 239AA(3) cannot be read to further exclude the legislative power of NCTD over entries in the State List or Concurrent List, over and above those subjects which have been expressly excluded by the provision.

G. "Subject to the provisions": A limitation?

65. It has been emphasized by the Union of India that Article 239AA not only restricts the powers of the Legislative Assembly of NCTD through the phrase "insofar as any such matter is applicable to Union Territories" but also through the restrictive phrase of "Subject to the provisions of this Constitution".

66. The phrase "Subject to the provisions of this Constitution" is not unique to Article 239AA. It has been used in twenty-two provisions of the Constitution.

Notably, the phrase has also been used in the provisions dealing with the legislative power of Parliament and the State Assemblies (Article 245) 17 as well as in the provisions dealing with the executive power of the Union (Article 73(2))18 and of the States (Article 162(3))19. The phrase is used to indicate that the legislative power and competence exercised by a legislature must be within the limits circumscribed by the Constitution.

Those boundaries may differ on a case to case basis. For instance, a law made by a legislature cannot violate the fundamental rights of citizens. Another instance is that Parliament can only enact laws on subjects within its legislative competence. Furthermore, any law made by Parliament or a State Legislature shall be subject to the power of judicial review under Article 32 or Article 226. A Constitution Bench of this Court in the case of Rajendra Diwan v. Pradeep Kumar Ranibala20 held:

"Parliament and the State Legislatures derive their power to make laws from Article 245(1) of the Constitution of India and such power is subject to and/or limited by the provisions of the Constitution. While Parliament can make law for the whole or any part of the territory of India, the State Legislature can only make laws for the State or any part thereof, subject to the restrictions in the Constitution of India.

While Parliament has exclusive power Under Article 246(1) of the Constitution to make laws with respect to the matters enumerated in the Union List, the State Legislature has exclusive power to make laws with respect to matters enumerated in the State List, subject to Clauses (1) and (2) of Article 246. Along with the Union Legislature, the State Legislature is also competent to enact laws in respect of the matters enumerated in the Concurrent List, subject to the provisions of Article 246(1). While the widest amplitude should be given to the language used in one entry, every attempt has to be made to harmonize its contents with those of other Entries, so that the latter may not be rendered nugatory."

(emphasis supplied)

The judgment indicates that the law-making power of even Parliament and State legislatures under Article 245(1) is not absolute. It has to be within the confines of the Constitution. DD Basu, in the Commentary on the Constitution of India discusses the constitutional limitations upon legislative power:21

"As the opening words of Art. 245(1) say, the legislative powers of both the Union and State Legislatures are subject to the other provisions of the Constitution, even though their powers are plenary within the spheres assigned to them respectively by the Constitution. Whether a law has transgressed any of

these limitations is to be ascertained by the Court and if it is found so to transgress, the Court will declare the law to be void. These limitations fall under various categories:

I. The first and foremost is the question of vires or legislative competence.

II. Apart from want of legislative competence, a law may be invalid because of contravention of some positive limitation imposed by the Constitution. In such cases, even though the Legislature had the competence to make a law with respect to the subject-matter of the impugned law, it became invalid because of contravention of some specific prohibition or limitation imposed by the Constitution. Such limitations fall under two heads-

(i) The Fundamental Rights contained in Part III. The effects of the contravention of a Fundamental Right have been fully discussed under Art. 13.

[...]

(ii) Not merely the provisions included in Part III, but any other provision contained in the Constitution (even though it does not confer any fundamental right) constitutes a limitation upon legislative power on two conditions:

(a) That the provision in question is justiciable, that is to say, intended to be and capable of being judicially enforced.

(b) That the provision is mandatory, e.g., Arts. 255: 286, 301, 303-4.

III. In the case of State legislation, there are further limitations, viz., that (a) its operation cannot extend beyond the boundaries of the State, in the absence of a territorial nexus; Another limitation on the legislative power or a ground of unconstitutionality is that the Legislature concerned has abdicated its essential legislative function as assigned to it by the Constitution and has made an excessive delegation of that power to some other body. (b) it must be for the purposes of the State."

The same meaning as referred above has to be applied to the usage of the phrase "Subject to the provisions of this Constitution" in Article 239AA.

67. We therefore hold that the legislative power of NCTD under Article 239AA(3) is to be guided by the broader principles and provisions of the Constitution. The said phrase in Article 239AA(3) must be interpreted to give effect to the underlying principles in the Constitution. It is in this backdrop that we shall consider the next submission made by the Union.

H. The Constitution is not Unitary

68. The Union of India has argued that the Indian Constitution is often referred to as a federal Constitution with a strong unitary bias, and as far as Union Territories are concerned, the Constitution is unitary in form and in spirit. It is submitted that the generic concept of federalism, as applicable to States cannot apply to Union Territories. Thus, it is argued that the phrases "Subject to the provisions of this Constitution" and "in so far as any such matter is applicable to Union territories" are to be interpreted accordingly.

69. To analyse the above argument, it is imperative to understand the concept of federalism as the members of the Constituent Assembly envisioned. Dr. B.R. Ambedkar in one of his seminal speeches before the Constituent Assembly explained the dual polity federal model established under the Constitution22:

"Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government."

(emphasis supplied)

70. Further, when Dr. Ambedkar was questioned in the Constituent Assembly on the centralizing tendency of the Constitution, he responded by saying that:23

"The States, under our Constitution, are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter... It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority than is to be found in any other Federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism, as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our Constitution."

(emphasis supplied)

71. It emerges from the speeches of Dr Ambedkar in the Constituent Assembly that India adopted a federal model, in which the Union and the States were meant to operate within their assigned legislative domains. The States are not subservient to the Union. The legislative domain of the States was exclusive, and cannot be interfered with by the Union. This principle has been reiterated in judgments of this Court.

72. Justice B.P. Jeevan Reddy, in his separate opinion, in S R Bommai v. Union of India24, where federalism was held to be part of the basic structure, held that, the States were independent and supreme in the sphere allotted to them, even if the Constitution has a centraizing drift:

"276. The fact that under the scheme of our Constitution, greater power is conferred upon the Centre vis-à-vis the States does not mean that States are mere appendages of the Centre. Within the sphere allotted to them, States are supreme. The Centre cannot tamper with their powers. More particularly, the courts should not adopt an approach, an interpretation, which has the effect of or tends to have the effect of whittling down the powers reserved to the States."

73. In terms of the above discussion in the Constituent Assembly and the judgment of this Court, it is clear that the Constitution provides States with power to function independently within the area transcribed by the Constitution. The States are a regional entity within the federal model.

The States in exercise of their legislative power satisfy the demands of their constituents and the regional aspirations of the people residing in that particular State. In that sense, the principles of federalism and democracy are interlinked and work together in synergy to secure to all citizens justice, liberty, equality and dignity and to promote fraternity among them. The people's choice of government is linked with the capability of that government to make decisions for their welfare.

74. The principles of democracy and federalism are essential features of our Constitution and form a part of the basic structure.25 Federalism in a multi-cultural, multi-religious, multi-ethnic and multi-linguistic country like India ensures the representation of diverse interests. It is a means to reconcile the desire of commonality along with the desire for autonomy and accommodate diverse needs in a pluralistic society. Recognizing regional aspirations strengthens the unity of the country and embodies the spirit of democracy.

Thus, in any federal Constitution, at a minimum, there is a dual polity, that is, two sets of government operate: one at the level of the national government and the second at the level of the regional federal units. These dual sets of government, elected by "We the People" in two separate electoral processes, is a dual manifestation of the public will. The priorities of these two sets of governments which manifest in a federal system are not just bound to be different, but are intended to be different.

75. While NCTD is not a full-fledged state, its Legislative Assembly is constitutionally entrusted with the power to legislate upon the subjects in the State List and Concurrent List. It is not a State under the First Schedule to the

Constitution, yet it is conferred with power to legislate upon subjects in Lists II and III to give effect to the aspirations of the people of NCTD. It has a democratically elected government which is accountable to the people of NCTD. Under the constitutional scheme envisaged in Article 239AA(3), NCTD was given legislative power which though limited, in many aspects is similar to States.

In that sense, with addition of Article 239AA, the Constitution created a federal model with the Union of India at the centre, and the NCTD at the regional level. This is the asymmetric federal model adopted for NCTD. While NCTD remains a Union Territory, the unique constitutional status conferred upon it makes it a federal entity for the purpose of understanding the relationship between the Union and NCTD. The majority in the 2018 Constitution Bench judgment held that while NCTD could not be accorded the status of a State, the concept of federalism would still be applicable to NCTD:

"122. We have dealt with the conceptual essentiality of federal cooperation as that has an affirmative role on the sustenance of constitutional philosophy. We may further add that though the authorities referred to hereinabove pertain to the Union of India and the State Governments in the constitutional sense of the term "State", yet the concept has applicability to the NCT of Delhi regard being had to its special status and language employed in Article 239AA and other articles."

(emphasis added)

76. Our model of federalism expects a sense of cooperation between the Union at the centre, and the regional constitutionally recognised democratic units. The spirit of cooperative federalism requires the two sets of democratic governments to iron out their differences that arise in the practice of governance and collaborate with each other. The Union and NCTD need to cooperate in a similar manner to the Union and the States. Our interpretation of the Constitution must enhance the spirit of federalism and democracy together. This approach of interpretation is located in the 2018 Constitution Bench judgment, wherein the opinion of the majority held as follows:

"284.7. Our Constitution contemplates a meaningful orchestration of federalism and democracy to put in place an egalitarian social order, a classical unity in a contemporaneous diversity and a pluralistic milieu in eventual cohesiveness without losing identity. Sincere attempts should be made to give full-fledged effect to both these concepts"

77. In the spirit of cooperative federalism, the Union of India must exercise its powers within the boundaries created by the Constitution. NCTD, having a sui generis federal model, must be allowed to function in the domain charted for it

by the Constitution. The Union and NCTD share a unique federal relationship. It does not mean that NCTD is subsumed in the unit of the Union merely because it is not a "State". As the opinion of the majority in 2018 Constitution Bench judgement held:

"Such an interpretation would be in consonance with the concepts of pragmatic federalism and federal balance by giving the Government of NCT of Delhi some required degree of independence subject to the limitations imposed by the Constitution."

The interpretation of Article 239AA(3)(a) in an expansive manner would further the basic structure of federalism.

I. Scope of Legislative and Executive Power between the Union and NCTD

78. Article 239AA(3)(a) indicates that the Legislative Assembly of Delhi shall have the power to make laws for the whole or any part of NCTD with respect to matters in the State List and the Concurrent List, except for entries 1, 2, and 18 of the State List, and entries 64, 65 and 66 insofar as they relate to the entries 1, 2, and 18. Therefore, the legislative power of NCTD is limited to entries it is competent to legislate on.

79. Article 239AA(3)(b) provides that Parliament can "make laws with respect to any matter" for a Union Territory or any part of it. Therefore, the legislative power of Parliament shall extend to all subjects in the State List and the Concurrent List in relation to NCTD, besides of course the Union List. In case of a repugnancy between a law enacted by Parliament and a law made by Legislative Assembly of NCTD, the former shall prevail in terms of Article 239AA(3)(d).

80. The position that emerges from Article 239AA(3) is that NCTD has legislative power over entries in List II with limits (as excluded by the provision) but Parliament's legislative power extends to subjects in all three lists relation to NCTD. As noted previously, the scope of division of legislative and executive powers between the Union and NCTD fell for the consideration in the 2018 Constitution Bench judgment. Interpreting Article 239AA(4), the 2018 Constitution Bench judgment held that the executive power of GNCTD was co-extensive with the legislative power of NCTD.

81. Article 73(1) of the Constitution stipulates that the executive power of the Union shall extend to matters with respect to which Parliament has the power to make laws. The proviso to Article 73(1) provides that the executive power of the Union shall not extend "in any State" to matters with respect to which the

Legislature of the State also has power to make laws unless expressly provided in the Constitution or by a law made by Parliament:

"Article 73. Extent of executive power of the Union- (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend-

To the matters with respect to which Parliament has power to make laws;

[...]

Provided that the executive power referred in sub-clause (a) shall not, save as expressly provided in this Constitution, or in any law made by Parliament, extend to any State to matters with respect to which the Legislature of the State has also power to make laws."

82. Article 162 provides that subject to the provisions of the Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has the power to make laws. The proviso stipulates that with respect to matters which both the Legislature of a State and Parliament have legislative competence, the executive power of the State shall be limited by the Constitution or by any law made by Parliament:

"Article 162. Extent of executive power of State.- Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws.

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof."

83. A combined reading of Articles 73 and 162 indicates that the Union has exclusive executive power over entries in List I. The States have exclusive executive power over entries in List II. With respect to List III, that is, the concurrent list, the Union shall have executive power only if provided by the Constitution or by a law of Parliament. The States shall have executive power over the entries in List III.

However, if a Central legislation or a provision of the Constitution confers executive power to the Union with respect to a List III subject, then the executive power of the State shall be subject to such law or provision. The executive power of the Union "in a State" over matters on which both States and

the Union of India can legislate (that is, the concurrent list) is limited to ensure that the governance of States is not taken over by the Union.

This would completely abrogate the federal system of governance and the principle of representative democracy. It is with this objective in mind that the members of the Constituent Assembly thought it fit to limit the executive power of the Union in a State over matters on which the State also has legislative competence.

84. The principle in Articles 73 and 162 would equally apply to the scope of executive power over matters which are within the legislative competence of both the Union and the GNCTD. This is because the objective of the provisions is to limit the executive power of the Union in the territorial limits where there is an elected government of a federal unit.

85. Both Parliament and the Legislature of NCTD have legislative competence over List II and List III. For the purposes of NCTD, both List II and List III are "concurrent lists". Thus, the delimitation of executive power between Parliament and Government of NCTD with respect to entries in List II and List III are guided by these principles. Both Parliament and the legislature of NCTD have the power to enact laws with respect to List II (subject to the caveat that entries 1,2,and 18; and entries 64, 65, and 66 in as much as they relate to entries 1, 2, and 18 are carved out of the domain of the Legislative Assembly of GNCTD) and List III.

The executive power of NCTD shall extend to all entries in List II and List III, other than the entries expressly excluded in Article 239AA(3). Such power shall be subject to the executive power of the Union (through the Lieutenant Governor) only when the Union has been granted such power by the Constitution or a law of Parliament. Therefore, the executive power of NCTD, in the absence of a law by Parliament, shall extend to all subjects on which it has power to legislate.

86. It was held in the 2018 Constitution Bench judgment that the Lieutenant Governor is bound by the aid and advice of the Council of Ministers under Article 239AA(4) while exercising executive powers in relation to matters falling within the legislative domain of the legislative assembly of NCTD except where he exercises the limited route provided under the proviso to Article 239AA(4).

This limited discretionary power under the proviso, as the Constitution Bench held, ought to be exercised in a careful manner in rare circumstances such as on matters of national interest and finance. The Lieutenant Governor could not refer every matter to the President.26 After analysing the provisions of Article

239AA(4), Government of NCTD Act 199127, and the applicable Transaction of Business Rules 1993, it was held by the majority that:

"284.16. As a natural corollary, the Union of India has exclusive executive power with respect to NCT of Delhi relating to the three matters in the State List in respect of which the power of the Delhi Legislative Assembly has been excluded. In respect of other matters, the executive power is to be exercised by the Government of NCT of Delhi. This, however, is subject to the proviso to Article 239AA(4) of the Constitution.

284.17. The meaning of "aid and advise" employed in Article 239AA(4) has to be construed to mean that the Lieutenant Governor of NCT of Delhi is bound by the aid and advice of the Council of Ministers and this position holds true so long as the Lieutenant Governor does not exercise his power under the proviso to clause (4) of Article 239-AA. The Lieutenant Governor has not been entrusted with any independent decision-making power. He has to either act on the "aid and advice" of Council of Ministers or he is bound to implement the decision taken by the President on a reference being made by him.

284.18. The words "any matter" employed in the proviso to clause (4) of Article 239-AA cannot be inferred to mean "every matter"."

87. In matters which fall outside the legislative powers of NCTD, the doctrine of "aid and advice" does not apply. In those matters, the GNCTD Act and the Transaction of Business Rules of the Government of National Capital Territory of Delhi 199328 shall act as a guide for the exercise of power.

Under Section 41 of the GNCTD Act, the Lieutenant Governor may be required to act in his discretion in respect of which powers or functions which have been delegated to him by the President under Article 239, or where he is required to act in his discretion under a specific provision of law or where he exercises judicial or quasi-judicial functions. Section 41, dealing with the discretion of the Lieutenant Governor, provides that:

"41. Matters in which Lieutenant Governor to act in his discretion.

(1) The Lieutenant Governor shall act in his discretion in a matter-

(i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President; or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final."

88. Accordingly, the Lieutenant Governor may act in his discretion only in two classes of matters. firstly, where the matter deals with issues which are beyond the powers of the Legislative Assembly and where the President has delegated the powers and functions to the Lieutenant Governor in relation to such matter; and secondly, matters which by law require him to act in his discretion or where he is exercising judicial or quasi-judicial functions.

89. Section 44 of the GNCTD Act confers the President the power to make rules regarding the allocation of business to Ministers wherein the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers. It also provides for rules to ensure convenient transaction of business with the Ministers, including the procedure to be adopted in case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

In exercise of the power under Section 44, the President framed the Transaction of Business Rules of the Government of National Capital Territory of Delhi 1993. In his concurring opinion in the 2018 Constitution Bench judgment, Justice Chandrachud held that these Rules provide a mechanism to be followed in matters relating to the executive functions of GNCTD. It was held:

"428. A significant aspect of the Rules is that on matters which fall within the ambit of the executive functions of the Government of NCT, decision-making is by the Government comprised of the Council of Ministers with the Chief Minister at its head Rule 24 deals with an eventuality when the Lieutenant Governor may be of the opinion that any further action should be taken or that action should be taken otherwise than in accordance with an order which has been passed by a Minister.

In such a case, the Lieutenant Governor does not take his own decision. He has to refer the proposal or matter to the Council of Minister for consideration... the Lieutenant Governor has not been conferred with the authority to take a decision independent of and at variance with the aid and advice which is tendered to him by the Council of Ministers. If he differs with the aid and advice, the Lieutenant

Governor must refer the matter to the Union Government (after attempts at resolution with the Minister or Council of Ministers have not yielded a solution).

After a decision of the President on a matter in difference is communicated, the Lieutenant Governor must abide by that decision. This principle governs those areas which properly lie within the ambit and purview of the executive functions assigned to the Government of the National Capital Territory."

(emphasis added)

The above interpretation indicates that in matters in the executive domain of NCTD, it is the elected government of NCTD which is empowered to take decisions. The Lieutenant Governor may request the Minister or the Council of Ministers to reconsider its decision. It is only if difference persists even after attempts at resolution that he may refer the matter to the President, and await the decision.

90. Rule 45 of the Transaction of Business Rules also indicates that the Lieutenant Governor must act within the confines of clauses (3) and (4) of Article 239AA in exercising his executive functions, that is, he shall abide by the "aid and advice" of the Council of Ministers on matters in respect of which NCTD has legislative power. Rule 45 provides:

"The Lieutenant Governor, may by standing orders in writing, regulate the transaction and disposal of the business relating to his executive functions:

Provided that the standing orders shall be consistent with the provisions of this Chapter, Chapter V and the instructions issued by the Central Government for time to time.

Provided further that the Lieutenant Governor shall in respect of matters connected with 'public order', 'police' and 'land' exercise his executive functions to the extent delegated to him by the President in consultation with the Chief Minister, if it is so provided under any order issued by the President under article 239 of the Constitution.

Provided further that 'standing orders" shall not be inconsistent with the rules concerning transaction of business."

(emphasis supplied)

91. The Rule provides that the Lieutenant Governor may issue standing orders relating to "his executive functions", which must be consistent with the Rules of Business as a whole. As an exception to the Rule, only "in respect of matters

connected with 'public order', 'police' and 'land'", which are matters outside the legislative domain of NCTD under Article 239AA(3)(a), he may "exercise his executive functions to the extent delegated to him by the President".

The second part of this proviso further indicates that in matters outside the legislative domain of NCTD, the Lieutenant Governor may be required to consult with the Chief Minister, if it is so provided under any order issued by the President under Article 239 of the Constitution. This Rule thus clarifies that the Lieutenant Governor may exercise his executive function in relation to matters outside the legislative purview of NCTD only "to the extent delegated to him by the President".

As a matter of principle, in the discharge of executive functions within the domain of NCTD, the Lieutenant Governor must abide by the "aid and advice" of the Council of Ministers in the manner indicated in the Rules. Rule 46 thus needs to be construed accordingly.

92. Rule 46 deals with the power of the Lieutenant Governor with respect to persons serving in connection with the "administration" of NCTD. Rule 46 provides that:

"46. (1) With respect to persons serving in connection with the administration of the National Capital Territory, the Lieutenant Governor shall, exercise such powers and perform such functions as may be entrusted to him under the provisions of the rules and orders regulating the conditions of service of such persons or by any other order of the President in consultation with the Chief Minister, if it is so provided under any order issued by the President under Article 239 of the Constitution.

(2) Notwithstanding anything contained in sub-rule (1) the Lieutenant Governor shall consult the Union Public Service Commission on all matters on which the Commission is required to be consulted under clause (3) of Article 320 of the Constitution; and in every such case he shall not make any order otherwise than in accordance with the advice of the Union Public Services Commission unless authorised to do so by the Central Government.

(3) All correspondence with Union Public Service Commission and the Central Government regarding recruitment and conditions of service of persons serving in connection with the administration of National Capital Territory shall be conducted by the Chief Secretary or Secretary of the Department concerned under the direction of the Lieutenant Governor."

(emphasis supplied)

The Rule provides that the Lieutenant Governor shall exercise such powers and functions with respect to persons serving in the "administration" of NCTD, "as may be entrusted to him under the provisions of the rules and orders regulating the conditions of service of such persons or by any other order of the President". The term "administration" in this Rule must be considered in the context of Article 239AA(3) and Section 41 of the GNCTD Act.

The executive administration by the Lieutenant Governor, in his discretion, can only extend to matters which fall outside the purview of the powers conferred on the Legislative Assembly but it extends to powers or functions entrusted or delegated to him by the President" or "in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions". The term "administration" cannot be understood as the entire administration of GNCTD. Otherwise, the purpose of giving powers to a constitutionally recognised and democratically elected government would be diluted.

93. Therefore, the phrase "persons serving in connection with the administration of the National Capital Territory" in Rule 46 shall refer only to those persons, whose administration is linked with "public order", "police", and "land" which are subjects outside the domain of NCTD.

94. However, as noted in the concurring opinion of Justice Chandrachud in the 2018 Constitution Bench judgment, Section 49 of the GNCTD Act confers an overriding power of general control to the President. According to Section 49, "the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President." The directions of the President are in accordance with the "aid and advice" of the Council of Ministers of the Union of India.

95. Thus, the scope of the legislative and executive powers of the Union and NCTD that has been discussed under this section is multi-fold. Under Article 239AA(3)(a), the legislative power of NCTD extends to all subjects under the State List and the Concurrent List, except the excluded entries. As the 2018 Constitution Bench judgment held, the executive power of GNCTD is coextensive with its legislative power. In other words, the executive power of GNCTD extends to all subjects on which its Legislative Assembly has power to legislate.

The legislative power of the Union extends to all entries under the State List and Concurrent List, in addition to the Union List. The executive power of the Union, in the absence of a law upon it executive power relating to any subject in

the State List, shall cover only matters relating to the three entries which are excluded from the legislative domain of NCTD.

As a corollary, in the absence of a law or provision of the Constitution, the executive power of the Lieutenant Governor acting on behalf of the Union Government shall extend only to matters related to the three entries mentioned in Article 239AA(3)(a), subject to the limitations in Article 73. Furthermore, if the Lieutenant Governor differs with the Council of Ministers of GNCTD, he shall act in accordance with the procedure laid down in the Transaction of Business Rules.

However, if Parliament enacts a law granting executive power on any subject which is within the domain of NCTD, the executive power of the Lieutenant Governor shall be modified to the extent, as provided in that law. Furthermore, under Section 49 of the GNCTD Act, the Lieutenant Governor and the Council of Ministers must comply with the particular directions issued by the President on specific occasions.

96. Now, we turn to the present reference before us regarding the scope of the legislative and executive powers of NCTD and the Union over "services" under Entry 41 of the State List. Based on the discussion in this section, NCTD shall have legislative power to make laws on "services". This is because "services" (that is, Entry 41) is not expressly excluded in Article 239AA(3)(a).

As it has legislative power, it shall have executive power to control "services" within NCTD. However, we will need to address the argument of the Union of India that the provisions of the Constitution exclude "services" from the legislative and executive control of NCTD to form a conclusive opinion on the issue. The subsequent sections of this judgment deal with the above questions.

J. Triple chain of accountability: Civil Servants in a Cabinet Form of Government

97. Before discussing the question regarding the applicability of Part XIV to NCTD, it would be appropriate to discuss the principles which will guide our analysis on Part XIV. A discussion on the role of civil services in a Westminster-style Cabinet Form of Government is necessary to understand the issues at stake.

(a) Role of civil services in a modern government

98. Civil services form an integral part of modern government. Professor Herman Finer, in his classic work titled "The Theory and Practice of Modern Governance", states that "the function of civil service in the modern state is not

merely an improvement of government; for without it, indeed, government itself would be necessarily impossible."29 The efficacy of the State and the system of responsible government to a large part depend upon professionals, who embody the institution of a competent and independent civil service.

99. The policies of the government are implemented not by the people, Parliament, the Cabinet, or even individual ministers, but by civil service officers. Elaborating on the indispensable position of civil services in a parliamentary system of government, DD Basu in his commentary on the Constitution of India states:

"A notable feature of the Parliamentary system of government is that while the policy of the administration is determined and laid down by ministers responsible to the Legislature, the policy is carried out and the administration of the country is actually run by a large body of officials who have no concern with politics."

30 100. A Constitution Bench of this Court in Union of India v. Tulsiram Patel31 dwelt on the ubiquitous nature of the civil service and observed:

"34. The concept of civil service is not new or of recent origin. Governments - whether monarchial, dictatorial or republican - have to function; and for carrying on the administration and the varied functions of the government age number of persons are required and have always been required, whether they are constituted in the form of a civil service or not."

101. In the Indian Constitution, an entire Part, Part XIV, is dedicated to 'services', indicating the great significance which the members of the Constituent Assembly reposed in the civil service officers. During the Constituent Assembly Debates, the civil services were referred to as the "soul of administration" and it was said that the "importance of the civil services cannot be gainsaid."32

Part XIV deals with "Services under the Union and the States". Chapter I comprising of Articles 308 to 313 deals with services, and Chapter II comprising of Articles 315 to 323 deals with Public Service Commissions for the Union and the States. The effectiveness of the elaborate provisions of Part XIV is to a large extent dependent upon the relationship between the ministers and civil service officers.

(b) Accountability of civil servants in a Westminster parliamentary democracy

102. In a democracy, accountability lies with the people who are the ultimate sovereign. The parliamentary form of government adopted in India essentially requires that Parliament and the government, consisting of elected

representatives, to be accountable to the people. The Cabinet consisting of elected representatives is collectively responsible for the proper administration of the country and is answerable to the legislature for its actions. The Constitution confers the legislature the power to enact laws and the government to implement laws.

The conduct of the government is periodically assessed by the electorate in elections conducted every five years. The government is formed with the support of a majority of elected members in the legislature. The government responsible to the legislature is assessed daily in the legislature through debates on Bills, or questions raised during Question Hour, resolutions, debates and no-confidence motions. The government is responsible for the decisions and policies of each of the ministers and of their departments.

This creates a multi-linked chain of accountability, where the legislature is accountable to the people who elected them, and the government is collectively responsible to the legislature. This establishes a link between the electorate and the government. The government is collectively responsible for its actions. The Council of Ministers is accountable to both the legislature and to the electorate. Collective responsibility is an important component of parliamentary democracies.33

103. Civil servants are required to be politically neutral. The day-to-day decisions of the Council of Ministers are to be implemented by a neutral civil service, under the administrative control of the ministers. In order to ensure that the functioning of the government reflects the preferences of the elected ministers, and through them the will of the people, it is essential to scrutinize the link of accountability between the civil service professionals and the elected ministers who oversee them. Since civil service officers constituting the permanent executive exercise considerable influence in modern welfare state democracies, effective accountability requires two transactions:

"one set of officials, such as the bureaucracy, who give an account of their activity, to another set, such as legislators, who take due account and feed their own considered account back into the political system and, through that mechanism, to the people."34

104. In Secretary, Jaipur Development Authority v. Daulat Mal Jain,35 this Court held that an individual minister is answerable and accountable to people for the acts done by the officials working under him. This Court observed that:

"The Government acts through its bureaucrats, who shape its social, economic and administrative policies to further the social stability and progress socially, economically and politically. The Minister is responsible not only for his actions

but also for the job of the bureaucrats who work or have worked under him. He owes the responsibility to the electors for all his actions taken in the name of the Governor in relation to the Department of which he is the head he bears not only moral responsibility but also in relation to all the actions of the bureaucrats who work under him bearing actual responsibility in the working of the department under his ministerial responsibility."

105. In the concurring opinion in the 2018 Constitution Bench decision, Justice Chandrachud highlighted the intrinsic link between government accountability and the principle of collective responsibility. The judgment underscored the responsibility of an individual minister to the legislature for any and every action undertaken by public officials in the department which the minister oversees:

"327. Collective responsibility also exists in practice in situations where ministers have no knowledge of the actions taken by the subordinate officers of their respective departments.

343. Modern government, with its attendant complexities, comprises of several components and constituent elements. They include Ministers who are also elected as members of the legislature and unelected public officials who work on issues of daily governance. All Ministers are bound by a decision taken by one of them or their departments."

106. Civil service officers thus are accountable to the ministers of the elected government, under whom they function. Ministers are in turn accountable to Parliament or, as the case may be. the state legislatures. Under the Westminster parliamentary democracy, civil services constitute an important component of a triple chain of command that ensures democratic accountability. The triple chain of command is as follows:

a. Civil service officers are accountable to Ministers;

b. Ministers are accountable to Parliament/Legislature; and

c. Parliament/Legislature is accountable to the electorate.

107. An unaccountable and a non-responsive civil service may pose a serious problem of governance in a democracy. It creates a possibility that the permanent executive, consisting of unelected civil service officers, who play a decisive role in the implementation of government policy, may act in ways that disregard the will of the electorate.

(c) Accountability of Civil Service Officers in a Federal Polity

108. Our Constitution is federal in character. In a federal polity, a fundamental question which arises is which would be the more appropriate authority to whom the civil service officers would be accountable.

109. As discussed before, a paramount feature of a federal Constitution is the distribution of legislative and executive powers between the Union and the regional units. The essential character of Indian federalism is to place the nation as a whole under the control of a Union Government, while the regional or federal units are allowed to exercise their exclusive power within their legislative and co-extensive executive and administrative spheres.36

110. In a democratic form of Government, the real power of administration must reside in the elected arm of the State, subject to the confines of the Constitution.37 A constitutionally entrenched and democratically elected government needs to have control over its administration.

The administration comprises of several public officers, who are posted in the services of a particular government, irrespective of whether or not that government was involved in their recruitment. For instance, an officer recruited by a particular government may serve on deputation with another government. If a democratically elected government is not provided with the power to control the officers posted within its domain, then the principle underlying the triple-chain of collective responsibility would become redundant.

That is to say, if the government is not able to control and hold to account the officers posted in its service, then its responsibility towards the legislature as well as the public is diluted. The principle of collective responsibility extends to the responsibility of officers, who in turn report to the ministers. If the officers stop reporting to the ministers or do not abide by their directions, the entire principle of collective responsibility is affected.

A democratically elected government can perform, only when there is an awareness on the part of officers of the consequences which may ensue if they do not perform. If the officers feel that they are insulated from the control of the elected government which they are serving, then they become unaccountable or may not show commitment towards their performance.

111. We have already held that the relationship between the Union and NCTD resembles an asymmetric federal model, where the latter exercises its legislative and executive control in specified areas of the State List and the Concurrent List. Article 239AA, which conferred a special status to NCTD and constitutionally entrenched a representative form of government, was incorporated in the Constitution in the spirit of federalism, with the aim that the residents of the capital city must have a voice in how they are to be governed.

It is the responsibility of the government of NCTD to give expression to the will of the people of Delhi who elected it. Therefore, the ideal conclusion would be that GNCTD ought to have control over "services", subject to exclusion of subjects which are out of its legislative domain. If services are excluded from its legislative and executive domain, the ministers and the executive who are charged with formulating policies in the territory of NCTD would be excluded from controlling the civil service officers who implement such executive decisions.

112. In the backdrop of the above discussion on the necessity to provide the control of "services" to GNCTD, we consider the next argument of the Union of India that Part XIV does not envisage "services" for Union Territories.

K. Balakrishnan Committee Report

113. The Union of India relied on the report of the Balakrishnan Committee which led to the 1991 Constitution Amendment and the insertion of Article 239AA to argue that "services" are not available to Union territories. The Statement of Objects and Reasons of the Amending Act referred to the Committee's Report:

"Statement of Objects and Reasons

The question of reorganisation of the administrative set-up in the Union Territory of Delhi has been under the consideration of the Government for some time. The Government of India appointed on 24-12-1987 a Committee [Balakrishnan Committee] to go into the various issues connected with the administration of Delhi and to recommend measures inter alia for the streamlining of the administrative set-up.

The Committee went into the matter in great detail and considered the issues after holding discussions with various individuals, associations, political parties and other experts and taking into account the arrangements in the National Capitals of other countries with a federal set-up and also the debates in the Constituent Assembly as also the reports by earlier Committees and Commissions.

After such detailed inquiry and examination, it recommended that Delhi should continue to be a Union Territory and provided with a Legislative Assembly and a Council of Ministers responsible to such Assembly with appropriate powers to deal with matters of concern to the common man. The Committee also recommended that with a view to ensure stability and permanence the arrangements should be incorporated in the Constitution to give the National Capital a special status among the Union Territories.

2. The Bill seeks to give effect to the above proposals."

114. The Balakrishnan Committee specifically dealt with Entry 41 (relating to services) of the State List. Its report notes that Entry 41 is not available to the Union Territories, as (i) the Entry only mentions 'State' and not 'Union Territory'; (ii) Part XIV of the Constitution only refers to services in connection with the affairs of the State and services in connection with the affairs of the Union; and (iii) administration of the Union Territories is the responsibility of the Union and thus it falls within the purview of 'affairs of the Union'. The Report stated:

"8.1 PUBLIC SERVICES IN THE DELHI ADMINISTRATION

8.1.2. Entry 41 of the State List mentions "State Public Services: State Public Services Commission". Obviously, this Entry is not applicable to Union territories because it mentions only "State" and not "Union territories". This view is reinforced by the fact that the Constitution divides public services in India into two categories, namely, services in connection with the affairs of the Union and services in connection with the affairs of the State as is clear from the various provisions in Part XIV of the Constitution.

There is no third category of services covering the services of the Union territories. The obvious reason is that the administration of the Union territory is the constitutional responsibility of the Union under Article 239 and as such comes under "affairs of the Union". Consequently, the public services for the administration of any Union territory should form part of the public services in connection with the affairs of the Union."

115. The Balakrishnan Committee opined that the setting up of a Legislative Assembly with a Council of Ministers will not disturb the position discussed above. According to the Report:

"Services 9.3.4. By virtue of the provisions in the Constitution, services in connection with the administration of the Union Territory of Delhi will be part of the services of the Union even after the setting up of a Legislative Assembly with a Council of Ministers. This constitutional position is unexceptionable and should not be disturbed. There should, however, be adequate delegation of powers to the Lt. Governor in respect of specified categories of services or posts. In performing his functions under such delegated powers the Lt. Governor will have to act in his discretion but there should be a convention of consultation, whenever possible, with the Chief Minister."

116. The extracts from the Balakrishnan Committee Report were relied upon by Justice Bhushan in his 2019 split judgment to hold that the Legislative Assembly of NCTD does not have the power to make laws under Entry 41 of List II.

117. We do not agree with the reliance on the Balakrishnan Committee Report to rule out the scope of legislative power of NCTD over Entry 41 (services). We reiterate the view expressed in the opinion of the majority in the 2018 Constitution Bench that there is no necessity to refer to the Report to interpret Article 239AA because the judgment authoritatively dealt with the scope of the said Article. It was held:

"277. There can be no quarrel about the proposition that the reports of the Committee enacting a legislation can serve as an external aid for construing or understanding the statute. However, in the instant case, as we have elaborately dealt with the meaning to be conferred on the constitutional provision that calls for interpretation, there is no necessity to be guided by the report of the Committee."

(emphasis supplied)

118. Contrary to the suggestion in the report, the 2018 Constitution Bench judgment provided that NCTD shall have legislative power over all subjects in List II, except the excluded subjects provided in Article 239AA(3)(c).

119. The report of the Balakrishnan Committee was referred to in the Statement of Objects and Reasons of 1991 Constitution Amendment. The Statement of Objects and Reasons can only be referred to the limited extent of understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the amendment, and the purpose of the amendment.38

In RS Nayak v. AR Antulay39,a Constitution Bench of this Court held that the reports of a committee which preceded the enactment of a legislation, reports of joint parliamentary committees, a report of a commission set up for collecting information leading to the enactment are permissible external aids to construction. Thus, the report of the Balakrishnan Committee can be relied on by this Court to understand the intent behind the introduction of Article 239AA.

However, this Court is not bound by the report of a committee to construe specific phrases. It is for this reason that the 2018 Constitution Bench construed the text of Article 239AA contextually with reference to the constitutional structure envisaged for NCTD without relying on the Report of the Balakrishnan Committee.

120. Moreover, the arguments made in the Balakrishnan Committee Report against the inclusion of "services" for NCTD have been rejected by this Court. The argument in the Balakrishnan Committee Report that the use of the word 'State' in an Entry leads by itself to that Entry not being available to the legislature of a Union Territory has been specifically rejected in the concurring

opinion of Justice Chandrachud in the 2018 Constitution Bench in the following terms:

"461. [...] The expression "insofar as any such matter is applicable to Union Territories" cannot be construed to mean that the Legislative Assembly of NCT would have no power to legislate on any subject in the State or Concurrent Lists, merely by the use of the expression "State" in that particular entry. This is not a correct reading of the above words of Article 239-AA(3)(a)."

The concurring opinion refers to Entries 38 and 40 of List II which read thus:

"38. Salaries and allowances of Members of the legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

[...]

40. Salaries and allowances of Ministers for the State."

(emphasis supplied)

Referring to the provisions of the GNCTD Act which deal with these entries, Justice D.Y Chandrachud in his concurring opinion observed that even Parliament did not construe the use of the word 'State' in an Entry to mean that it was not available to Union Territories, as it acknowledged the power of the Legislative Assembly of GNCTD to deal with said issues. We agree with the above observations. The mere use of the word 'state' in the entries will not exclude the legislative competence of NCTD. By that logic, all the entries in List II would be impliedly excluded from the legislative competence of NCTD because list II of the Seventh Schedule is titled 'State list'.

121. Furthermore, the conclusion of the Balakrishnan Report that Entry 41 of the State List of the Seventh Schedule is not available to Union Territories because the Constitution does not envisage a third category of services covering the services of Union territories is contrary to the judgment of this Court in Prem Kumar Jain (supra), which had upheld services for NCTD. The judgment in Prem Kumar Jain (supra) was rendered prior to the Balakrishnan Committee Report of December 1989. The Balakrishnan Committee did not refer to the said judgment. Thus, the report of the Balakrishnan Committee cannot be relied upon determine if "Services" is available to NCTD.

L. Applicability of Part XIV to Union Territories

122. The Union of India has submitted that NCTD does not have legislative competence over Entry 41 of List II because Part XIV of the Constitution does not contemplate any services for Union Territories. It has been argued that the legislative power of NCTD can be restricted if Part XIV does not contemplate services to Union Territories since Article 239AA begins with the phrase "Subject to the provisions of the Constitution".

(a) Meaning of "State" for the purpose of Part XIV of the Constitution

123. It needs to be seen if the phrase "State" in Part XIV of the Constitution includes Union Territory. Article 308 provides the definition of 'State' for Part XIV of the Constitution. Article 308 as it stood prior to the Constitution (Seventh amendment) Act 1956 40 provides as follows:

"308. In this part, unless the context otherwise requires the expression 'State' means a State specified in Part A or Part B of the First Schedule."

124. The States Reorganization Act 1956 and the consequential 1956 amendment altered the provisions of the First Schedule. Prior to the amendment in 1956, States were divided into three categories as specified in Parts A, B and C of the First Schedule of the Constitution. By the seventh amendment, Article 308 was amended and State for the purposes of Part XIV was defined as follows:

"308. In this Part, unless the context otherwise requires, the expression "State" does not include the State of Jammu and Kashmir."

125. In terms of unamended Article 308, the definition of 'State' included Part A and Part B states of the First Schedule and did not include Part C States, since they were administered by the Union. After the 1956 Constitutional Amendment, Article 308 provides an exclusionary definition of 'State' by only excluding the State of Jammu and Kashmir. Article 308 does not provide any clarity on whether "State" includes Union Territories for the purposes of Part XIV.

126. Article 366 defines "State" with reference to Articles 246-A,268, 269-A and Article 279-A to include a Union Territory with Legislature. Article 366 does not apply for the interpretation of any of the provisions in Part XIV of the Constitution. Thus, we must fall back on Article 367. Article 367 stipulates that unless the context otherwise requires, the General Clauses Act shall apply for the interpretation of the Constitution. Section 3(58) of the General Clauses Act defines "State" to mean a State specified in the First Schedule and includes a Union Territory.

127. GNCTD contends that this Court in Prem Kumar Jain (supra) has expressly sanctified the existence of services of a Union Territory by holding that the definition of "State" would include Union territories for the purpose of Article 312 of the Constitution. The Union has argued that the decision in Prem Kumar Jain was limited for the purpose of the IAS (Cadre) Rules 195441 read with the All-India Services Act 1951.

Furthermore, it was argued that the reference to Article 312 made therein has been made without any reference to the import of Article 308. It is the contention of the Union that interpreting the ratio of Prem Kumar Jain in a broad sense would cause violence to the machinery envisaged in Part XIV of the Constitution.

128. In Prem Kumar Jain, the judgment of the High Court of Delhi setting aside the establishment of a joint cadre exclusively for the Union Territories in the IAS was challenged. Article 312 stipulates that Parliament may by law create "All India Services" common to the Union and the States. A joint cadre of all the Union Territories was created under Rule 3(1) of the Indian Administrative Service (Cadre) Rules 1954.42

The creation of a new joint cadre was challenged before the High Court on the ground that it was contrary to Article 312 of the Constitution and the All-India Services Act 1951. It was argued that Article 312 does not contemplate an all-India service common to Union territories because the term "State" in the provision does not include Union territories. The definition of "State" under Rule 2(c) of the 1954 Cadre Rules, which provides that a State means a "State specified in the First Schedule to the Constitution and includes a Union Territory" was also challenged.

129. In that context, the High Court held that Union territories could not be said to be "States", and held the definition of "State" under Rule 2(c) of the Cadre Rules to be ultra vires the Constitution and the All India Services Act 1951. The High Court held that the Union Territories were not "States" for the purpose of Part XIV of the Constitution, in view of the definition of "State" in Article 308, which did not include Part C states before its amendment.

The High Court reasoned that Union territories are successors of Part C States, and accordingly Union Territories were excluded from the definition of 'State' in Part XIV. The High Court declined to place any reliance on the definition of the word 'State' in Section 3(58)(b) of the General Clauses Act, as amended in 1956. The High Court reasoned that only the adaptations made in the General Clauses Act under Article 372(2) applied to the interpretation of the Constitution in view of Article 367(1), and accordingly the adaptations made later, by Article 372A, were inapplicable. The High Court observed that:

'(7) The next question, therefore, is whether the Union Territories are "State" for the purpose of Article 312(1). Article 312 is a part of Chapter XIV of the Constitution, which is significantly entitled "Services under the Union and the States". Part XIV does not create an All India Service. [...] The key to the meaning of the word "State" used in Part XIV including Articles 309 and 312(1) is provided by the interpretation clause in Article 308. Before the Constitution (VII Amendment) Act, 1956 Article 308 was as follows:

"IN this part. unless the context otherwise requires the expression "State" means a State specified in Part A or Part B of the I Schedule". This definition, thus, made it clear that the word "State" in Part XIV was not to include part C States. Union Territories are the successors of the Part C States. It follows, therefore, that they are also expressly excluded from the definition of "State" in Part XIV.

There is nothing particular in the context of Article 313 which would require the word "State" therein to include a Union Territory. Article 367(1) of the Constitution applies to the interpretation of the Constitution the provision of the General Clauses Act as adapted under Article 372(2) of the Constitution. In view of Article 372(2)(a) such an adaptation had to be made within three years from the commencement of the Constitution. The definition of a "State" in section 3(58) of the General Clauses Act as adapted by the Adaptation of laws Order, 1950 issued under Article 372(2) of the Constitution [...]"

(emphasis supplied)

130. In appeal, this Court set aside the judgment of the High Court of Delhi. Firstly, this Court held that in view of the amended definition of the expression "State" under Section 3(58) of the General Clauses Act, as adapted by the Adaptation of Laws Order 1956, there was nothing repugnant to the subject or context to make that definition inapplicable to Part XIV of the Constitution.

This Court reasoned that Article 372A was incorporated in the Constitution since Parliament felt the necessity of giving a power akin to Article 372 to the President for the purpose of bringing the provisions of any law in force immediately before the commencement of the 1956 Constitution Amendment in accordance with the provisions of the Constitution, as amended by the 1956 Constitution Amendment. This Court relied on Advance Insurance (supra) to hold that Article 372-A gave a fresh power to the President which was equal and analogous to the power under Article 372(2). This Court held that:

"8. It follows therefore that, as and from November 1, 1956, when the Constitution (Seventh Amendment) Act, 1956, came into force, the President had the power to adapt the laws for the purpose of bringing the provisions of any law in force in India into accord with the provisions of the Constitution. It was

under that power that the President issued the Adaptation of Laws (No. 1) Order, 1956, which, as has been shown, substituted a new clause (58) in Section 3 of the General clauses Act providing, inter alia, that the expression "State" shall, as respects any period after the commencement of the Constitution (Seventh Amendment) Act, 1956, mean "a State specified in the First Schedule to the Constitution and shall include a Union Territory".

It cannot be said with any justification that there was anything repugnant in the subject or context to make that definition inapplicable. By virtue of Article 372A(1) of the Constitution, it was that definition of the expression "State" which had effect from the first day of November, 1956, and the Constitution expressly provided that it could "not be questioned in any court of law". The High Court therefore went wrong in taking a contrary view and in holding that "Union territories are not 'States' for purposes of Article 312(1) of the Constitution and the preamble to the Act of 1951".

That was why the High Court erred in holding that the definition of "State" in the Cadre Rules was ultra vires the All India Services Act, 1951 and the Constitution, and that the Union territories cadre of the service was "not common to the Union and the States" within the meaning of Article 312(1) of the Constitution, and that the Central Government could not make the Indian Administrative Service (Cadre) Rules, 1954 in consultation with the State Governments as there were no such governments in the Union territories."

(emphasis supplied)

131. In Prem Kumar Jain (supra), this Court did not find anything repugnant to the subject or context of Part XIV of the Constitution or Article 312 specifically to make the definition of 'State' in terms of amended Section 3(58)(b) of the General Clauses Act inapplicable. Hence, the expression 'State' as occurring in Part XIV was held to include Union Territories.

In the preceding section of this judgment, we have approved the decision in Advance Insurance (supra) and held that the definition of "State" in Section 3(58) of the General Clauses Act as amended by Adaptation of Laws (No. 1) Order, 1956 must be applied for the interpretation of the Constitution unless the context otherwise requires.

132. The definition provided in the definition clause article should be applied and given effect to for the purposes of the relevant Part of the Constitution. However, when the definition clause is preceded by the phrase 'unless the context otherwise requires', there may be a need to depart from the normal rule if there is something in the context in which such expression occurs to show that the definition should not be applied.43

Section 3(58) of the General Clauses Act, by virtue of Article 367(1) of the Constitution, applies to the construction of the expression 'State' in the Constitution, unless there is something repugnant in the subject or context of a particular provision of the Constitution. The burden is on the party opposing the application of the definition under the General Clauses Act to the interpretation of a constitutional provision to prove that the context requires otherwise.

The Union of India has been unable to suggest that the context of Part XIV suggests otherwise. There is nothing in the subject or context of Part XIV of the Constitution which would exclude its application to Union territories. Rather, the application of the inclusive definition of "State" as provided under Clause 3(58) would render the constitutional scheme envisaged for Union Territories workable.

(b) Omission in Part XIV by the 1956 Constitution Amendment

133. The Union of India has argued that services for a Union Territory are not contemplated in Part XIV of the Constitution because of the conscious omissions by the 1956 Constitution Amendment in Part XIV. There are two prongs to this argument: (i) the words "Part A States" and "Part B States" in Article 308 were substituted by the word "State", simpliciter, instead of States and Union territories; and (ii) while the term 'Raj Pramukh' was omitted in different Articles in Part XIV, the term 'Administrator' was not added.

134. Under erstwhile Article 239, the President occupied in regard to Part C States, a position analogous to that of a Governor in Part A States and of a Rajpramukh in Part B States. Unamended Article 239 envisaged the administration of Part C States by the President through a Chief Commissioner or a Lieutenant Governor to be appointed by them or through the Government of a neighbouring State.

135. The 1956 Constitution amendment was adopted to implement the provisions of the States Re-organization Act 1956. The Seventh Amendment abrogated the constitutional distinction between Part A, B and C States, and abolished the institution of the Rajpramukh on the abrogation of Part B States.

In terms of Section 29 of the 1956 Constitution amendment, Parliament provided for "consequential and minor amendments and repeals in the Constitution" as directed in the Schedule. One of the amendments made in terms of the Schedule was to omit the phrase "Part A or Part B of the First Schedule ", and "Rajpramukh", as occurring in the Constitution. It is necessary to note that the expressions "Part A", "Part B" and "Rajpramukh" were not necessarily substituted by another expression by Parliament.

136. Article 239 as it was amended by the 1956 Constitution Amendment states that subject to any law enacted by Parliament every Union Territory shall be administered by the President acting through an Administrator appointed by them with such designation as they may specify. It is relevant to note that the term 'administrator', at the time of the amendment was not added to any provision of the Constitution other than Article 239. Even within Article 239, the provision did not use the term 'administrator' as a designation. Instead, Article 239 provides that:

"239. Administration of Union Territories

(1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers."

137. Furthermore, it is important to note that Articles 239A and 239AA were inserted much later after the 1956 Constitution Amendment. In 1962, Article 239A was inserted through the Constitution (Fourteenth Amendment) Act 1962, which gives discretion to Parliament to create by law, local legislatures or a Council of Ministers or both for certain Union Territories.

In 1991, Article 239AA was inserted through the 1991 Constitution Amendment to accord NCTD a sui generis status from the other Union Territories, including the Union Territories to which Article 239A applies. Parliament could not have envisaged when the 1956 Constitution Amendment was adopted that Union Territories would have been accorded diverse governance models. Therefore, the argument of the Union on legislative intent by drawing upon the omissions in the Seventh Amendment is not persuasive.

(c) Existence of power and exercise of power

138. It is not in contention that presently, a Public Service Commission for NCTD does not exist. However, the existence of power and the exercise of the power are two different conceptions, and should not be conflated. It is settled law that whether a power exists cannot be derived from whether and how often it has been exercised.

139. In State of Bihar v. Maharajadhiraja Sir Kameshwar Singh,44 the Constitution Bench of this Court rejected the argument that the power to enact a law under Entry 42 of the Concurrent List was a power coupled with a duty. It was held that the Legislature does not have an obligation to enact a law in exercise of its power under the Seventh Schedule:

"19. It was further contended that the power to make a law under entry 42 of List III was a power coupled with a duty, because such law was obviously intended for the benefit of the expropriated owners, and where the Legislature has authorised such expropriation, it was also bound to exercise the power of making a law laying down the principles on which such owners should be compensated for their loss.

While certain powers may be granted in order to be exercised in favour of certain persons who are intended to be benefited by their exercise, and on that account may well be regarded as coupled with a duty to exercise them when an appropriate occasion for their exercise arises, the power granted to a legislature to make a law with respect to any matter cannot be brought under that category, It cannot possibly have been intended that the legislature should be under an obligation to make a law in exercise of that power, for no obligation of that kind can be enforced by the court against a legislative body."

(emphasis supplied)

140. Similarly, in State of Haryana v. Chanan Mal,45 while upholding the constitutional validity of the Haryana Minerals (Vesting of Rights) Act, 1973, after noticing the declaration made in Section 2 of the Mines and Minerals (Regulation and Development) Act, 1957, as envisaged by Entry 54 of the Union List, it was held that exercise and existence of power cannot be conflated:

"24. In the two cases discussed above no provision of the Central Act 67 of 1957 was under consideration by this Court. Moreover, power to acquire for purposes of development and regulation has not been exercised by Act 67 of 1957. The existence of power of Parliament to legislate on this topic as an incident of exercise of legislative power on another subject is one thing.

Its actual exercise is another. It is difficult to see how the field of acquisition could become occupied by a Central Act in the same way as it had been in the West Bengal case even before Parliament legislates to acquire land in a State. Atleast until Parliament has so legislated as it was shewn to have done by the statute considered by this Court in the case from West Bengal, the field is free for State legislation falling under the express provisions of entry 42 of List III."

(emphasis supplied)

141. Article 309 of the Constitution provides for recruitment and conditions of service of persons serving the Union or a State. In terms of Article 309, subject to the provisions of the Constitution, an appropriate legislature may enact a legislation to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with affairs of the Union or any State.

The legislative field indicated in this provision is the same as indicated in Entry 71 the Union List or Entry 41 of the State List of the Seventh Schedule. In terms of the proviso to Article 309, the President for the Union of India or the Governor of the State respectively or such person as they may direct, have the power to make similar rules as a stopgap arrangement until provisions in that behalf are made by the appropriate legislature.

The proviso to Article 309 is only a transitional provision46, as the power under the proviso can be exercised only so long as the appropriate legislature does not enact a legislation for recruitment to public posts and other conditions of service relating to that post. If an appropriate legislature has enacted a law under Article 309, the rules framed under the proviso would be subject to that Act.47 Article 309 provides that:

"309. Recruitment and conditions of service of persons serving the Union or a State Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor 2 *** of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act."

142. The rule-making function under the proviso to Article 309 is transitional. The President with respect to the posts in connection with the affairs of the Union, and the Governor in connection with the affairs of State shall have the power to make rules under the proviso only until a statute is enacted in this connection. Any rule that is made by the President or the Governor shall be "Subject to the provisions of any such Act" made by the appropriate legislature. The exercise of power by the President and the Governor under Article 309 does not in any way restrict the power that is otherwise available under Article 309.

The exercise of rule making power by the President under Article 309 does not substitute the legislative power granted.

143. In Tulsiram Patel (supra), a Constitution Bench of this Court held that the appropriate legislature, to enact laws under Article 309, would depend upon the provisions of the Constitution with respect to legislative competence and the division of powers. This Court further held that the rules framed by the President or the Governor under Article 309 must conform with a statute enacted in exercise of power under Entry 70 of List I and Entry 41 of List II:

"51. Which would be the appropriate Legislature to enact laws or the appropriate authority to frame rules would depend upon the provisions of the Constitution with respect to legislative competence and the division of legislative powers. Thus, for instance, under Entry 70 in List I of the Seventh Schedule to the Constitution, Union Public Services, all-India Services and Union Public Service Commission are subjects which fall within the exclusive legislative field of Parliament, while under Entry 41 in List II of the Seventh Schedule to the Constitution, State public services and State Public Service Commission fall within the exclusive legislative field of the State Legislatures. The rules framed by the President or the Governor of a State must also, therefore, conform to these legislative powers."

(emphasis supplied)

144. The above discussion demonstrates that even if the President has made relevant rules in exercise of his power under the proviso to Article 309, the power of NCTD to legislate on "services" is not excluded. Infact in the next section, we shall be dealing with instances of exercise of legislative power by NCTD under Entry 41 of List II, that is, "services".

145. In view of the above reasons, we hold that Part XIV is applicable to Union territories as well.

M. Exercise of Legislative Power by NCTD on Entry 41

146. It has been argued on behalf of NCTD that numerous laws have been enacted by the Legislative Assembly of Delhi relating to creation of posts and terms and conditions of service. Reliance was placed upon different state services, such the Delhi Fire Services under the Delhi Fire Service Act 2007, Delhi Commission for Safai Karamcharis Act, 2006, Delhi Minorities Commission Act, 1999, Delhi Finance Commission Act, 1994, Delhi Lokayukta and UpaLokayukta Act, 1995, Delhi Commission for Women Act, 1994, and Delhi Electricity Reform Act, 2001. It was argued that these statutes which inter

alia, create posts and details of salary, was enacted in exercise of the subject referable to Entry 41 of the State List.

147. However, Justice Ashok Bhushan in the 2019 split verdict rejected this argument related to Delhi Fire Service Act 2007, as he held that the statute falls under Entry 5 of the State List and not under Entry 41 of the State List. Justice Bhushan held:

"208. We may first notice that the word "services" used in the Act has been used in a manner of providing services for fire prevention and fire safety measures. The word "services" has not been used in a sense of constitution of a service. It is to be noted that fire service is a municipal function performed by local authority. Delhi Municipal Council Act, 1957 contains various provisions dealing with prevention of fire etc.

Further fire services is a municipal function falling within the domain of municipalities, which has been recognised in the Constitution of India. Article 243(W) of the Constitution deals with functions of the municipalities in relation to matters listed in the 12th Schedule. Entry 7 of the 12th Schedule provides for "Fire Services" as one of the functions of the municipalities. The nature of the enactment and the provisions clearly indicate that Delhi Fire Services Act falls under Entry 5 of List II and not under Entry 41 of List II."

148. Article 243W of the Constitution read with Entry 7 of the Twelfth Schedule provides that the legislature of a state may, by law, endow on the municipalities responsibilities with respect to 'fire services'. Under Entry 5 of List II, an appropriate legislature may enact a law related to 'local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration'.

149. The test to determine whether a legislation creates a service under Entry 41 or not has been laid down by this Court. In the Constitution Bench judgment in State of Gujarat v. Raman Law Keshav Lal, 48 while holding that Panchayat Service contemplated under Section 203(1) of the Gujarat Panchayats Act 1961 was a State civil service, it was held that the administration of a service under a State broadly involves the following functions:

(i) the organisation of the Civil Service and the determination of the remuneration, conditions of service, expenses and allowances of persons serving in it;

(ii) the manner of admitting persons to the civil service;

(iii) exercise of disciplinary control over members of the service and power to transfer, suspend, remove or dismiss them in public interest as and when occasion to do so arises. This Court noted:

"21. [...] In the instant case, we feel that there is no compelling reason to hold that the Panchayat Service is not a Civil Service under the State. It is seen that further recruitment of candidates to the Panchayat Service has to be made by the Gujarat Panchayat Service Selection Board constituted by the State Government. Entry 41 of List II of the Seventh Schedule to the Constitution, as mentioned earlier, also refers to State Public Services suggesting that there can be more than one State Public Service under the State.

We have indeed a number of such services under a State e.g. police service, educational service, revenue service etc. State Public Services may be constituted or established either by a law made by the State legislature or by rules made under the proviso to Article 309 of the Constitution or even by an executive order made by the State Government in exercise of its powers under Article 162 of the Constitution. The recruitment and conditions of service of the officers and servants of the State Government may also be regulated by statute, rules or executive orders. The administration of a service under a State involves broadly the following functions:

(i) the organisation of the Civil Service and the determination of the remuneration, conditions of service, expenses and allowances of persons serving in it;

(ii) the manner of admitting persons to civil service;

(iii) exercise of disciplinary control over members of the service and power to transfer, suspend, remove or dismiss them in the public interest as and when occasion to do so arises. [...]"

(emphasis supplied)

150. Thus, to determine whether the power to enact a legislation is traceable to Entry 41 of the State List, it is necessary to examine whether that legislation contains provisions regulating the recruitment, conditions of service, and exercise of control including power to transfer, and suspend. It is with this approach in mind that we need to examine the Delhi Fire Service Act 2007.

151. The Delhi Fire Service Act 200749 was enacted by the Legislative Assembly of NCTD to provide for "maintenance of a fire service and to make more effective provisions for the fire safety prevention and fire safety measures in certain buildings and premises in the National Capital Territory of Delhi and

the matters connected therewith." The Delhi Fire Service Act 2007 is a comprehensive Act which replaced three legislations or, as the case may be, rules which operated in NCTD:

a. The United Provinces Fire Safety Act 1944, as extended to Delhi. The Act was notified by the Governor of the United Provinces in exercise of the powers assumed by him under a Proclamation issued under Section 93 of the Government of India Act 1935. The Act was enacted to constitute and maintain a provincial fire service in the United Provinces for staffing and operating the fire brigades;

b. The Delhi Fire Service (Subordinate Services) Rules 1945 framed under Section 241(1)(b) and Section 241(2)(b) of the Government of India Act 193550; and

c. The Delhi Fire Prevention and Fire Safety Act 1986. The Act which was enacted by Parliament focused on making effective provisions for fire prevention and fire safety measures in the Union Territory of Delhi. It did not contain any provision related to maintenance of a 'fire service'.

152. The purpose of the Delhi Fire Service Act 2007 is to provide for "maintenance of a fire service". Section 2(l) defines 'Fire Service' to mean the Delhi Fire Service constituted under Section 5 of the Act. Section 5 stipulates the constitution of a fire service. In terms of Section 5(a), the Fire Service shall consist of such numbers in several ranks and have such organization and such powers, functions and duties as the Government may determine.

In terms of Section 5(b), the recruitment to, and the pay, allowances and all other conditions of service of the members of the Fire Service shall be such as may be prescribed. Section 3 stipulates that there would be one fire service for the whole of Delhi and all officers and subordinate ranks of the fire service shall be liable for posting to any branch of the Fire Service. Chapter II of the Act provides for the organization, superintendence, control and maintenance of the fire service. Chapter III provides for the control and discipline of the fire service.

153. The Delhi Fire Service is constituted under the Delhi Fire Service Act 2007, enacted by the Legislative Assembly of NCTD. Provisions relating to administration, recruitment and conditions of service have been provided in the framework of the Act. In terms of Section 4, the superintendence of, and control over, the Fire Service vests in the Government, as defined in the Act. Section 6 provides for the classification of posts of the Fire Service into Group A, B, C and D posts. Section 7 stipulates that the Government shall make appointments to any Group A or Group B posts after consultation with the Union Public Service Commission.

Section 8 stipulates the appointment of a Director of the Delhi Fire Service for the direction and supervision of the Fire Service in Delhi. Section 14 stipulates that the Central Civil Services (Conduct) Rules 1964 and the Central Civil Services (Classification, Control and Appeals) Rules 1965 and the Central Civil Services (Pension) Rules 1972, as amended, shall be extended mutatis mutandis to all employees of the Delhi Fire Service.

154. Furthermore, under the powers conferred by Section 63 of the Act, the Lieutenant Governor has notified the Delhi Fire Service Rules 2019, regulating the establishment, organization, and management on the Services. Rule 9 provides that the recruitment to various ranks in Fire Service shall be made in accordance with the recruitment rules notified by the Government. Rule 10 provides that the pay and allowances for various ranks in Fire Service shall be in accordance with the recommendations of the Pay Commission or any other authority as may be appointed by the Government.

155. On an analysis of the provisions of the Delhi Fire Service Act 2007 and the Rules of 2019, it is clear that the statute includes posts, their recruitment process, salary and allowance, disciplinary power and control - all of which are constituents of a "service" under Entry 41 of the State List, as held in Raman Law Keshav Lal (supra).

Thus, the Delhi Fire Service Act 2007 was enacted by the Legislative Assembly of NCTD in exercise of its power under Entry 41 of the State List. 156. NCTD has already exercised its legislative power relating to Entry 41 of the State List. However, the contours of "services" are very broad, and may be related to even "public order", "police", and "land" - which are outside the legislative domain and executive domain of NCTD. The question that then emerges is what "services" are within the domain of NCTD.

N. "Services" and NCTD

157. Now that we have held that NCTD has legislative and executive power with respect to "services" under Entry 41, a natural question that arises is as to the extent of control of NCTD over "services". The question becomes pertinent because the three entries (public order, police, land), which are excluded from the scope of NCTD's legislative power, also have some relation with "services".

This Court must create a distinction between "services" to be controlled by NCTD and the Union in relation to NCTD. The distinction must be drawn keeping in mind the ambit of legislative and executive power conferred upon NCTD by the Constitution, and the principles of constitutional governance for NCTD laid down in the 2018 Constitution Bench judgment.

158. This Court has laid down that the scope of an Entry in the Seventh Schedule needs to be read widely. In IK Saksena v. State of Madhya Pradesh51, a four judge Bench of this Court held that the entries in Schedule VII have to be read in their widest possible amplitude. The Bench held that the area of legislative competence defined by Entry 41 is far more comprehensive than that covered by Article 309:

"32. It is well settled that the entries in these legislative lists in Schedule VII are to be construed in their widest possible amplitude, and each general word used in such entries must be held to comprehend ancillary or subsidiary matters. Thus considered, it is clear that the scope of Entry 41 is wider than the matter of regulating the recruitment and conditions of service of public servants under Article 309. The area of legislative competence defined by Entry 41 is far more comprehensive than that covered by the proviso to Article 309."

(emphasis added)

159. But, in our context, we may not be able to read Entry 41 in relation to NCTD in the widest possible sense because all entries in List II (including Entry 41) need to be harmonized with the limitation laid down in Article 239AA(3)(a) on NCTD's legislative and executive power by excluding matters related to 'public order', 'police', and 'land'.

160. The legislative and executive power of NCTD over Entry 41 shall not extend over to services related to "public order", "police", and "land". However, legislative and executive power over services such as Indian Administrative Services, or Joint Cadre services, which are relevant for the implementation of policies and vision of NCTD in terms of day-to-day administration of the region shall lie with NCTD. Officers thereunder may be serving in NCTD, even if they were not recruited by NCTD.

In such a scenario, it would be relevant to refer, as an example, to some of the Rules, which clearly demarcate the control of All India or Joint-Cadre services between the Union and the States. NCTD, similar to other States, also represents the representative form of government. The involvement of the Union of India in the administration of NCTD is limited by constitutional provisions, and any further expansion would be contrary to the constitutional scheme of governance.

161. We shall take the example of the Indian Administrative Service (Cadre) Rules, 1954, which deal with the posting of IAS Officers. Rule 2(a) defines 'cadre officer' to mean a member of IAS. Rule 2(b) defines 'Cadre post' as any post specified under item I of each cadre in the schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. Rule 2(c) defines 'State' to mean a State specified in the First Schedule of the

Constitution and includes a Union Territory. Rule 2(d) defines 'State Government concerned', in relation to a Joint cadre, to mean the Joint Cadre Authority.

The constitution and composition of a 'Joint Cadre Authority' is understood with reference to the All India Services (Joint Cadre) Rules 1972. The 1972 Rules apply to a "Joint Cadre constituted for any group of States other than the Joint Cadre of Union Territories."52 Rule 3 of the IAS (Cadre) Rules 1954 provides for the constitution of cadres for each State or group of States "as a 'State Cadre' or, as the case may be, a 'Joint Cadre'". Rule 5 empowers the Central Government to allocate cadre officers to various cadres.

In terms of Rule 5(1), the allocation of cadre officers to the various cadres shall be made by the Central Government in consultation with the State Government or the State Government concerned. Rule 7 stipulates that all appointments to cadre posts shall be made "on the recommendation of the Civil Services Board" - by the State Government "in the case of a state cadre", and by the State Government concerned, as defined in Rule 2(d), "in the case of a joint cadre".

Under Rule 11A, the "Government of that State" is provided with powers to take decisions under Rule 7 (and other mentioned rules) in relation to the members of the Joint Cadre Service "serving in connection with the affairs of any of the Constituent States". A combined reading of Rules 2, 7, and 11A indicates that the postings within the State Cadre as well as Joint Cadre of a Constituent State shall be made by the "Government of that State", that is, by the duly elected government.

In our case, it shall be the Government of NCTD. We accordingly hold that references to "State Government" in relevant Rules of All India Services or Joint Cadre Services, of which NCTD is a part or which are in relation to NCTD, shall mean the Government of NCTD.

162. We reiterate that in light of Article 239AA and the 2018 Constitution Bench judgment, the Lieutenant Governor is bound by the aid and advice of the Council of Ministers of NCTD in relation to matters within the legislative scope of NCTD. As we have held that NCTD has legislative power over "services" (excluding 'public order', 'police', and 'land') under Entry 41 in List II, the Lieutenant Governor shall be bound by the decisions of GNCTD on services, as explained above. To clarify, any reference to "Lieutenant Governor" over services (excluding services related to 'public order', 'police' and 'land') in relevant Rules shall mean Lieutenant Governor acting on behalf of GNCTD.

163. The division of administrative powers between the Union and the NCTD as explained in this section must be respected. O. Conclusion 164. In view of the discussion above, the following are our conclusions:

a. There does not exist a homogeneous class of Union Territories with similar governance structures;

b. NCTD is not similar to other Union Territories. By virtue of Article 239AA, NCTD is accorded a "sui generis" status, setting it apart from other Union Territories;

c. The Legislative Assembly of NCTD has competence over entries in List II and List III except for the expressly excluded entries of List II. In addition to the Entries in List I, Parliament has legislative competence over all matters in List II and List III in relation to NCTD, including the entries which have been kept out of the legislative domain of NCTD by virtue of Article 239AA(3)(a);

d. The executive power of NCTD is co-extensive with its legislative power, that is, it shall extend to all matters with respect to which it has the power to legislate;

e. The Union of India has executive power only over the three entries in List II over which NCTD does not have legislative competence;

f. The executive power of NCTD with respect to entries in List II and List III shall be subject to the executive power expressly conferred upon the Union by the Constitution or by a law enacted by Parliament;

g. The phrase 'insofar as any such matter is applicable to Union Territories' in Article 239AA(3) cannot be read to further exclude the legislative power of NCTD over entries in the State List or Concurrent List, over and above those subjects which have been expressly excluded;

h. With reference to the phrase "Subject to the provisions of this Constitution" in Article 239AA(3), the legislative power of NCTD is to be guided, and not just limited, by the broader principles and provisions of the Constitution; and

i. NCTD has legislative and executive power over "Services", that is, Entry 41 of List II of the Seventh Schedule because:

(I) The definition of State under Section 3(58) of the General Clauses Act 1897 applies to the term "State" in Part XIV of the Constitution. Thus, Part XIV is applicable to Union territories; and

(II) The exercise of rule-making power under the proviso to Article 309 does not oust the legislative power of the appropriate authority to make laws over Entry 41 of the State List.

165. We have answered the issue referred to this Constitution Bench by the order dated 6 May 2022. The Registry shall place the papers of this appeal before the Regular Bench for disposal after obtaining the directions of the Chief Justice of India on the administrative side.

.....CJI. [Dr. Dhananjaya Y. Chandrachud]

.....J. [MR Shah]

.....J. [Krishna Murari]

.....J. [Hima Kohli]

.....J. [Pamidighantam Sri Narasimha]

New Delhi;

May 11, 2023

1 "NCTD"

2 "GNCTD"

3 "2015 notification"

4 Government of National Capital Territory of Delhi v. Union of India ("Delhi High Court judgment"), (2016) 232 DLT 196.

5 "2018 Constitution Bench judgment"; (2018) 8 SCC 501

6 "Judgment of the majority"

7 "2019 split verdict"

8 (1976) 3 SCC 473

9 "1956 Constitution Amendment"

10 "1991 Constitution Amendment"

11 "General Clauses Act"

12 (1970) 1 SCC 633

13 AIR 1970 SC 2097

14 (1968) 2 SCR 103

15 1997 (7) SCC 339

16 See Justice Chandrachud's opinion in the 2018 Constitution Bench

17 245. Extent of laws made by Parliament and by the Legislatures of States - (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State. [...]

18 73. Extent of executive power of the Union - (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend - [...].

19 162. Extent of executive power of State - Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws: [...]

20 [2019] 17 SCR 1089

21 Dr DD Basu, Commentary on the Constitution of India, 8th Edn., 2012, Vol. 8, pp. 8749-8753

22 Constituent Assembly Debates, Vol. 7 at p. 33 (4 November 1948)

23 Constituent Assembly Debates, Vol. 11 at p. 976 (25 November 1949)

24 (1994) 3 SCC 1

25 SR Bommai v. Union of India, (1994) 3 SCC 1

26 Para 284.18 (opinion of the majority); Para 475 (concurring opinion of Justice Chandrachud)

27 "GNCTD Act"

28 "Transaction of Business Rules"

29 Herman Finer, The Theory and Practice of Modern Governance (New York: The Dial Press, 1932) at page 1163

30 Dr DD Basu, Commentary on the Constitution of India, 9th Edn., 2018, Vol. 13, page 13991

31 (1985) 3 SCC 398

32 Muniswamy Pillai and BN Munavalli in Constituent Assembly Debates, Vol. 9 (22nd August 1949)

33 Krishna Kumar Singh v. State of Bihar, (2017) 3 SCC 1; Amarinder Singh v. Punjab Vidhan Sabha, (2010) 6 SCC 113; 2018 Constitution Bench judgment.

34 Adam Przeworski, Susan C. Stokes, Bernard Manin, Democracy, Accountability, and Representation (Cambridge University Press 2012), at page 298.

35 (1997) 1 SCC 35

36 SR Bommai v. Union of India, (1994) 3 SCC 1

37 2018 Constitution Bench

38 State of West Bengal v. Subodh Gopal Bose, AIR 1954 SC 92; Bhaiji v. Sub-divisional Officer Thandla, (2003) 1 SCC 692

39 (1984) 2 SCC 183

40 "1956 amendment"

41 1954 Cadre Rules

42 "1954 Cadre Rules"

43 SK Gupta v. KP Jain, (1979) 3 SCC 54; Ichchapur Industrial Coop. Society Ltd. v. Competent Authority, Oil & Natural Gas Commission, (1997) 2 SCC 42; Ratnaprova Devi v. State of Orissa, (1964) 6 SCR 301

44 1952 SCR 889

45 (1977) 1 SCC 340

46 A.B. Krishna v. State of Karnataka, (1998) 3 SCC 495

47 B.S. Vadera v. Union of India, (1968) 3 SCR 575

48 (1980) 4 SCC 653

49 Delhi Fire Service Act 2007, Delhi Act 2 of 2009

50 Section 65, The Delhi Fire Service Act 2007

51 (1976) 4 SCC 750

52 Section 1(i), All India Services (Joint Cadre) Rules 1972

C. Legal Article

PLEA BARGAINING

Plea Bargaining, in the most traditional and general sense, refers to a pre-trial negotiation between the defendant, who is represented by a counsel and the prosecution, during which the defendant agrees to plead guilty in exchange for certain concessions by the prosecutor. Plea Bargaining is further divided into two categories – "charge bargaining", where the negotiation is to reduce or dismiss some of the charges brought against the defendant in exchange for a guilty plea and "sentence bargaining", where the prosecutor promises to recommend a specific sentence or refrain from making any sentence recommendation defendant in exchange for a guilty plea. Despite its resounding success in the countries like the United States of America, there were divided opinions with respect to introducing Plea Bargaining in the Indian criminal justice system. In this article, we will examine all the concerns raised at various public institutions in India with respect to introducing Plea Bargaining in India so that we can proceed, very cautiously to dovetail interests of the society and met demands of the justice system.

Parliament on Plea Bargaining

Plea Bargaining was included in the Code of Criminal Procedure (Cr.P.C) under chapter 21A from Section 265A to Section 265L through the Criminal Law (Amendment) Act, 2005 (2 of 2006) on with effect from 5th July, 2006 as a prescription to the problem of overcrowded jails, overburdened courts and abnormal delays. The amendment inserting the chapter on plea bargaining in the Cr.P.C was first introduced though the Criminal Law Amendment Bill, 2003 in the Rajya Sabha on 12th December, 2005. The Bill was moved by the Minister of Home Affairs, Shivraj V. Patil. The Minister introduced Plea bargaining to the house by saying that when the accused brought before the Court makes a petition to the judge saying he is willing to admit his guilt, the court shall give notice and forward this application to the prosecutor and the defence lawyer and the accused, victim, prosecutor and defence lawyer can meet and discuss as to what should be done in that matter and how that case should be disposed of. Further the Court can go through the records and if the court finds that what has been agreed to between the two parties is quite acceptable, then the court can pass an order on that kind of agreement. However in cases where the punishment that could be awarded is imprisonment of more than seven years, life imprisonment, death sentence or cases in which women and children are involved, or, socio-economic conditions are involved, or, juvenile is involved, plea bargaining in such cases shall not be allowed.

This bill was hugely accepted by the upper house since it was intended to save public money, court's time and was beneficial for both victim and the accused than going to a trial. Though there were concerns also that were raised by some members. MP Ravi Shankar Prasad, who also is the current law minister of India, raised the concern of the rampant illiteracy in India and the understanding of the implications of plea bargaining by an illiterate victim. There are good chances that an accused might take advantage of an illiterate victim during plea bargaining. Second concern raised was regarding having an autonomous mechanism which would ensure that the plea bargaining is conducted in a fair, just and proper manner which is beneficial to both-accused and illiterate victim. Third concern raised was regarding the Police employing unethical, unfair means to coerce the accused to confess the guilt of the crime and apply for plea bargaining since the possibility of such a thing happening is very high in India. Fourth concern raised was with respect to the plea bargaining turning into a business where a person will get himself injured on propose to extract money. One important recommendation that was made in the upper house was that the application filed for plea bargaining should not used anywhere, for any proceedings, either same proceedings or collateral proceeding or by anybody in any place. This bill was passed by the upper house on 13th December, 2005 after few modifications.

The Criminal Law Amendment bill was taken up by the Lok Sabha on 22nd December, 2005. Hon'ble Minister, **Shri Shivraj V. Patil** pointed out few benefits of having plea bargaining before the house like victim could be given compensation of the losses incurred, the disposal of the cases will be quicker and dispensation of criminal justice will also be quicker. Recommendation was made by honourable members for including cases where punishment is death sentence, life sentence and sentences of imprisonment up to seven years, however this was rejected by the honourable minister saying that including these exceptions to plea bargaining was primarily to ensure that accused in all cases are not allowed to go scot-free and the social conditions in which live, these precautions are necessary. References were also made to Islamic criminal jurisprudence where it was claimed that plea bargaining is accepted, even in cases of murder. The Amendment Bill introducing plea bargaining, after an intensive debate, was finally passed by the Lok Sabha on the same day.

Supreme Court of India on Plea Bargaining

The Hon'ble Supreme Court of India has time and again criticised the scheme of plea bargaining as **Justice V.R. Krishna Iyer** in the case of **Murlidhar Meghraj Loya vs. State of Maharastra AIR 1976 SC 1929,** said that:

"Many economic offenders resort to practices the American call 'plea bargaining', 'plea negotiation', 'trading out' and 'compromise in criminal cases' and the trial magistrate drowned by a docket burden nods assent to

the sub rosa anteroom settlement. The businessman culprit, confronted by a sure prospect of the agony and ignominy of tenancy of a prison cell, 'trades out' of the situation, the bargain being a plea of guilt, coupled with a promise of 'no jail'. These advance arrangements please everyone except the distant victim, the silent society. The prosecutor is relieved of the long process of proof, legal technicalities and long arguments, punctuated by revisional excursions to higher courts, the court sighs relief that its ordeal, surrounded by a crowd of papers and persons, is avoided by one case less and the accused is happy that even if legalistic battles might have held out some astrological hope of abstract acquittal in the expensive hierarchy of the justice-system he is free early in the day to pursue his old professions. It is idle to speculate on the virtue of negotiated settlements of criminal cases, as obtains in the United States but in our jurisdiction, especially in the area of dangerous economic crimes and food offences, this practice intrudes on society's interests by opposing society's decision expressed through predetermined legislative fixation of minimum sentences and by subtly subverting the mandate of the law. The jurists across the Atlantic partly condemn the bad odour of purchased pleas of guilt and partly" justify it philosophically as a sentence concession to a defendant who has, by his plea 'aided in ensuring the prompt and certain application of correctional measures to him."

Even **Justice P.N. Bhagwati** in the case of **Kasambhai Abdulrehmanbhai Sheikh Vs. State of Gujarat AIR 1980 SC 854,** had voiced a strong opinion against plea bargaining in his judgment. He said:

"To allow a conviction to be recorded against an accused by inducing him to confess to a plea of guilty on an allurement being held out to him that if he enters a plea of guilty, he will be let off very lightly. Such a procedure would be clearly unreasonable, unfair and unjust and would be violative of the new activist dimension of Article 21 of the Constitution unfolded in ***Maneka Gandhi Vs. Union of India AIR 1978 SC 597 case****. It would have the effect of polluting the pure fount of justice, because it might induce an innocent accused to plead guilty to suffer a light and inconsequential punishment rather than go through a long and arduous criminal trial which, having regard to our combers and unsatisfactory system of administration of justice, is not only long drawn out and ruinous in terms of time and money, but also uncertain and unpredictable in its result and the judge also might be likely to be defected from the path of duty to do justice and he might either convict an innocent accused by accepting the plea of guilty or let off a guilty accused with a light sentence, thus, subverting the process of law and frustrating the social objective and purpose of the anti-adulteration statute. This practice would also tend to encourage corruption and collusion and as a direct consequence, contribute to the lowering of the standard of justice.*

There is no doubt in our mind that the conviction of an accused based on a plea of guilty entered by him as a result of plea-bargaining with the prosecution and the Magistrate must be held to be unconstitutional and illegal."

Commission Reports on Plea Bargaining

The 142nd Report of the Law Commission of India, 1991, which discussed plea bargaining at length, examined the model of plea bargaining in the United States of America and Canada and recommended the same to be incorporated in the Indian legal system for a class of offences, also recorded few objections raised for the introduction of plea bargaining in India. Objections include the country's social condition not justifying the introduction of the concept as India as illiteracy being high in India, people here will not be able to realise the consequences of invoking the scheme involving a confession to a commission of a crime; there being a likelihood of pressure being exercised by the prosecuting agencies on innocent persons to yield confession; the poor will be the ultimate victim of this concept; the counsel representing the accused would be unwilling to advise confession invoking the scheme as the same would lead to the defendant losing faith in the counsel and engaging another one; plea bargaining may increase the incidence of crime as it was pointed out by some that the adoption of this scheme may increaser the incidence of crime because of the expectation/impression that a person may be let off lightly by reason of pleading guilty.

The major justification that the law commission gave for incorporation Plea-bargaining was that the same would be just and fair on the part of accused who feels contrite and wants to make amends or an accused who is honest and candid enough to plead guilty in the hope that the community will enable him to pay the penalty for the crime with a degree of compassion. Further Plea-bargaining would infuse some life in the reformative process embodied in the Code of Criminal Procedure which remains practically unutilized for a long time. It will also help the accused whose trial remains hanging for years to obtain speedy trial with additional benefits like end of uncertainty, saving in litigation cost, saving in anxiety cost and being able to know his/her faith and start a fresh life without the fear of having to undergo a possible prison sentence at a future date disrupting his/her life or career. Plea-bargaining, as per the report, was also in public interest as it would decrease the back-breaking burden of the courts and reduce congestion in the jails. The Committee also noted that about 75% of the total convictions are the result of plea-bargaining in the USA and contrasted it with the 75% - 90% criminal cases resulting in acquittals in India.

The 154th Report of the Law Commission of India, 1996, relying on the 142nd law commission report also recommended the introduction of the scheme of plea bargaining in the Indian criminal jurisprudence. However this report also recommended that plea bargaining should not be available to habitual offenders, those who are accused of socio-economic offences of a grave nature and those who are accused of offences against women and children. The Law Commission in its 177th report, published in 2001, also recommended the incorporation of plea bargaining in the Code of Criminal Procedure based on the reasoning provided in the previous reports.

Even the Committee on Reforms of Criminal Justice System, popularly referred to as the Malimath Committee, in its report strongly recommended the incorporation of plea bargaining in the Code of Criminal Procedure and stated that offences, which are not of serious nature and impacts mainly the victim and not the values of the society, should be settled without a trial and these classes of offences should be made compoundable so that the victim, in the negotiation, can lead the settlement of criminal cases through courts or Plea-bargaining.

Conclusion

Despite several concerns and opposition, Plea bargaining was made a part of the Code of Criminal Procedure as a probable solution to the overcrowding in jails, overburden courts which causes abnormal delays in delivering justice and also to infuse some life in the reformative process of our criminal justice system since it remained practically unused for a long time.

Now, more than ever, India is at crossroads. With innovative investigative tools and the use of technology in pinning down criminal involvement, plea bargaining has a very important role to play in the dispensing of justice- both to the victim and the accused. Its benefits are certainly many. Nonetheless, we need a set of clear and decisive guidelines taking into account the concerns vis-à-vis plea bargaining. It has to be a fair deal- for all. How we proceed with it will certainly portray to the world our commitment to values of fairness and justice.

2. Study Material-G.K.

Mauryan Empire (322-185 BC)

1. Chandra Gupta Maurya (322-298 BC)

- The Maurya Empire was founded by Chandra Gupta Maurya with the help of Chanakya (Kautilya).
- Chandra Gupta Maurya defeated Seleucus Nicator in 305 BC.
- A Greek ambassador Megasthenes was sent to the court of Chandra Gupta by Seleucus Nicator.
- Chandra Gupta became Jain in the last stage of life.
- The whole of Northern India was united for the first time.

2. Bindusara (298-273 BC)

- He succeeded Chandragupta Maurya.
- Bindusara was known as Amitrochates to the Greeks, probably derived from the Sanskrit word Amitraghata.
- He is believed to have reigned the Deccan (upto Mysore).
- He patronised Ajivikas.

3. Ashoka (273 BC- 232 BC)

- Ashoka was the son of Bindusara who successed him, by usurping the throne after killing his 99 brothers and spared Tissa, the youngest one.
- Ashoka fought the Kalinga war in 261 BC. He abandoned the policy of physical occupation after he was moved by the massacre in this war.

Ashokan 14 Major Rock Edicts

S.N.	Information
1.	Prohibition of animal sacrifices and festive gatherings
2.	Measures of social welfare.
3.	Respect to Brahamanas
4.	Courtesy to relatives, elders, consideration for animals.
5.	Appointment of Dhamma Mahamatras and their duties.
6.	Need for efficient organisation of administration (orders to Dhamma Mahamatras).
7.	Need for tolerance among all religious sects.
8.	System of Dhamma-yatras.
9.	Attack on meaningless ceremonies and rituals.

10.	Conquest through Dhamma instead of war
11.	Explanation of Dhamma-policy
12.	Appeal for tolerance among all religious sects
13.	Kalinga war, mention 5 contemporary Hellenic (Greek) kings
14.	Inspiration to spend religious life.

Gupta Empire (320-550 AD)

- The fall of Kushan empire towards the middle of 3 AD century led to the establishment of the empire of Guptas.
- This period is generally known as "Golden Age."
- Sri Gupta was the founder of Gupta Dynasty.
- He was followed by his son Ghatotkacha & was followed by his son Chandragupta I.

1. Chandragupta I (320–336 AD)

- Chandragupta-I succeeded his father Ghatottotkacha in A.D. 320.
- Chandragupta-I was considered to have laid the foundation of the great Gupta Empire. He was married to a **Lichchhavi princess Kumaradevi. The Lichchhavis were related to Gautama Buddh.**
- The Lichchhavis were an old and established Ganarajya and quite powerful and still being respected in north India.
- The marriage alliance of Chandragupta-I was important for his political career as is proved by the coins Chandragupta I. These coins portray the figures of Chandragupta and Kumaradevi with the name of the Lichchhavis.
- In the Allahabad inscription, Samudragupta son of Chandragupta-I and Kumaradevi, proudly called himself **Lichchhavis 'Dauhitra' i.e. son of the daughter of Lichchhavis.**
- He was the first Gupta king to adopt the title **'Maharajadhiraja'** and issued gold coins. Chandragupta-I introduced a new era called Gupta era.

2. Samudragupta (336-375 AD)

- Samudragupta succeeded his father Chandragupta-I. He earned a reputation as one of the greatest kings and conquerors. He was chosen by his father as his successor because of his qualities that would make him into a good king.
- The Allahabad pillar inscription gives a detailed account of the career and personality of Samudragupta.

- Harishena one of the officials composed the inscription and engraved on the Ashoka's pillar at Allahabad.
- Samudragupta was a great military general. He had a long list of the kings and rulers whom he defeated and subdued as a part of his military achievements. He uprooted nine kings and princes from the Aryavarta and annexed their kingdom.
- Samudragupta performed **'Ashvamedhayajna'** after his several conquests and issued gold coins depicting the sacrificial horse and bearing the legend, which conveying that he performed the Ashvamedha sacrifice.
- Samudragupta was a versatile genius. He was called as **'Kaviraja' i.e. the king of poets.** He was proficient in war and sastras as well.
- The Allahabad pillar inscription calls him a great musician. This is also confirmed by his lyricist type of coins, which shows him playing veena (lute).
- Samudragupta patronized learned men in his court and appointed them as his ministers.
- Samudragupta died in about A.D. 375 and was succeeded by his son Chandragupta II.

3. Chandragupta II (376 - 415 CE)

- Chandragupta II was the son of Samudragupta and Dattadevi and he was chosen by his father as his successor.
- The Gupta Empire reached its highest glory, both in terms of territorial expansion and cultural excellence under Chandragupta II.
- Chandragupta II had inherited a strong and consolidated empire from his father Samudragupta.
- Chandragupta II had established a matrimonial alliance with Vakatakas by marrying his daughter Prabhavatigupta with Rudrasena-II of the Vakataka dynasty.
- Chandragupta-II made an alliance with the Vakatakas before attacking the Sakas so as to be sure of having a friendly power to back him up in Deccan.
- Prabhavatigupta acted as a regent on behalf of her two minor sons after the death of her husband Rudrasena II.
- Chandragupta-II's victory over the mighty Sakas dynasty was his foremost success. The annexation of Sakas's kingdom comprising Gujarat and part of Malwa strengthened the Gupta Empire, but also brought it into direct touch with western sea ports. This gave a great motivation to foreign trade and commerce.

- Ujjain, a major centre of trade, religion, and culture became the second capital of the Gupta Empire after the conquest. After the victory over Sakas, Chandragupta-II adopted the title of '**Vikramaditya.'**
- Chandragupta-II issued dated silver coins to commemorate his victory over **Saka kshatrapas.**
- The king Chandra is generally identified as Chandragupta-II. This would mean his kingdom extended from Bengal to the north-west frontiers. Chandragupta-II's reign is remembered for his patronage of literature and arts and for the high standard of artistic and cultural life.
- **Kalidas,** the great Sanskrit poet was a member of Chandragupta-II's court.
- **Fa-Hien,** the Chinese Buddhist pilgrim visited India between A.D. 405 and A.D. 411. He visited for collecting Buddhist manuscripts and text and studying at Indian monasteries

4. Kumaragupta I (415 CE - 455 CE)

- Chandragupta-II died about A.D. 413. His son Kumaragupta became the next king.
- Kumaragupta ruled for more than forty years. He performed an Ashvamedha sacrifice; though his military achievements are not known.
- Kumaragupta issued **Ashvamedha type of coins** like his grandfather, Samudragupta.
- The epigraphic records show that he organised the administration of vast empire and maintained its peace, prosperity, and security for a long period of forty years.
- The Gupta Empire was challenged by the **Pushyamitras** at the end of Kumaragupta's reign.
- Pushyamitras were living on the banks of the Narmada.

5. Skandagupta (455 - 467 CE)

- Skandagupta was the son of Kumaragupta-I.
- Skandagupta's reign seems to have been full of wars. He struggled with his brother Purugupta.
- Hunas were the greatest enemies of Gupta's empire during this period.
- Hunas were a ferocious barbarian horde. They lived in central Asia.
- Skandagupta successfully defeated the Hunas. So they did not dare to disturb the Gupta Empire for half a century. Though they continue to disconcert Persia during this period.
- The important event of Skandagupta's reign was the restoration and repair of the dam on Sudarsana Lake after 8 hundred years of construction. It was built during Chandragupta Maurya's reign.

- Sudarsana Lake was also repaired previously during the reign of Saka kshatrapa Rudradaman I.

Important Officials in Gupta Period

Official	Field of Work
Maha Pratihari	Chief usher of Royal Palace
Dandapashika	Chief officer of the Police department
Mahaprajapati	Chief officer of elephant corps
Vinayasthitisthapak	Chief officer of religious affairs
Mahashvapati	Chief of Cavalry
Mahadandanayaka	Minister of Justice

Decline of Guptas

- The Gupta dynasty continued to be in existence for more than 100 years after the death of Skandagupta in A.D. 467.
- Skandagupta was succeeded by his brother Purugupta. Nothing is known about his achievements.
- **Budhagupta** was the only Gupta ruler who continued to rule over a large part of the empire.
- Budhagupta inscriptions have been found from Bengal, Bihar, Uttar Pradesh, and Madhya Pradesh.
- Huna's leader, Toramana attacked Gupta Empire in A.D. 512. He conquered a large part of north India up to Gwalior and Malwa.
- Toramana was succeeded by his son Mihira kula. He founded his capital at Sakala (Sialkot).
- Huna ruled in India for a very short period, but the Gupta Empire suffered much from it.
- Huna rule was one of the shortest instances of foreign rule over India.
- Hiuen-Tsang describes that Mihirkula invaded Magadha. He was defeated and captured by the Gupta king Baladitya. It is also mentioned that Mihirkula's life was saved at the intervention of the queen mother of Magadha.
- Inscription from Malwa mentioned that Yasovarman was a powerful local ruler of Malwa. He also defeated Mihirakula (Huna Ruler).

* * * * * * * * *

3. Study Material-Language

Antonyms

A

Absent - Present	Alive - Dead	Appear - Disappear, Vanish
Abundant - Scarce	All - None, Nothing	Approve - Disapprove
Accept - Decline, Refuse	Ally - Enemy	Arrive - Depart
Accurate - Inaccurate	Always - Never	Artificial - Natural
Admit - Deny	Ancient - Modern	Ascend - Descend
Advantage - Disadvantage	Answer - Question	Attic - Cellar
Against - For	Antonym - Synonym	Attractive - Repulsive
Agree - Disagree	Apart - Together	Awake - Asleep

B

Backward - Forward	Better - Worse, Worst	Brave - Cowardly
Bad - Good	Big - Little, Small	Build - Destroy
Beautiful - Ugly	Black - White	Bold - Meek, Timid
Before - After	Blame - Praise	Borrow - Lend
Begin - End	Bless - Curse	Bound - Unbound, Free
Below - Above	Bitter - Sweet	Boundless - Limited
Bent - Straight	Borrow - Lend	Bright - Dim, Dull
Best - Worst	Bottom - Top	Brighten - Fade
	Boy - Girl	Broad - Narrow

C

Calm - Windy, Troubled	Clockwise - Counterclockwise	Conceal - Reveal
Can - Cannot, Can't	Close - Far, Distant	Contract - Expand
Capable - Incapable	Closed - Ajar, Open	Cool - Warm
Captive - Free	Clumsy - Graceful	Correct - Incorrect, Wrong
Careful - Careless	Cold - Hot	Courage - Cowardice
Cheap - Expensive	Combine - Separate	Create - Destroy
Cheerful - Sad, Discouraged, Dreary	Come - Go	Crooked - Straight
	Comfort - Discomfort	Cruel - Kind
Clear - Cloudy, Opaque	Common - Rare	Compulsory - Voluntary
Clever - Stupid		Courteous - Discourteous, Rude

D

Dangerous - Safe	Deep - Shallow	Diseased - Healthy
Dark - Light	Definite - Indefinite	Down - Up
Day - Night	Demand - Supply	Downwards - Upwards
Daytime - Nighttime	Despair - Hope	Dreary - Cheerful
Dead - Alive	Dim - Bright	Dry - Moist, Wet

Decline - Accept, Increase Decrease - Increase	Disappear - Appear Discourage - Encourage	Dull - Bright, Shiny Dusk - Dawn

E

Early - Late East - West Easy - Hard, Difficult Empty - Full	Encourage - Discourage End - Begin, Start Enter - Exit Even - Odd	Expand - Contract Export - Import Exterior - Interior External - Internal

F

Fade - Brighten Fail - Succeed False - True Famous - Unknown Far - Near Fast - Slow Fat - Thin Feeble - Strong, Powerful	Few - Many Find - Lose First - Last Float - Sink Foolish - Wise Fore - Aft Free - Bound, Captive Fold - Unfold	Forget - Remember Found - Lost Fresh - Stale Frequent - Seldom Friend - Enemy For - Against Fortunate - Unfortunate Full - Empty

G

Generous - Stingy Gentle - Rough Get - Give Giant - Tiny, Small, Dwarf Girl - Boy	Give - Receive, Take Glad - Sad, Sorry Gloomy - Cheerful Go - Stop Good - Bad, Evil	Grant - Refuse Great - Tiny, Small, Unimportant Grow - Shrink Guest - Host Guilty - Innocent

H

Happy - Sad Hard - Easy Hard - Soft Harmful - Harmless Harsh - Mild Hate - Love Haves - Have-Nots	Healthy - Diseased, Ill, Sick Heaven - Hell Heavy - Light Help - Hinder Here - There Hero - Coward High - Low	Hill - Valley Hinder - Help Honest - Dishonest Horizontal - Vertical Hot - Cold Humble - Proud

I

Ill - Healthy, Well Immense - Tiny, Small Important - Trivial In - Out Include - Exclude Increase - Decrease	Inferior - Superior Inhale - Exhale Inner - Outer Inside - Outside Intelligent - Stupid, Unintelligent	Interesting - Boring Interior - Exterior Interesting - Dull, Uninteresting Internal - External Intentional - Accidental

J

Join - Separate	Junior - Senior Just - Unjust	Justice - Injustice

K

Knowledge - Ignorance	Known - Unknown

L

Landlord - Tenant Large - Small Last - First Laugh - Cry Lawful - Unlawful, Illegal Lazy - Industrious Leader - Follower Left - Right Lend -Borrow	Lengthen - Shorten Lenient - Strict Left - Right Less - More Light - Dark, Heavy Like - Dislike, Hate Likely - Unlikely Limited - Boundless Little - Big	Long - Short Loose - Tight Lose - Find Loss - Win Loud - Quiet Love - Hate Low - High Loyal - Disloyal

M

Mad - Happy, Sane Major - Minor Many - Few Mature - Immature Maximum - Minimum	Melt - Freeze Merry - Sad Messy - Neat Minor - Major	Minority - Majority Miser - Spendthrift Misunderstand - Understand More - Less

N

Nadir - Zenith Narrow - Wide Near - Far, Distant Neat - Messy, Untidy	Never - Always New - Old Night - Day Nighttime - Daytime	No - Yes Noisy - Quiet None - Some North - South

O

Obedient - Disobedient Odd - Even Offer - Refuse Old - Young	Old - New On - Off Open - Closed, Shut Opposite- Same, Similar	Optimist - Pessimist Out - In Outer - Inner Over - Under

P

Past - Present Patient - Impatient Peace - War Permanent - Temporary Plentiful - Scarce Plural - Singular	Poetry - Prose Polite - Rude, Impolite Possible - Impossible Poverty - Wealth, Riches Powerful - Weak	Pretty - Ugly Private - Public Prudent - Imprudent Pure - Impure, Contaminated Push - Pull

Q

Qualified - Unqualified	Question - Answer	Quiet - Loud, Noisy

R

Raise - Lower Rapid - Slow Rare - Common Regular - Irregular	Real - Fake Rich - Poor Right - Left, Wrong	Right-Side-Up - Upside-Down Rough - Smooth Rude - Courteous

S

Safe - Unsafe Same - Opposite Satisfactory - Unsatisfactory Secure - Insecure Scatter - Collect Separate - Join, Together Serious - Trivial Second-Hand - New Shallow - Deep Shrink - Grow	Sick - Healthy, Ill Simple - Complex, Hard Singular - Plural Sink - Float Slim - Fat, Thick Slow - Fast Sober - Drunk Soft - Hard Some - None Sorrow - Joy	Sour - Sweet Sow -Reap Straight - Crooked Start - Finish Stop - Go Strict - Lenient Strong - Weak Success - Failure Sunny - Cloudy Synonym - Antonym Sweet - Sour

T

Take - Give Tall - Short Tame - Wild Them - Us There - Here	Thick - Thin Tight - Loose, Slack Tiny - Big, Huge Together - Apart Top - Bottom	Tough - Easy, Tender Transparent - Opaque True - False Truth - Flasehood, Lie, Untruth

U

Under - Over Unfold - Fold	Unqualified - Qualified Unsafe - Safe	Upstairs - Downstairs Us - Them

Unknown - Known	Up - Down Upside-Down - Right-Side-Up	Useful - Useless

V

Vacant - Occupied Vanish - Appear Vast - Tiny	Victory - Defeat Virtue - Vice	Visible - Invisible Voluntary - Compulsory

W

War - Peace Wax - Wane Weak - Strong Wet - Dry	White - Black Wide - Narrow Win - Lose	Wisdom - Folly, Stupidity Within - Outside Wrong - Right

Y

Yes - No	Yin - Yang	Young - Old

4. Current Affairs

MAY 2023

- Which country's **Harris Park was renamed as Little India – Australia**
- The economy of a **country entered recession in the first quarter of 2023 – Germany**
- In the Top-500 supercomputing list, which place did **India's supercomputer Airavat** get – **75th**
- Which Indian firm was included in the **Top-50 Most Innovative Firms – Tata**
- Which became the **first state of India to become fully e-governed – Kerala**
- **By which name Infosys company launched its first Al based service – Topaz**
- Who is the author of the launch book **"Partitioned Freedom" – Ram Madhav**
- Who became the **first Arab female astronaut to go into space – Rayyana Barnawi**
- Who won the **International Booker Prize for "Time Shelter" – Georgi Gospodinov and Angela Rodell**
- Which country won the **Men's Asia Cup Hockey Tournament 2023 title – India**
- Which actor was **honored with an honorary degree at Apex University Jaipur – Sonu Sood**
- Which became the **world's most innovative company in the year 2023 – Apple**
- Who became the **first Asian sportsperson with 250 million followers on Instagram – Virat Kohli**
- **How many rupees commemorative coin was issued on the inauguration of Parliament House – 75 rupees**
- Which country **successfully tested the missile named "Khyber" – Iran**
- **Indian long jumper Murali Shree Shankar won which medal in international jumping meeting tournament – Gold medal**
- **Ministry of Civil Aviation launched which program for helicopter routes – UDAN 5.1**
- Which state has **launched Green Hydrogen Policy – Himachal Pradesh**
- **Indian Railways handed over 20 broad gauge locomotives** to which country – **Bangladesh**
- Who has been appointed as the **FIBA Asia President? – Govind raj**

- Which company has **launched "Jugalbandi", an Al chatbot for rural India – Microsoft**
- Which organization organized **"Operation Demolish" – National Investigation Agency**
- Who has become the **youngest cricketer to score 700 runs in a season of IPL?** – **Shubman Gill**
- Who has won the **men's singles event at the 2023 Slovenia Open? – Sameer Verma**
- Which state is **hosting the 3rd edition of Khelo India University Games 2022? – Uttar Pradesh**
- In which state **joint flood relief exercise " Jal Rahat"** was conducted – **Assam**
- With which country **India signed agreements in the field of migration, mobility partnership and Green hydrogen** in May 2023? – **Australia**
- **North India's biggest apparel fair NIGF 2023 is** organized at which place? **– Noida**
- Who has been appointed as the FIBA Asia President? – **K. govindraj**
- According to RBI, what percentage of **India's GDP will be in the first quarter of the year 2023-24 – 6 percent**
- Which state has **tied up for "Dekho Apna Desh Tourist " initiative – Goa and Uttarakhand**
- Which company **launched UPI payment facility for credit cards – Google Pay**
- Which became the **first team to reach the final of IPL for the 10th time** – **Chennai Super Kings**
- Where was the **country's largest High Court established – Jharkhand**
- Who was appointed **CEO of Twitter Company** – **Lydia Yacarino**
- Which aircraft fleet was **temporarily banned by the Indian Air Force – MiG-21**
- What place did **Gautam Adani remain in the list of top 20 richest people in the world – 18th**
- Who made the **world record on Mount Everest for the 28th time – Kami Rita Sherpa**
- **Kapileshwar temple of which state has been included in the list of ASI protected monuments – Odisha**
- When was **Commonwealth Day 2023** celebrated – **24 May**
- What is the **theme of Commonwealth Day 2023 – Forging a Sustainable and Peaceful Common Future**
- On which expressway the **world record of 100 kilometer road construction was made in 100 hours – Ghaziabad-Aligarh Expressway**
- Which company has **partnered with Google Cloud for Generative AI – TCS**

- **India and which country started the working group on education skill development – America**
- Who become **the topper of UPSC CSE 2022?** – **Ishita Kishore**
- Who became the **world's number one player in Javelin ranking – Neeraj Chopra**
- Where was the **49th G7 Summit 2023 held from 19 to 21 May – (Hiroshima) Japan**
- Who became the **new earth science minister of India – Kiren Rijiju**
- Who became the Indian player to **score century in Test, T-201, ODI and IPL in the same year – Shubman Gill**
- **Which is being developed as India's first Astro Village? – Benital (Uttarakhand)**
- Who got recognition in **FT ranking for highest quality globally – IIM Kozhikode**
- **Total number of gold medals won by India in South Asian Youth Table Tennis Championship 2023 – 16**
- Which country has won the **13th Sudirman Cup title? – China**
- Which football club has won the **Premier League title for the third time** in a row in May 2023? – **Manchester City**
- Which state has become the **first state in India to provide free air travel to pilgrims? – Madhya Pradesh**
- **Prime Minister Modi addressed the 76th session of the World Health Organization**. Where is the **headquarter of WHO located? – Geneva**
- Which player holds the **record for most centuries in IPL history? – Virat Kohli**
- On which day the **International Biodiversity Day** is observed? **– 22nd May**
- Which union ministry has launched the **'75/25′ initiative? – Ministry of Health and Family Welfare**
- Which countries are participating in the **Al-Mohad Al-Hindi 2023 naval exercise? -Saudi Arabia and India**
- **Shaili Singh won the bronze medal in the Golden Grand Prix 2023.** With which sport is she associated? – **Long jump**
- In which city the **G20 Tourism Working Group meeting** is being held under the chairmanship of India? **– Srinagar**
- Who has been appointed as the **new Master General Sustainer (MGS) of the Indian Army? – Amardeep Singh Aujla**
- The Indian Air Force (IAF) grounded its **MIG-21 fighter fleet** following the May 8 crash in Rajasthan. In which year was it appointed? – **1963**
- Who won the **Italian Open 2023** by winning his first clay court title? – **Daniil Medvedev**
- who is the **author of the launch book "The Golden Years"** – **Ruskin Bond**

- Japan has recently shown interest in joining India's UPI payment system. Which was the **first country to join UPI? – Nepal**
- Which city has become the **first city in India to measure SDG progress? – Bhopal**
- At which place did PM Modi unveil a **statue of Mahatma Gandhi** in May 2023? **– Japan**
- The **fourth National Water Awards-2022** was released in May 2023. Which state has got the first position in this award? **– Madhya Pradesh.**
- In May 2023, **which company has been awarded by NASA** to build the spacecraft that will send astronauts to and from the surface of the Moon? **– blue origin**
- Where was India's **longest skywalk bridge inaugurated? – Chennai**
- Which organization started **"100 Days 100 Pays" campaign – RBI**
- In which city of Uttar Pradesh **North Corridor** was developed **– Bareilly**
- Which became the **first city to grow rapidly in the direction of sustainable development goal – Bhopal**
- Which city became the **host of the fifth edition of Global Ayurveda Festival – Thiruvananthapuram**
- **RBI has decided to withdraw how many rupee notes – 2000**
- **PM Narendra Modi unveiled the statue of Mahatma Gandhi in Hiroshima of which country – Japan**
- Who took oath as the **Chief Minister of Karnataka – Siddaramaiah**
- Who was appointed as the **Deputy CM of Karnataka State – DK Shivakumar**
- When was **International Tea Day** celebrated – **21 May**
- **PM Narendra Modi inaugurated the third Khelo India Games – Uttar Pradesh**
- who was honored with **Arjuna Award** – **Anjum Moudgil**
- Where was **India's largest skywalk bridge inaugurated – Tamil Nadu**
- India started **Operation Karuna** for which country – **Myanmar**
- Who took oath as **Supreme Court judge – KV Vishwanathan and Prashant Mishra**
- What percentage of **India's GDP** has been estimated by Morgan Stanley in the financial **year 2023-24 – 6.2 percent**
- How many **gold medals did India win in the South Asian Youth Table Tennis Championship 2023? – 16**
- What is the name of the operation launched by India to assist cyclone affected Myanmar? **– Operation Karuna**
- Where was the **South Asian Youth Table Tennis Championship 2023 organised – Arunachal Pradesh**
- Which state has launched **"Chief Minister Seekho Kamao Yojana" – Madhya Pradesh**
- **who resigned from his ministerial post – Kiren Rijiju**

- **From where ISRO successfully tested the semi cryogenic engine – Mahendra Giri**
- When was N**ational Endangered Species Day** celebrated **– 19 May**
- In which country was the **G7 summit held**? **– Japan**
- In May 2023, sea trials of Vaghseer, the **sixth and final Kalvari class submarine** of the Indian Navy, began. By whom was it made? – **Mazagon Dock Shipbuilders Limited**
- Which is the **country's first elevated 8-lane access control expressway? – Dwarka Expressway**
- Which airline has become the **first commercial passenger flight using Sustainable Aviation Fuel? – Air Asia India**
- In May 2023, who will take oath as the **new Chief Minister of Karnataka? – Siddaramaiah**
- Who has replaced Kiren Rijiju as the **new Union Law Minister? – Arjun Ram Meghwal**
- In May 2023, Prime Minister Narendra Modi inaugurated the **first Vande Bharat train to Odisha.** What will be the route of this train? – **Puri to Howrah**
- Who has become the **first South Asian woman to hold the highest ranking in the New York Police Department? – Pratima Bhullar Maldonado**
- Which country is on top in the world in terms of **Highest mobile speed? – Qutar**
- **According to the World Economic Situation and Prospects report, the Indian economy is expected to grow by what percent in 2024? – 6.70%**
- Who has recently been conferred with the **highest civilian honor of France? – N. Chandrasekaran**
- By whom was the **pocket map of 'Kartavya Path' unveiled? – Narendra Modi**
- Where is the **3rd G20 Tourism Summit** going to be held? – **Jammu and Kashmir**
- **Who was the chairman of Hinduja Group, who passed away recently? – P. Hinduja**
- Which organization will **invest $12.7 billion in cloud infrastructure in India by 2030? – amazon web service**
- who became the **83rd Grandmaster of India** – **Vuppala Praneeth**
- Which became the **first Indian city to track progress towards Sustainable Development Goals – Bhopal**
- **Bilateral exercise Samudra Shakti-23** was conducted between India and which country **– Indonesia**
- Who became the **second person to conquer Everest for the 26th time – Pasang Dawa Sherpa**

- **Pramod Bhagat won bronze medal in Thailand Para Badminton International – Gold medal**
- who was appointed as the **chairman of UPSC – Manoj Soni**
- Who was appointed as the **Vice Chief of the Air Force – Ashutosh Dixit**
- who became the **new Chief of CBI – Praveen Sood**
- **Total number of seats won by Congress in Karnataka Assembly Elections 2023 – 135**
- Which state launched the **multipurpose Gajapati Irrigation Project – Odisha**
- Who launched **e-filing 2.0 and e-Seva Kendra – DY Chandrachud**
- Who became the **first spinner in the world to take 550 wickets in T20 cricket – Rashid Khan**
- **Britain provided long range cruise missiles to which country – Ukraine**
- Which country **gave permission to give work to 42000 Indians of India – Israel**
- Which space agency **developed the Aeolus satellite – ESA**
- Which company launched **Watsonx Al data platform – IBM**
- In which minister the mega campaign **"Meri Life Mera Swachh City"** was launched – **Hardeep Singh Puri**
- Who was appointed as the **chairperson of the Competition Commission of India – Ravneet Kaur**
- who won the **27th La Liga title – Barcelona**
- Who launched the **mobile application called "Meri Life" – Bhupendra Yadav**
- Who was honored with the **Best Long Documentary Award – Gauri**
- **which sport was included in the 37th National Games – Gatka martial art**
- Who has been appointed as the **US ambassador for global women's issues – Gita Rao Gupta**
- Which player scored the **fastest fifty in IPL – Yashasvi jaiswal**
- **Under which scheme the National Behavior Change Communication Framework for waste major cities was launched – Swachh Bharat Mission Urban 2.0**
- **With whom did Qualcomm India tie up to assist chipset startups – C-Dac**
- Which player won **seven gold medals in the Khelo India University Games swimming – Shiv Sridhar**
- **International Day of Living Together in Peace 2023** when celebrated – **16 May**
- When was **International Day of Light** celebrated – **16 May**
- **ICC implemented how many new rules in cricket – 3**

- Which planet has the **maximum number of moons in the solar system – Saturn**
- **By which company will the iPhone 15 and 15 Plus be made in India – Tata Group**
- Which film was **awarded the Best Film at the UK Asian Film Festival? – Bhagwan Bharose**
- Who became the **head coach of Pakistan cricket team – Great Bradburn**
- Which airport in India has been selected as the **most punctual airport in the world – Hyderabad airport**
- Where was the **Indian Jewelry Exhibition 2023** organized **– Dubai**
- **PM Modi will go on a state visit to which country on June 22 – America**
- Who became the **first Indian global ambassador of Gucci company – Alia Bhatt**
- Which Indian actress was seen on the **cover page of Times Magazine 2023 – Deepika Padukone**
- **Which cyclone hit West Bengal – Mocha**
- In which country the **Asian Kabaddi Championship** will be held – **South Korea**
- **Padma Desai has passed away** she was a famous – **economist**
- Where was the **three-day International Museum Expo 2023 held – New Delhi**
- Who hosted the **6th Indian Ocean Conference – Dhaka**
- **How long the deadline for linking PAN card with Aadhaar card has been extended – 30 June 2023**
- **From where ISRO successfully tested the semi cryogenic engine – Mahendra Giri**
- Who was named **Laureus Sports Man of the Year 2023 – Lionel Messi**
- Who was **honored with Bharat Ratna Dr. Ambedkar Award – Yogi Adityanath**
- Who launched the campaign **"Poshan Bhi, Padhi Bhi" – Smriti Irani**
- Which company **topped the Everest annual IPS ranking – Accenture**
- **which country decriminalized homosexuality – Sri Lanka**
- **According to the UN report, what place did India stand in global maternal mortality, stillbirth and neonatal mortality – first**
- **How many years old remains of road were found under the Mediterranean Sea – 7,000 years**
- Who was **chosen as the Global Sponsor of ICC – Matercard**
- Which city **ranked first in terms of shopping in India in the High Street ranking – Bengaluru**
- Who has been appointed as the **first Indian global ambassador of Gucci? – Alia Bhatt**

- Which **Indian player has won bronze medal in ISSF World Cup 2023?** – **Rhythm Sangwan**
- When was **National Technology Day** celebrated **– 11 May**
- What is the **theme of National Technology Day 2023 – School to Startups Igniting Young Minds to Innovate**
- Which country will **host the Asian Kabaddi Championship 2023? – South Korea**
- Where will the **first International Museum Expo 2023 be inaugurated?** – **New Delhi**
- Which country will host the **6th Indian Ocean Conference (IOC) in May A 2023? – Bangladesh**
- Indian Navy **decommissioned which ship after 36 years of service – INS Magar**
- Tungnath temple of which state was **declared as a temple of national importance – Uttarakhand**
- Which state's **Shantiniketan was included in the UNESCO's World Heritage List in the Tentative List – West Bengal**
- Which company has decided to roll out its **Generative Al Chartbot** in 180 countries including India **– Google**
- Which ministry has launched Learning Management Information System **'Saksham'?** – **Ministry of Health**
- Which female **sportsperson has been honored with the Laureus Sports Award 2023? – Shelley-Ann Fraser-Pryce**
- India has jointly inaugurated the **Sittwe port** with which country? – **Myanmar**
- With whose collaboration has the Ministry of Culture launched the **singing talent search program "Yuva Pratibha"? – MyGov**
- **ISRO to launch entry level online training program in May What was its name? – START**
- **Which country has been included in the Arab League in May 2023? – Syria**
- Which state has become the **first state to launch the Robotic Framework? – Telangana**
- **India has provided one billion dollar credit line to which country for essential imports? – Sri Lanka**
- Which institute has made **face mask equipped with sensors to detect disease? – bits pilani**
- Where was the **Asian Weightlifting Championship, 2023 held? – South Korea**
- Who is the **2023 Pulitzer Prize Winner for Fiction? – Barbara Kingsolver and Hernan Diaz**
- Which body published the **Foreign Exchange Management Report in May, 2023? – reserve Bank of India**

- Who is the **Foreign Minister of Israel** who is going to visit India in May 2023 and meet External Affairs Minister Jaishankar? **– Eli Cohen**
- In which sea was the **first India-ASEAN naval exercise h**eld? – **South China Sea**
- Which **press organization has been awarded Pulitzer Prize for war time coverage**? – **The Associated Press**
- Where did Defense Minister Rajnath Singh inaugurate the **Heritage Center of the Indian Air Force? – Chandigarh**
- Which payment company has launched **CVV-free payments for token cards** in India? **– Visa**
- Which country has recently launched the **'Machines Can See 2023' summit in Dubai? – UAE**
- In which Indian state the **country's first International Multimodal Logistics Park is** being developed? **– Assam**
- Who has become the **first cricketer in IPL history to score 7,000 runs? – Virat Kohli**
- **World Red Cross Day** is observed on which day? **– 8th May**
- Who has become the **joint highest wicket-taker in IPL along with Dwayne Bravo? – yuzvendra chahal**
- Who has recently launched the **logo, mascot, torch, anthem and jersey of Khelo India University Games 2022?** – **Anurag Thakur**
- When is **World Athletics Day** celebrated? **– 7th May**
- Which sports personality won the **silver medal in the Asian Weightlifting Championships 2023? – Jeremy Lalrinnunga**
- Which player won the Madrid Open title? – **Carlos Alcaraz**
- **Praveen Chitravel recently created a national record in triple jump in Cuba in May** Which state is he from? **– Tamil Nadu**
- **In which weight category Bindayarani Devi won the silver medal in the Asian Weightlifting Championship 2023? – 55 kg**
- **Pradhan Mantri Suraksha Bima Yojana, Pradhan Mantri Jeevan Jyoti Bima Yojana and Atal Pension Yojana completed how many years on May 9, 2023? – 8 years**
- According to the National Manufacturing Innovation Survey, which was the **most innovative state in the year 2022 – Karnataka**
- Which High Court **banned the caste-based survey of the Bihar government – Patna High Court**
- **How many Indians were evacuated from Sudan country under Operation Kaveri – 3800**
- India and which country **signed an agreement for industrial research and development cooperation – Israel**
- Which state has **developed a theme park "Ramalad" based on Dijrilad to narrate the story of Lord Ram – Uttar Pradesh**

- By what percentage **India's unemployment rate increased in April 2023 – 8.11 percent**
- Which country **unveiled the statue of Chhatrapati Shivaji Maharaj – Mauritius**
- **Where did the world's largest franchise Chess Singh League start – Dubai**
- Who became **the 11th woman to win the International Masters title – Vantika Agarwal**
- Which state launched **Chief Minister Kaushal Unnayan Rozgar Yojana – Uttarakhand**
- Which country **topped the World Press Freedom Index – Norway**
- Who won the **World Snooker Championship** title **– Luca Brecel**
- Who is the author of the launched book **"Made in India: 75 Years of Business and Enterprises" – Abitabh Kant**
- **who topped the Forbes list of Highest Paid Athletes of 2023 – Cristiano Ronaldo**
- **Who secured the first position in ODF Plus ranking – Wayanad (Kerala)**
- Who started the **construction of Coast Guard Establishment in Maldives – Rajnath Singh**
- **Tory Bowie has passed away,** she was the runner of which country **– America**
- Who **acquired First Republic Bank – JP Morgan**
- Which country has the **most active internet usage in the Internet in India Report 2022 – India**
- Who launched **two new initiatives to support Indian SMBs – Microsoft**
- Who has been appointed as the **new CEO of Vodafone Company – Margherita Della**
- Who became the **winner of Khelo India University Games – Jain University**
- What is the rank of **India in the World Press Freedom Index 2023 – 161th**
- **Remnants of 2000 years old modern civilization found in Bandhavgarh Tiger Reserve** of which state **– Madhya Pradesh**
- Who was appointed as the **President of World Bank – Ajay Banga**
- Who released the **Bridging the gender Digital Divide report – UNISEF**
- Who was awarded the **United Nations Press Freedom Award – Nilofar Hamidi, Elaheh Mohammadi and Nargis Mohammadi**
- When will **King Charles III, the next monarch of the United Kingdom,** be coronated **– 6 May 2023**
- In which city of Bihar the **country's first ethanol plant** was inaugurated **– Purnia**

- **Haryana government announced the construction of a stadium in Panipat, whose player's village. – Neeraj Chopra**
- Who won the **title of 75th Santosh Trophy 2022 – Kerala**
- **Which medal Harshada Sharad Gurun won in Junior World Championship – Gold Medal**
- How many lakh crore rupees was the **GST collection of India in April 2022 – 1.68 lakh crore**
- Who was appointed as the **new advisor to PM Modi – Tarun Kapoor**
- When was **International Firefighters Day** celebrated – **4 May**
- Who was awarded with **Nirmala Deshpande Memorial World Peace Prize – Tej Call**
- Which company **launched M-15 petrol with 15% mixture of methanol – Indian Oil Corporation**
- Which country got its **100th Unicorn Startup Neobank Open – India**
- Who was awarded with **Nirmala Deshpande Memorial World Peace Prize – General Tej Call**
- Who was appointed as the **Secretary in the Ministry of Electronics and Information Technology – Alkesh Kumar Sharma**
- Who was appointed as the **CEO of Amazon company – Andy Jesse**
- who won the **35th Spanish league title – Real Madrid**
- On which river in **Jammu and Kashmir 540 MW Quad hydroelectric project was started – Chenab river**
- Who was appointed as the **new chairperson of CBDT – Sangeeta Singh**
- When was **World Press Freedom Day** celebrated **– 3rd May**
- What was the **theme of World Press Freedom Day 2022 – Journalism Under Digital Siege.**
- **Advanced Towed Artillery Gun System was successfully test** at – **Jaisalmer**
- Where was the **world's first taxi flying airport "Urban Air One Vertiport built – England**
- When was **Parshuram Jayanti** celebrated – **3rd May**
- Which became the **first Indian state to set up a gene bank project – Maharashtra**
- **With whom did Qualcomm India tie up to assist chipset startups – C-Dac**
- Where was the **12th Ministerial Conference of WTO organized – Geneva**
- **tarsem singh saini has passed away** what was he a famous **– singer**
- Who is the author of the launch **book "Let Me Say it Now" – Rakesh Maria**
- Which player won **seven gold medals in the Khelo India University Games swimming** – **Shiv Sridhar**

- Where was the **39th Conference of Chief Justices of High Courts held – New Delhi**
- where will the **Women's T20 Challenge 2022 be organized – Lucknow**
- Which country has included **India in its annual Priority Watch List – America**
- Which medal won by **PV Sindhu in Asia Badminton Championship – Bronze medal**
- Which tunnel got the **IBC Best Infrastructure Project Award – Atal Tunnel**
- Who was appointed as the **new Vice Chief of Army Staff – BS Raju**
- **With whom did the Ministry of Skills tie up to skill the technical staff – ISRO**
- Who was awarded the **Pink Lady Food Photographer of the Year 2022 Award – Devdutt Chakraborty**
- Where was the **successful test of anti-ship version of BrahMos missile – Andaman and Nicobar**
- Who was appointed as the **Vice Chief of Army Staff – General BS Raju**
- **Which country is listed in the Intellectual Property Protection Priority Monitoring Index in America – India Russia and China**
- Which university **topped the Times Higher Education Impact Ranking – University of Sydney**
- Who won the **Sportsman of the Year Award at the 2022 Lloris World Sports Awards – Max Verstappen**
- When was **International Labor Day celebrated – 1st May**
- **Salim Ghosh has passed** away what was he a famous – **actor**
- **Which state's youth and women entrepreneurs have tied up with Google to take advantage of the digital economy – Telangana**
- In which city PM Modi inaugurated the **Semicon India Conference – Bengaluru**
- Which company initiated the **process of merging AirAsia India with Air India – Tata Group**
- **New Space India Limited has tied up with which company for satellite launch – One Web**
- Who won the coveted **Whitley Gold Award** – **Charudutt Mishra**
- **AK Bhaduri has passed away** what was he a famous – **scientist**
- How many won **UK's Commonwealth Points of Light Award – Kishore Kumar Das**
- World Bank has **approved $47 million for Mission Karmayogi program** of which country **– India**
- When did the central government announced to celebrate **Ayushman Bharat Day – 30 April**

5. Prelims and Mains Notes Preparation Scheme

V.S. DREAM COACHING
FOR
HJS, PCS (J.) AND CLAT

Prelims and Mains Notes Preparation Scheme is going on. Prepare your own excellent study notes to crack HJS, PCS (J) and CLAT on the subjects mentioned below under the able guidance of Hon'ble Mr. Justice Vedpal (Former Judge), High Court of Judicature at Allahabad, Ex-Director of Judicial Training and Research Institute, U.P., Lucknow and resource person of various legal academies and institutions. Seek prior appointment to avoid despair. Subjects;-

1.General Knowledge	2.Law
1. Current Affairs 2. G.K.MCQs 3. History of India and Indian Culture 4. Geography of India 5. Indian Polity 6. Current National Issues 7. Topic of Social Relevance with special reference to newly added 9 Social Acts 8. India and the World 9. Indian Economy 10.International Affairs and Institutions 11. Development in the field of: (a) Science and Technology (b) Communications and Space	1. Constitutional Law 2. Law of Evidence 3. Criminal Procedure Code 4. Code of Civil Procedure, 5. Indian Panel Code 6. Law of Contract 7. Partnership Act 8. Easements Act 9. Law of Torts 10. Transfer of Property Act 11. Principles of Equity , 12. Law of Trust 13. Specific Relief Act 14. Hindu Law 15. Muslim Law 16. U.P. Revenue Code. 17. U.P. Municipalities Act 1916 18. U.P. Panchayat Raj Act 1947 19. U.P. Consolidation of Holdings Act, 1953 20. U.P. Urban (Planning and Development) Act, 1973
3.CLAT 1. General Knowledge 2. A Guide for CLAT	

6. About Coaching

V.S. Dream coaching is one of the premiere law institute that offers coaching for Judicial Services Examinations at all the three levels – Preliminary Test, Main Examination and Personality Test.

We started our journey the month of Sept. 2022 with a vision driven by the socialist ideology. Since its inception, the coaching is successfully conducting courses for Judicial Services Exams and has always worked by aligning itself to the best interest of its students. The coaching Institute is focused on providing comprehensive and reliable training and support to all its students, who plan to appear for the Judicial Services Exam and are in the search of highly qualified targeted and dedicated faculty to crack examinations successfully.

The teaching faculty of the Institute has been drawn from highly qualified persons having experience. We also guide the aspirant in preparing his own notes and quality study Material

Teaching pedagogy

Our faculty uses a teaching pedagogy which is easily understandable and is aspirant friendly. Our patron Hon'ble Mr. Justice Vedpal former Judge High Court Allahabad had been a Trainer of Trainers. Director of Judicial Training and Research institute U.P., Resource person of several Judicial Institutes and member of Law commission U.P. The faculty of the coaching Institutes consists of those who have several decade experience in teaching in the field of law.

7. About Director and faculty

Ms. Anshu Singh B.A., LL.B is the director of the coaching who remained associated with the law for more than two decades. The director of the coaching possess self-awareness, garner credibility, focus on relationship-building, exhibit humility, empower others, stay authentic, present themselves as constant and consistent, become role models and are fully present

The director aims to improve performance and focuses on the 'here and now' rather than on the distant past or future. The director is subject expert. And focuse on helping the individual to unlock their own potential

Regular Faculty

1. Ms. Anshu Singh, B.A. (English Literature) LL.B. The Director, herself
2. Shri Shantanu Baliyan, B.A. LL.B who is a Law graduate from C.C.S. University Campus. He has also received Certificate of Excellency from the

University. He has started teaching at a very young age and now with his teaching experience, he has developed innovative ways of teaching Law and general knowledge, which suites to the need of a law student, as well as an Judicial service aspirant. He has conducted many online and offline Courses. His notes on Law subjects as well as on general knowledge are masterly work

8. Resource persons/Guest Speakers

1. Hon'ble Mr. Justice Vedpal, Former Judge, High Court Allahabad -Mentor
2. Shri Soraj Singh, Ex-Director (Ag.), U.P. Government- Guest Speakers
3. Mrs. Kalpana Malik, B.Sc., LL.B., LL.M. (P) - Guest Speakers
4. Dr. Venu Agarwal M.A.(English), M.Com. M.Ed., PhD - Guest Speakers

9. Library with Research wing

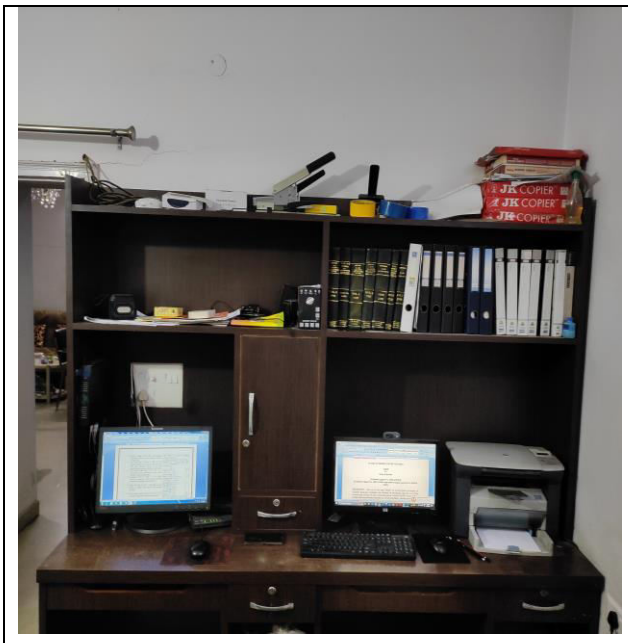
V.S. Dream Coaching has an excellent Library containing **about five thousand books, Journals, brochures, notes and guides**. The library in a coaching institute plays an important role in the life of students by serving as the store house of knowledge. It facilitates the work of the resource person and faculty also. The students have also access to library, after coaching hours. Our library changes as technology changes and remains updated in Course subjects. The coaching itself prepares study excellent and qualitative reading material.

Preparing a study material on a subject on Law and General Knowledge, is a herculean task. There is always a debatable question to be asked regarding what, and what not to include and how to differentiate the books and brochures from the ones already available in the market.

There should be a system for the verification of facts, data, etc. While preparing study material, we always keep in the mind the quality, so we hope that the book, brochures prove beneficial to all the aspirants taking examinations with law and General Knowledge..

A coaching should provide students with the fundamental knowledge base or foundation needed in order to be successful in their exam. Aspirants were surveyed to determine how they should be taught. The survey was developed based on course content. We encourage accredited programs to regularly evaluate current curricula for and develop new curricula that reflect changing construction technologies and management trends.

Library



Research wing