

(2015) 09 MAN CK 0001
In the Manipur High Court
Case No : Writ Petition (C) No. 753 of 2014

Naorem Rakesh Singh and Others

APPELLANT

Vs

The Manipur University and Others

RESPONDENT

Date of Decision : 01-09-2015

Acts Referred:

Central Educational Institutions (Reservation in Admission) Act, 2006 — Section 2, 2(d), 2(d)(1), 2(ia), 3
Constitution of India, 1950 — Article 15

Citation : (2015) 09 MAN CK 0001

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : I. Lalitkumar, Senior Advocate and Th. Rommel, for the Appellant; B.P. Sahu, S. Rupachandra, A. Bimol, S.T. Kom and M. Rarry, Advocates for the Respondent

Final Decision : Dismissed

Judgement

N. Kotiswar Singh, J—Clarity and certainty are the hallmark of law. The path laid by the law should be clear, well-illuminated and broad enough to be traversed by all. Problems arise when such is not the case, and one has to traverse through a maze of narrow lanes and bye lanes of provisions and subjected to contradictory indicators and ambiguity. The present case is one such instance where the extent of reservation for the Scheduled Tribes, Scheduled Castes and Other Backward Classes has been clouded with uncertainties. The issue arises out of application of the Central Educational Institutions (Reservation in Admission) Act, 2006 regarding reservation of seats for admission in the Manipur University, established under a Central Act, and admittedly a Central Educational Institution within the meaning of Section 2(d)(1) of the Act. Section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006 (hereinafter referred to as the CEI Act) provides for reservation of seats for admission in the Central Educational Institutions in the following manner :--

"(i) 15% for the Scheduled Castes,

(ii) 7.5% for the Scheduled Tribes, and

(iii) 27% for the Other Backward Classes out of the annual permitted strength of each branch of study or faculty."

2. Section 4(a) of the CEI Act as it originally stood further provided that provisions of Section 3 of the Act shall not apply to a Central Educational Institution established in the tribal areas referred to in the Sixth Schedule to the Constitution. Accordingly, as per the CEI Act, 2006 as it originally stood, reservation relating to admissions to the Manipur University was governed by the provisions of Section 3 of the Act as mentioned above as Manipur University was not established in the tribal area referred to the Sixth Schedule to the Constitution, thus, not covered by the exemption clause under Section 4(a) of the Act. Prior to that, before the enforcement of the said Act, the Manipur University was following the reservation norm of the State Government, i.e. 2% for the Scheduled Castes and 31% for the Scheduled Tribes. The said State norm was discontinued after the enforcement of the CEI Act, 2006 in view of the provisions of Section 3 as mentioned above. In other words, before the implementation of the CEI Act, 2006, the State norms was adopted for reservation of seats but after implementation of the said Act, the norm provided under Section 3 (viz. 15% for the SCs, 7.5% for the STs and 27% for the OBCs) came to be applied in the Manipur University for admission of studies in various academic courses which is different from the State norm.

3. The Central Educational Institutions Act, 2006 underwent certain amendments in the year 2012, as regards the reservation of seats with the enactment of the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 which, inter alia, inserted two provisos in Section 3 of the principal Act making certain changes in the extent of reservation in Central Educational Institutions situated in the tribal areas referred to in the Sixth Schedule to the Constitution as well in the States located in the specified north-eastern region. Amendments also were made in the definition clauses in Section (2), by inserting two clauses, viz., "(ia)" defining "specified north-eastern region" which means the area comprising of the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and the tribal areas of Assam referred to in the Sixth Schedule to the Constitution, and another definition clause, "(ib)" defining "State seats", in relation to a Central Educational Institution to mean such seats, if any, out of the annual permitted strength in each branch of study or faculty as are earmarked to be filled up from amongst the eligible students of the State in which such institution is situated. On the basis of the aforesaid amendments made to the Principal Act of 2006, the Manipur University refixed the percentages of reservation for the SCs, STs and OBCs which turned out to be same as the State norm. Thus, after the amendment of the CEI Act, 2006 in the year 2012, the Manipur University started following the reservation of seats similar to the State norm. The said two provisos which have been inserted to

Section 3 of the Principal Act read as follows :--

"Provided that the State seats, if any, in a Central Educational Institution situated in the tribal areas referred to in the Sixth Schedule to the Constitution shall be governed by such reservation policy for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, as may be specified, by notification in the Official Gazette, by the Government of the State where such institution is situated:

Provided further that if there are no State seats in a Central Educational Institution and the seats reserved for the Scheduled Castes exceed the percentage specified under clause (i) or the seats reserved for the Scheduled Tribes exceed the percentage specified under clause (ii) or the seats reserved for the Scheduled Castes and the Scheduled Tribes taken together exceed the sum of percentages specified under clauses (i) and (ii), but such seats are-

(a) less than fifty per cent of the annual permitted strength on the date immediately preceding the date of commencement of this Act, the total percentage of the seats required to be reserved for the Other Backward Classes under clause (iii) shall be restricted to the extent such sum of percentages specified under clauses (i) and (ii) falls short of fifty per cent of the annual permitted strength;

(b) more than fifty per cent of the annual permitted strength on the date immediately preceding the date of commencement of this Act, in that case no seat shall be reserved for the Other Backward Classes under clause (iii) but the extent of the reservation of seats for the Scheduled Castes and the Scheduled Tribes shall not be reduced in respect of Central Educational Institutions in the specified north-eastern region."

4. Accordingly, the percentage of seats reserved for admission for the SC candidates which was earlier fixed at 15% in terms of Section 3(i) of the CEI Act, 2006 has now been reduced to 2% and the percentage of reservation for the STs which was earlier fixed at 7.5% was increased to 31% after the Manipur University refixed the percentages in terms of the amendments to the Act as mentioned above. The petitioners who belong to SC community thus have felt aggrieved that the percentage of reservation for the SCs has been reduced, because of which, in some subjects there is no reservation at all for the SC students. Accordingly, the present petitioners have challenged the refixation of reservation of seats similar to the said State norm by the Manipur University in this writ petition. The respondents No. 13 to 19 who are also SC students have impleaded themselves in support of the claim of the petitioners. On the other hand, the respondents No. 8 to 12 who all belong to ST communities in the State of Manipur have impleaded themselves to oppose the claim of the writ petitioners contending that the refixation of percentage of reservation for the SCs, STs and OBCs by the Manipur University by following the State norm is in conformity with the amendment made to Section 3 of the Principal Act.

5. Thus, the bone of contention between the parties is as regards the percentages of seats reserved for Scheduled Castes and the Scheduled Tribes by the Manipur University. The petitioners who all belong to Scheduled Castes community claim that reservation has to be made in terms of Section 3(i), (ii) and (iii) of the Act which provide reservation to the extent of 15% of the seats for the Scheduled Castes, 7.5% for Scheduled Tribes and 27% for Other Backward Classes. It has been contended by the petitioners that the provisos inserted by the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 are not applicable in the case of the Manipur University, hence, the main provisions of Section 3(i), (ii) and (iii) are to be applied without referring to the two provisos added.

6. It has been contended by the petitioners that the first proviso providing for reservation in terms of the State norm is applicable to Central Educational Institutions situated only in the tribal areas referred to in the Sixth Schedule to the Constitution and that too confined to the "State seats" only. It has been stated that since Manipur University is not situated in the tribal area referred to in the Sixth Schedule, as Sixth Schedule does not apply in the State of Manipur and there is no "State seat", the first proviso would not be applicable to the Manipur University.

As regards the second proviso, it has been contended that it is mainly concerned with fixation of percentage of reservation for the Other Backward Classes and it does not specify the percentages of reservation for the Scheduled Castes and Scheduled Tribes. Otherwise also, the said second proviso is to be invoked with reference to the annual permitted strength of seats on the date immediately preceding the date of commencement of the Act which according to the petitioners would be commencement of the Amendment Act of 2012 which was notified in the official Gazette on 9.6.2012. Therefore, what was followed just prior to 9.6.2012 in the Manipur University for reservation for the Scheduled Castes, Scheduled Tribes and Other Backward Classes has to be adopted. According to the petitioners, it is not in dispute that just immediately preceding the date of commencement of the Amendment Act of 2012, the Central norm for reservation was already in vogue in the Manipur University i.e. 15 % reservation for the Scheduled Castes, 7.5% for the Scheduled Tribes and 27% for the Other Backward Classes. Accordingly, it has been contended by the petitioners that even if the second proviso is held applicable, the percentage of reservation for the Scheduled Castes now should continue to be 15% as it was the percentage which was prevalent immediately preceding the date of commencement of the Amendment Act of 2012.

7. Mr. I. Lalitkumar, learned senior counsel, in support of his contentions has referred to the decisions of the Hon'ble Supreme Court in *S. Sundaram Pillai and Others Vs. `R. Pattabiraman and Others*, AIR 1985 SC 582 : (1985) 1 SCALE 74 : (1985) 1 SCC 591 : (1985) 2 SCR 643 ; *S.R. Bhagwat and others, Vs. State of Mysore*, AIR 1996 SC 188 : AIR 1995 SC 188 : (1995) 71 FLR 753 : (1995) 6

JT 444 : (1995) LabIC 2809 : (1995) 5 SCALE 270 : (1995) 6 SCC 16 : (1995) 3 SCR 545 Supp ; Balram Kumawat Vs. Union of India (UOI) and Others, AIR 2003 SC 3268 : (2003) 1 JT 1 Supp : (2003) 6 SCALE 724 : (2003) 7 SCC 628 : (2003) 3 SCR 24 Supp : (2003) 134 STC 626 : (2003) 2 UJ 1513 : (2003) AIRSCW 4658 : (2003) 6 Supreme 264 ; and Ashoka Kumar Thakur Vs. Union of India (UOI) and Others, (2008) 3 CTC 97 : (2008) 5 JT 1 : (2008) 5 SCALE 1 : (2008) 6 SCC 1 , Delhi Gymkhana Club Ltd. Vs. Employees State Insurance Corpn., (2014) 143 FLR 927 : (2015) LabIC 565 : (2014) 4 LLN 312 : (2015) 1 SCC(L&S) 1 : (2014) 10 SCJ 87 : (2015) 1 SLJ 56 ; Sidhharth Viyas Vs. Ravi Nath Misra, (2015) 1 RCR(Rent) 100 ; Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu, (2014) 10 SCALE 388 and Union of India (UOI) and Others Vs. Dileep Kumar Singh(2015) 3 AD 647 : AIR 2015 SC 1420 : (2015) 145 FLR 205 : (2015) LabIC 2080 : (2015) 2 LLN 24 : (2015) 2 SCALE 678 : (2015) 4 SCC 421 : (2015) 3 SCJ 671 .

Mr. I. Lalitkumar, learned senior counsel relying on the decisions of the Hon'ble Supreme Court in S. Sundaram Pillai (supra), has contended that the proviso has been added to the enactment to qualify or create an exception to what is in the main enactment and ordinarily it can not be interpreted to override the general rule and accordingly, has submitted that this proviso which does not provide any specific figure cannot be relied upon to support the claim made by the ST candidates for reservation of 31% of the seats contrary to the main provision which specifically provides the percentage of only 7.5% for the STs.

Mr. I. Lalitkumar, learned senior counsel has also submitted that the expression "on the date immediately preceding the date of commencement of this Act" has reference to the commencement of the 2012 Amendment Act. According to him, the changes brought about by insertion of the provisos to the percentages already prescribed under Section 3(i), (ii) and (iii), by the Manipur University authority can have only prospective effect. Therefore, the aforesaid expression has to have reference to the Amendment Act of 2012. It has been contended that if the aforesaid provisos are to have reference to the original Act of 2006, the changes would have retrospective effect, which would not be permissible. Therefore, according to Mr. I. Lalitkumar, to avoid retrospective application to the changes brought in by adding the provisos to Section 3, the expression "immediately preceding the commencement of the Act" has to be read as the commencement of the Amendment Act of 2012. In that situation, percentages of reservation for the SCs, STs and OBCs which were obtaining on the date immediately preceding the date of commencement of the Amendment Act of 2012 viz., 15% for the SCs, 7.5% for the STs and 22% for the OBCs are to be continued. It has been submitted that in terms of the second proviso, even after the amendment of the Act in 2012, the percentage of reservation for the SCs would continue to remain at 15%.

Relying on the decisions of the Supreme Court in Balram Kumawat (supra) and Sidhharth Viyas & Anr. (supra) it has been submitted that the said proviso has to

be read in the context of the main section, the statute should be read as a whole and a proviso cannot be torn apart from the main enactment nor can be used to nullify the real object of the enactment, and in the present case, the main section clearly stipulates the percentage for reservation for the SCs to be 15% which cannot be reduced on the basis of the proviso which does not specifically mention for such reduction. He also submits relying on the decision of Delhi Gymkhana Club Limited (supra) that narrow interpretation which defeats the object of the act should be avoided. Accordingly it has been submitted that there should be reservation of seats for the SCs to the extent of 15% as provided under Section 3(i). Mr. Lalitkumar, learned senior counsel for the petitioners has submitted that this CEI Act, 2006 had already been upheld by Constitutional Bench of the Hon'ble Supreme Court in Ashoka Kumar Thakur Vs. Union of India (UOI) and Others, (2008) 3 CTC 97 : (2008) 5 JT 1 : (2008) 5 SCALE 1 : (2008) 6 SCC 1 thus, by implication also upholding reservation for the SCs to the extent of 15% of the seats and as such, the said percentage could not be reduced or modified by any subsequent legislation including the Amendment Act of 2012. Mr. I. Lalitkumar, Ld. Senior Counsel has also referred to the decision in S.R. Bhagwat and Others (supra) in which it has been held that a binding judicial pronouncement between the parties cannot be made effective with the aid of any legislative power to overrule such judgment. Relying on the decision in Sree Balaji Nagar Residential Association (supra), it has been submitted that where main provision is clear and unambiguous, recourse to proviso cannot be taken to interpret it. Mr. I. Lalitkumar, further relying on the decision in Union of India and Others v. Dileep Kumar Singh (supra) has submitted that where there is irreconcilable conflict between two statutory provisions, the substantive provision must prevail.

8. Mr. Rarry, learned counsel appearing for the respondents 13 to 19 who also are all SCs candidates have endorsed the stand taken by Mr. I. Lalitkumar, learned senior counsel for the writ petitioners. Mr. Rarry submits that Manipur University being a Central University, does not exist only for the State of Manipur, but is open to all the eligible candidates from the entire country as clearly evident from the prospectus issued by the Manipur University in which it has been stated that preference may be given to other States (by domicile) on at least 20% of the prescribed seats under the Special Assistance Programme of the University Grants Commission in the Departments of Chemistry, Life Science. Therefore, since Manipur University does not exclusively cater to the needs of the students from the State of Manipur, being a Central University, but to the entire country and since the exemptions provided in the Act are not applicable to the Manipur University, the Central norm for reservation of seats for the SCs, STs and OBCs as provided under Section 3(i), (ii) and (iii) is to be applied. Mr. Rarry also submits that the expression "preceding the date of commencement of this Act" as mentioned in the proviso has reference to the Amendment Act of 2012 which inserted these two provisos to Section 3. He, therefore, submits that since, on the date immediately preceding the date of commencement of the

Amendment Act of 2012, the reservation norm as per Section 3(i), (ii) and (iii) being followed was 15% for the SCs, 7.5% for the STs and 22% for the OBCs, the said norm is to be continued to be applied in terms of the 2nd proviso to Section 3 after the amendment of the Act, as it was norm being followed just on the date immediately preceding the date of commencement of the Amendment Act of 2012.

Mr. Rarry further submits that a close examination of the provisos would in fact indicate that the second proviso merely lays down a formula for determining the percentage of reservation for the OBCs and nothing has been mentioned nor any specific percentage has been indicated for reservation for the SC and ST categories. He further submits that Manipur University had already adopted the norm provided under Section 3(i), (ii) and (iii), before the enactment of the Amendment Act of 2012 and the expression "seats reserved for Scheduled Tribes" used in the second proviso has to have reference to the seats reserved immediately preceding the commencement of the Amendment Act of 2012. In such a situation, the seats reserved for the SCs immediately prior to commencement of the Amendment Act of 2012 (i.e. 15%) does not exceed the percentage specified in clause (i). Similarly, the seats reserved for the Scheduled Tribes immediately prior to commencement of the Amendment Act of 2012 (i.e. 7.5%) does not exceed the percentage specified under clause (ii) or the seats reserved for the Scheduled Castes and Scheduled Tribes, as available immediately preceding the commencement of the Amendment Act, 2012 (viz., 15% and 7.5%) taken together do not exceed the sum of percentages specified under clauses (i) and (ii). Hence, the sub-clauses (a) and (b) to the 2nd proviso cannot be invoked at all in the case of Manipur University. Further, Mr. Rarry, on an query by this Court submitted that Manipur cannot be said to be included under the expression "specified north eastern region" as it has reference to Sixth Schedule and since, Sixth Schedule is not applicable in Manipur, Manipur cannot be one of the States in the specified north-eastern region.

Mr. Rarry, learned counsel, therefore, submits that the first proviso to Section 3 clearly is not applicable in the present case as in the State of Manipur provisions of Sixth Schedule do not apply. Hence, the question of applying the State norms as provided under the first proviso does not apply in the State of Manipur. Secondly, as regards the second proviso, Mr. Rarry submits that the second proviso has been inserted merely to calculate the percentage of reservation for OBC category and it does not specify the percentage of reservation for SC and ST. He submits that even if it is held, as contended by the other respondents, that the second proviso is applicable for determining the percentage of reservation for the SCs and STs, since the reference point is "on the date immediately preceding the date of commencement of this Act" which means the 2012 Amendment Act, this 2nd proviso will not come in the aid of the authorities/ STs to claim the enhanced reservation at 31%. Mr. Rarry submits that the fact that in the expression "on the date immediately preceding the date of commencement of the Act" in the proviso to Section 3 inserted by the

Amendment Act of 2012, the expression "principal Act" has not been used, it clearly indicates that the expression "on the date immediately preceding the date of commencement of this Act" would mean the commencement of the Amendment Act, 2012, which came into effect only in the year 2012. Accordingly, since reservation for the SCs had been already provided to be 15% prior to the commencement of the Amendment Act of 2012, the same percentage of 15% would continue to be applied for the SCs even after the amendment of the Act.

Mr. Rarry, learned counsel, in support of his contentions has referred to the decisions of the Hon'ble Supreme Court in *Sales Tax Officer, Circle-I, Jabalpur Vs. Hanuman Prasad*, AIR 1967 SC 565 : (1967) 1 SCR 831 : (1967) 19 STC 87 , *Commissioner of Income Tax, U.P. Vs. Jagannath Mahadeo Prasad*, AIR 1969 SC 209 : (1969) 71 ITR 296 : (1969) 1 SCR 537 , *Punjab Tin Supply Co., Chandigarh and Others Vs. Central Government and Others*, AIR 1984 SC 87 : (1983) 2 SCALE 503 : (1984) 1 SCC 206 : (1984) 1 SCR 428 : (1984) 16 UJ 9 , *Girdhari Lal and Sons Vs. Balbir Nath Mathur and Others*, AIR 1986 SC 1499 : (1986) 1 SCALE 272 : (1986) 2 SCC 237 : (1986) 1 SCR 383 , *Bakul Cashew Co. and Others Vs. Sales Tax Officer Quilon and Another*, AIR 1987 SC 2239 : (1986) 159 ITR 565 : (1986) 1 SCALE 380 : (1986) 2 SCC 365 : (1986) 1 SCR 610 : (1986) 62 STC 122 : (1986) 2 UJ 121 , *State of Madhya Pradesh and others Vs. Rameshwar Rathod*, AIR 1990 SC 1849 : (1990) CriLJ 1756 : (1990) 3 JT 298 : (1990) 2 SCALE 88 : (1990) 4 SCC 21 : (1990) 3 SCR 263 , *Director of Education (Secondary) and Another Vs. Pushpendra Kumar and Others*, (1998) 4 AD 514 : AIR 1998 SC 2230 : (1998) 4 JT 155 : (1998) 3 SCALE 590 : (1998) 5 SCC 192 : (1998) SCC(L&S) 1302 : (1998) 3 SCR 432 : (1999) 1 SLJ 32 : (1998) AIRSCW 2122 : (1998) 5 Supreme 1 , *Shyam Sunder and Another Vs. Ram Kumar and Another*, AIR 2001 SC 2472 : (2001) 6 JT 94 : (2001) 4 SCALE 710 : (2001) 8 SCC 24 : (2001) AIRSCW 2768 : (2001) 5 Supreme 492 , *S.L. Srinivasa Jute Twine Mills P. Ltd. Vs. Union of India (UOI) and Another*, (2006) 108 FLR 1166 : (2006) 2 JT 397 : (2006) 2 LLJ 225 : (2006) 2 SCALE 345 : (2006) 2 SCC 740 : (2006) SCC(L&S) 440 : (2006) 2 SLJ 457 : (2006) AIRSCW 1025 : (2006) 2 Supreme 161 : (2006) 2 Supreme 162 , *State of Punjab and Others Vs. Bhajan Kaur and Others*, AIR 2008 SC 2276 : (2008) CLT 915 : (2008) 8 SCALE 475 : (2008) 12 SCC 112 : (2008) AIRSCW 4073 : (2008) 3 Supreme 724 and *Hardeep Singh Vs. State of Punjab and Others etc. etc.*, AIR 2014 SC 1400 : (2014) CriLJ 1118 : (2014) 1 JT 412 : (2014) 1 SCALE 241 : (2014) 3 SCC 92 .

9. On the other hand, it is the contention of the official respondents and respondents No. 8 to 12 that the aforesaid provisos have been inserted by way of Amendment Act of 2012 primarily to cater to the needs of the Scheduled Tribes inhabiting in the North Eastern region including the State of Manipur by carving out an exception to Section 3 of the Act.

10. Mr. B.P. Sahu, learned Senior Counsel appearing for the Manipur University

submits that the present reservation of seats for admission for the Scheduled Castes, Scheduled Tribes and Other Backward Classes is on the basis of the earlier norm which was being followed prior to the enactment of the CEI Act, 2006, in view of the second proviso to Section 3 inserted by the Amendment Act of 2012. He submits that though the Second proviso does not specifically state the percentages of reservation for the SCs, STs and OBCs, since it refers to the seats reserved for these on the date immediately preceding the date of commencement of this Act, the Manipur University has adopted the reservation pattern which was being followed immediately preceding the commencement of the Act of 2006, which happens to be the State norm. Therefore, he submits that the Manipur University by following the State norm of reservation after the amendment of the Act in 2012 has not committed any irregularity.

Further, he submits that the present writ petition has become infructuous as the writ petitioners have not challenged the notification by the Manipur University for the current academic year of 2015-16 and the writ petition was filed challenging the reservation notification for the last year's academic session. Since, the last year's academic session has been completed and none of those admitted last year on the basis of the impugned notification/letter have been impleaded as respondents, the writ petition deserves to be dismissed on the ground of non-joinder of necessary parties, apart from the fact that this petition has become infructuous.

11. Mr. S.T. Kom, learned counsel for the private respondents No. 8 to 12 who are all Scheduled Tribes submits that the intention of the Parliament in enacting the aforesaid Amendment Act was to allow enhanced percentage of reservation for the Scheduled Tribes in the north eastern states keeping into consideration their substantial population in the region. In this regard, Mr. S.T. Kom, learned counsel has relied on the report of the Parliamentary Standing Committee of the Rajya Sabha on the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 and also the Statement of Objects and Reasons for introducing the said Amendment Bill. It has been submitted that a proper reading of the aforesaid documents would clearly indicate that the intention of the legislature was to provide adequate reservation for the Scheduled Tribes in the North Eastern Region who have substantial presence, including in the State of Manipur and not to follow the general norm as provided under section 3 of the Act. Mr. S.T. Kom, learned counsel submits that the purpose of introducing this amendment by way of inserting the provisos is to make a departure from the provisions of Section 3 which were found to be wanting as far as reservation for Scheduled Tribes is concerned in the North Eastern region including the State of Manipur. In support of his contentions, Mr. S.T. Kom has drawn attention of this Court to certain portions of the report of the Parliamentary Standing Committee, the relevant portions of which have been reproduced and referred to in the succeeding paragraphs of this judgment.

12. Accordingly, Mr. S.T. Kom, learned counsel submits that the aforesaid two

provisos have been specifically incorporated to protect the interest of the Scheduled Tribes in the north eastern States where they have a substantial presence or are in a majority. In the State of Manipur there is a substantial population of the STs because of which there has been reservation for the STs in State Government to the extent of 31%. It has been submitted by Mr. S.T. Kom, learned counsel that the reference "on the date immediately preceding the date of commencement of this Act" is to the 2006 Act and not the Amendment Act of 2012. Since it has not been disputed by the petitioners that before the commencement of the Act of 2006, the State norm was applicable in the Manipur University which provided for reservation of 31% for the Scheduled Tribes, the said norm has to be followed in terms of the second proviso after the amendment of the Act. On a specific query by this Court, he also admits that the percentages of the Scheduled Castes and Scheduled Tribes to be followed have not been specifically mentioned in the second proviso but these can be clearly inferred. He submits that since the second proviso shows how the reservation for the OBCs has to be determined, which is based on the seats reserved for Scheduled Castes and Scheduled Tribes, obtaining just prior to the date of commencement of the Act of 2006, and since reservation for the Scheduled Castes and Scheduled Tribes had been fixed at 2% and 31% respectively on the date immediately preceding the date of commencement of the Act, it follows that reservation for the Scheduled Tribes would be 31% and 2% for the SCs after coming into force of the said Amendment Act of 2012.

13. Mr. A. Bimol, learned counsel for the UGC submits that Clause (b) to the second proviso makes it very clear that reservation of seats for the Scheduled Castes and Scheduled Tribes shall not be reduced in respect of Central Educational Institutions in the specified north-eastern region and Manipur is included as one of the States in the specified north-eastern regional as provided in the definition clause Section 2(ia) of the Act. Subsection (ia) of Section 2 defines "specified north-eastern region" as the area comprising of the State of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and the tribal areas of Assam referred to in the Sixth Schedule to the Constitution. Accordingly, it has been submitted that Manipur being one of the States specified under the north-eastern region, reservation of seats for the Scheduled Castes and Scheduled Tribes which were already in force on the date immediately preceding the date of commencement of Act would be applicable.

Mr. A. Bimol, learned counsel submits that the provisos have to be read along with the main section 3. Reading second proviso in the context of the main provision and the first proviso, would make it clear that the seats reserved for the Scheduled Castes and Scheduled Tribes as mentioned in second proviso are the seats reserved for the Scheduled Castes and Scheduled Tribes obtaining before the Act of 2006 came into existence, which are to be compared against the percentages specified under clause (i) or clause (ii) of the Section 3, in order to work out the percentages of reservation for the OBCs under the Second proviso as it would, otherwise, be meaningless to compare two similar norms.

Therefore, understood in that context, the seats reserved for the Scheduled Castes and Scheduled Tribes as mentioned in the second proviso would mean the percentages of reservation for Scheduled Castes and Scheduled Tribes existing prior to the coming into existence of the 2006 Act, in which event, it would be the State norm which was being followed by the Manipur University before coming into force of the 2006 Act i.e., 31% for the STs, 2% for the SCs.

14. Mr. A. Bimol, learned counsel also admits that these provisos have not specified the percentage of reservation for the Scheduled Castes or Scheduled Tribes but this has to be understood by reading down the main proviso of Section 3. Mr. A. Bimol, learned counsel submits that the legislative intent is very clear that percentages of reservation provided under Rule 3(i), 3 (ii) and 3(iii) are not to be applied in respect of the north-eastern States. It has been submitted that in the un-amended Act of 2006, it was provided under Section 4(a) that provisions of Section 3 of the Act shall not apply to Central Educational Institutions established in the tribal areas referred to in the Sixth Schedule to the Constitution. It has been submitted that though the said Section 4(a) has been omitted by the Amendment Act of 2012, the substantive portion of it has been inserted by way of adding the two provisos. Addition of these provisos would only show that main part of Section 3 providing for percentage of reservation for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes are not to be followed in respect of the north-eastern States and the percentages of reservation for Scheduled Castes, the Scheduled Tribes and Other Backward Classes in respect of north-eastern States have to be determined separately by looking into these two provisos.

Mr. Bimol, learned counsel for the UGC, in support of his contention has referred to the decisions of the Hon'ble Supreme Court in *Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress and Others*, AIR 1991 SC 101 : (1991) 1 CompLJ 1 : (1990) 3 JT 725 : (1991) LabIC 91 : (1991) 1 LLJ 395 : (1991) 1 SCC 600 Supp : (1990) 1 SCR 142 Supp : (1991) 1 SLJ 56 , *State of Andhra Pradesh Vs. Md. Hussain @ Saleem*, (2013) 6 ABR 670 : (2014) 3 AD 536 : (2014) CriLJ 44 : (2013) 4 RCR(Criminal) 353 : (2013) 11 SCALE 408 : (2014) 1 SCC 258 , *Badshah Vs. Sou. Urmila Badshah Godse and Another*, (2013) 11 AD 9 : AIR 2014 SC 869 : (2014) CriLJ 1076 : (2013) 3 DMC 518 : (2013) 4 JCC 2765 : (2013) 13 JT 570 : (2013) 4 RCR(Civil) 830 : (2013) 4 RCR(Criminal) 764 : (2013) 12 SCALE 681 : (2014) 1 SCC 188 : (2014) 2 SCJ 779 and *Namit Sharma Vs. Union of India (UOI)*, (2013) 1 ABR 10 : (2012) 9 JT 209 : (2012) 9 JT 166 : (2012) 4 RCR(Civil) 903 : (2012) 8 SCALE 593 : (2013) 1 SCC 745 . Relying on the aforesaid decisions, Mr. Bimol has contended that Second proviso of Section 3 has to be read along with the main provision of section 3 and the first proviso to infer the quota fixed for the SCs and STs.

15. Mr. S. Rupachandra, learned Central Government Counsel for the Union of India, however, has taken a queer stand. It has been submitted that as far as the seats reserved for Scheduled Castes are concerned, these will remain at 15% as

it was the norm applicable on the date immediately preceding the date of commencement of Amendment Act of 2012. He also submits that the percentage of reservation for Scheduled Tribes would be 31% which was as per the State norm and the second proviso provides that the extent of reservation for the Scheduled Castes and Scheduled Tribes shall not be reduced in respect of the Central Educational Institutions in the specified north-eastern region.

16. To appreciate the rival contentions, we will refer to the relevant provisions of the Principal CEI Act of 2006 and Amendment Act of 2012.

The Central Educational Institutions (Reservation in Admission) Act, 2006 was enacted by the Parliament to provide for reservation in admission of the students belonging to the SCs, STs and OBCs to certain Central Educational Institutions established, maintained or aided by the Central Government. The CEI Act of 2006 as it stood originally provided for reservation of seats in admission in the Central Educational Institutions under Section 3 as follows :--

"(i) 15% for the SCs

(ii) 7.5% for the STs and

(iii) 27% for the OBCs

out of the annual permitted strength in each branch of study or faculty."

In other words, in respect of the Central Educational Institutions, cutting across the country, the percentages of seats to be reserved for admission for the SCs would be 15%, 7.5% for the STs and 27% for the OBCs.

The only exception made was in respect of Central Educational Institutions established in the tribal areas referred to the Sixth Schedule to the Constitution as provided under Section 4(a) of the Act. It is to be noted that the Sixth Schedule is applicable only in some of the States of the North East India and not in the State of Manipur. Since Manipur University is not established in a tribal area referred to the Sixth Schedule of the Constitution, the percentages of reservation of seats for the SCs, STs and OBCs were fixed at 15%, 7.5% and 27% respectively under Section 3 of the Act.

17. It may be stated that the Manipur University was initially constituted under the Manipur University Act, 1980, enacted by the Manipur Legislative Assembly and came into existence on 5th June, 1980. Thus, it was created as a State University. At that time the reservation norm of the State was being followed in the Manipur University for admission purposes. It became a Central University on 30th October, 2005 with the enactment of the Manipur University Act, 2005 by the Parliament. However, the Manipur University continued to follow the reservation norm as adopted by the State Government even after the Manipur University become a Central University in 2005 as the CEI Act of 2006 had not yet come into existence. It was only after the enactment and enforcement of the CEI Act, 2006 that the Manipur University discontinued the reservation norm of

the State Government and started following the reservation norm as provided under Section 3 of the Act i.e., 15% for the SCs, 7.5% for the STs and 27% for the OBCs. Manipur University was not covered by the exemption clause provided under Section 4(a) of the Act as it stood then, as Manipur University is not an institution established in the tribal areas referred to in the Sixth Schedule to the Constitution. As Section 4(a) was not applicable in the State of Manipur, the reservation norm provided under Section 3 of the CEI Act, 2006 was followed. It was only after the enactment of the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 that the Manipur University made changes in the reservation policy. Thereafter, the Manipur University started to adopt the State norms in compliance with the provisos to Section 3 of the Act which were inserted by the Amendment Act of 2012. Thus, the Manipur University restored the earlier norm of reservation by reserving 31% seats for the STs, 2% for the SCs followed in the State. It is this change in the reservation norm in compliance of the provisos to Section 3 which has been challenged in this writ petition. It is therefore, necessary to minutely analyse the provisions of Section 3 and the new provisos added to Section 3 by way of Amendment in the year 2012 to ascertain the percentages of reservation for these categories to be followed by the Manipur University now.

18. As mentioned above, the reservation of seats in Central Educational Institutions for the SCs, STs and OBCs are 15%, 7.5% and 27% respectively as provided under Section 3(i), (ii) and (iii) of the Act, which was being followed by the Manipur University before the Amendment Act, 2012 was enforced. We have to examine now whether the Amendment Act of 2012 has brought any change to the said percentages fixed for these categories as far as Manipur University is concerned.

The first proviso inserted by the Amendment Act of 2012 has clearly brought some changes in respect of the Central Educational Institutions situated in the tribal areas referred in the Sixth Schedule of the Constitution by providing that the admissions to these shall be governed by the reservation policy as specified by the State Government where such institution is situated, however, confining this change only to the "State seats". In other words, in respect of "State seats" in these Central Educational Institutions, the State reservation norm would be applied. The clear implication is that in respect of the remaining non State seats, the reservation norm as provided under Section 3(i), (ii) and (iii) will be applicable. It is the case of all the parties in the present case that the first proviso is not applicable in the Manipur University. Therefore, the only issue which has to be considered is whether the remaining proviso has any effect for providing different percentages of reservation for the SCs, STs and OBCs from what have been mentioned in Section 3(i), (ii) and (iii) of the Act.

A minute perusal of the second proviso would indicate that though the said proviso has not mentioned specifically the percentages in respect of the SCs, STs or OBCs to be followed, it provides a formulae to calculate the percentage of

reservation for the OBCs. The said formula may be reduced as follows :--

"In such Central Educational Institutions, where there are no State seats,

(i) where seats deserved for the SCs exceed the percentage specified under clause (i) of Section 3,

Or,

(ii) where the seats reserved for the STs exceed the percentage specified under clauses (ii) of Section 3,

Or,

(iii) where the seats reserved for SCs and STs taken together exceed the sum of percentages specified under clauses (i) and (ii) of Section 3,

But, where such seats are :

(a) less than 50% of the annual permitted strength on the date immediately preceding the commencement of this Act, the total percentage of seats to be reserved for OBCs under clause (iii) will be restricted to the extent such sum of percentages specified under clauses (i) and (ii) of Section 3 falls short of 50% of the annually permitted strength. The idea behind such stipulation is that the reservation should not exceed 50% of the annually permitted strength."

Similarly, it has been provided in clause (b) of the proviso to the Section that, where such seats are more than 50% of the annually permitted strength on the date immediately preceding the date of the commencement of this Act, in that case there will be no reservation of seats for the OBCs. The reason is not too far to see. If the percentage of reservation of seats for the SCs and STs exceeds 50% of the annually permitted strength, there cannot be any further reservation as it has already breached the 50% limit on reservations set by judicial pronouncements. Thus there would be no reservation for the OBCs, inspite of provision for reservation for the OBCs at 27% under Section (iii) of the Act. The aforesaid clause(b) of the second proviso further provides that even if such seats are more than 50%, the extent of reservation for the SCs and STs shall not be reduced in respect of the Central Educational Institutions in the specified north eastern region. In other words, what clause (b) of the second proviso indicates is that merely because the reservation for the STs and SCs taken together are more than 50%, reservation of seats for the STs and SCs need not be reduced for that reason. The second proviso, therefore, is a clear departure from the general norm relating to reservation and the specific provisions under Section 3(iii) of the Act.

19. Thus, the formula indicated in the second proviso is a continuation of the first proviso for the purpose of working out the percentage for reservation for the OBCs in respect of Central Educational Institutions where there are no State seats. It is to be noted, however, the percentage of reservation for the OBCs in the Central Educational Institutions has been already provided under Section

3(iii) of the Act, which is to be 27%. If that is so, the moot question which arises is why there should be another provision to determine the percentage of reservation for the OBCs in another part of the same Act or why there should be another provision to provide for a different percentage other than what has been already provided under Section 3(iii). The clue to the answer to this question is to be found in the last sentence of the second proviso in clause (b). It has been mentioned therein that the extent of reservation of seats for the SCs and STs shall not be reduced in respect of Central Educational Institutions in the specified north east region, as defined under Section 2(ia). Therefore, it can be clearly inferred that this formula for determining the percentage of reservation for the OBCs which may be different from what has been already provided under Section 3(iii) is in respect of Central Educational Institutions which are located in the specified north east region. The implication is that in respect of other Central Educational Institutions not located in the specified north east region, the percentage of reservation for OBC would remain at 27% as provided under Section 3(iii) of the Act and for the States in the specified north eastern region, which includes Manipur, the percentage of reservation for the OBCs will be different and depend on the percentages of reservation for the SCs and STs as per this formula mentioned in the second proviso. This is the only plausible explanation for providing another formula or criteria for determining the percentage of reservation for the OBCs in addition to the clear provision made under Section 3(iii) of the Act. Therefore, this Court would hold that reservation for the OBCs in respect of Central Educational Institutions located in the specified north eastern region has to be worked out in terms of the second proviso. The reason is not very difficult to locate. The Amendment Act of 2012 which has added the two provisos to Section 3 was enacted to deal with certain difficulties faced in relation to Central Educational Institutions located in areas inhabited by the tribals in significant or in predominant manner as reflected in the statement of Objects and Reasons appended to the Bill and the Parliamentary Standing Committee Report. As mentioned in the statement of Objects and Reasons, as well as the report of the Parliamentary Standing Committee, many of these Central Educational Institutions located in the north eastern states had been providing reservation for STs at a higher percentage owing to the higher percentage of tribal population in these states. Therefore, having provided higher percentage of reservation for the STs, difficulties have been expressed by these Central Educational Institutions in giving effect to the provisions of the Act which provides for a lower percentage of reservation for the STs. The difficulties faced by the various Central Educational Institutions located in the north eastern states including those located in the Sixth Schedule Areas have been dealt with and attempts to remedy these shortcomings are reflected in the 234th Report of the "Department-Related Parliamentary Standing Committee on Human Resource Development" in the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 presented to the Rajya Sabha on 25th February, 2011 and laid on the table of the Lok Sabha on 25th February, 2011. The relevant portions of the said report having a direct bearing on the issue at hand may be

reproduced herein below as follows :

"1.1 The Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 was introduced in the Rajya Sabha on 6 August, 2010 and referred to the Department-related Parliamentary Standing Committee on Human Resource Development on 10 August, 2010 for examination and report thereon.

1.2 The Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 seeks to amend the Central Educational Institutions (Reservation in Admission) Act, 2006 which provides inter alia for the reservation in admission of students belonging to the Scheduled Castes, the Scheduled Tribes and the other Backward Classes of citizens to the extent of fifteen per cent, seven and one-half per cent and twenty-seven per cent respectively to certain Central Educational Institutions established, maintained or aided by the Central Government. It also provides for mandatory increase of seats in such institutions over a maximum period of three years from the academic session commencing on and from the calendar year, 2007. Section 4 of the aforesaid Act further provides that the provisions of the Act are not applicable to certain Central Educational Institutions including those established in the tribal areas referred to in the Sixth Schedule to the Constitution.

1.3 Statement of Objects and Reasons appended to the Bill states as follows:

"Some of the Central Educational Institutions, particularly those situated in the North-Eastern States including Sikkim (but excluding the non-tribal areas of Assam) inhabited significantly, and in some cases predominantly by tribal population and Babasaheb Bhimrao Ambedkar University, Lucknow, which have been reserving fifty per cent seats for the Scheduled Castes and Scheduled Tribes, in keeping with the objects specified in the Act establishing that University, have been showing their inability to reduce the extent of reservation of seats for the Scheduled Castes and the Scheduled Tribes prevailing therein, in order to give way for reservation of twenty-seven per cent of seats for the Other Backward Classes as stipulated under the Act. Further, the existing provisions of the Act exempt the Central Educational Institutions situated in the tribal areas referred to in the Sixth Schedule to the Constitution from reservation for the Scheduled Castes and the Scheduled Tribes, if any. But this was not intended while enacting the aforesaid Act, except in case of Minority Educational Institutions which are exempt in terms of clause (5) of Article 15 of the Constitution. Moreover, some of the Central Educational Institutions have been finding it difficult to adhere to the time-limit of three years for creation of the requisite physical and academic infrastructure owing to various reasons beyond their control.

In order to remove the aforesaid practical difficulties being faced by the various Central Educational Institutions in giving effect to the provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006, it has become necessary to amend certain provisions of the Act. It is also proposed to clarify

that implementation of the Act has, in fact taken effect from the calendar year 2008 and not from the year 2007 as specified in section 6 of the Act."

1.4 The Department of Higher Education in their Background Note on the Bill summarized the practical difficulties experienced by some of the CEIs in giving effect to the provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006 as under:--

(i) Babasaheb Bhimrao Ambedkar University (BBAU) Lucknow, established as an institution intended to pay special attention to the promotion of educational and economic interests and welfare of the members belonging to the SCs and STs, has been providing 50 per cent reservations for the SCs/STs. Provision of reservation of 27 per cent seats for the OBCs, over and above the existing 50 per cent limit for SCs and STs, the total reserved seats would exceed the 50 per cent limit stipulated by the Supreme Court in the Indra Sawhney case.

(ii) Ordinances of Nagaland University, Mizoram University, Manipur University, Rajiv Gandhi University (Arunachal Pradesh) and Tripura University already provide for reservation of higher percentage than 15 per cent of seats for SCs or 7.5 per cent of seats for STs, owing to the composition of population in these States. Further, in view of these CEIs having adopted the respective State Government norms requiring them to reserve more than 7.5 per cent of seats for STs have expressed difficulties in giving effect to the provisions of the Act.

(iii) Section 4 of the Act provides, inter-alia that the provisions of Section 3 of the Act envisaging reservation of 27 per cent seats for the OBCs, in addition to 15 per cent seats for the SCs and 7 1/2 per cent seats for the OBCs, shall not apply to a CEI established in the tribal areas referred to in the Sixth Schedule to the Constitution. The said exemption implies, inter alia, that the CEIs established in the tribal areas referred to in the Sixth Schedule to the Constitution shall no longer be governed by the reservation policy for the SCs and STs, if any, in force immediately preceding the date of the coming into force of the said Act which was certainly not the intention of Parliament in making the law for reservation in admission. The only exemption was in the case of Minority Educational Institutions, in terms of clause (5) of Article 15 of the Constitution. The National Institute of Technology (NIT), Agartala, the North-Eastern Hill University, Shillong and Shillong Campus of the English and Foreign Language University, Hyderabad, fall under this category. All these CEIs have been reserving seats for the Scheduled Castes and the Scheduled Tribes and it would, therefore, be desirable to continue with the same, although exemption from such a reservation has been provided under the Act.

(iv) Another complication is that NITs have their annual permitted strength divided equally in two categories-All-India seats and State seats. The only NIT presently situated in the tribal areas referred to in the Sixth Schedule to the Constitution, namely, NIT, Agartala has traditionally been following the reservation policy specified by the State Government, in so far as State seats are

concerned. Accordingly, the said NIT had regretted its inability to switch over to the provisions of section 3 of the Act, in so far as State seats are concerned. Though this request has since been acceded to by the direction of the President under clause (c) of paragraph 12AA of the Sixth Schedule to the Constitution, it has been considered desirable to amend this Act, in order to exempt the State seats in a CEI situated in the tribal areas referred to in the Sixth Schedule to the Constitution from implementation of section 3 of the Act.

(v) Section 5(1) of the Act provides that every CEI shall increase the number of seats in a branch of study or faculty over and above the annual permitted strength so that the number of seats, excluding those reserved for the SCs, the STs and the OBCs is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of the Act. There are certain branches of study or faculty, which are not very popular among students, where the seats available for the academic session immediately preceding the date of the coming into force of the Act could not be filled, despite concerted efforts by the concerned CEI. It would, therefore, be prudent to predicate the number of seats in such unpopular branches of study or faculty in a CEI with reference to the number of seats actually filled in for the academic session immediately preceding the date of the coming into force of the Act.

(vi) While section 5(2) of the Act envisages a maximum period of three years for expansion of capacity of a CEI necessitated to ensure that the number of seats (excluding those reserved for the SCs, and STs and the OBCs) is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of the Act, a couple of the CEIs are finding it difficult to adhere to said time limit for creation of the requisite physical and academic infrastructure due to a variety of reasons beyond their control and have been requesting for the increase in the time limit.

1.5 The Secretary, Department of Higher Education, during her presentation before the Committee, dwelt upon the practical difficulties being experienced by different Central Educational Institutions during the last three years in giving effect to the provisions of the Act, especially with regard to 50 per cent ceiling and existing demographic patterns in the North-East States. It was stated that Babasahab Bhimrao Ambedkar University, Lucknow already has 50 per cent reservation for the Scheduled Castes and Scheduled Tribes and institutions in the North East States viz Arunachal Pradesh, Meghalaya, Mizoram and Nagaland predominantly inhabited by the tribal population, were already providing higher percentage of reservation for Scheduled Tribes, the provision for 27 per cent OBC reservation would be breaching the ceiling of 50 per cent reservation as laid down under the Supreme Court directive. Providing for 27 per cent OBC reservation by lowering the existing reservation in the University would prove to be detrimental to its character as visualized in its Statute. Another significant anomaly noticed was in respect of Sixth Schedule States where 50 per cent ceiling of reservation had already been reached and OBC reservation would lead

to complications. North-East States having a predominantly Scheduled Tribe population needed separate dispensation for the OBC reservation. The Committee was also given to understand that time-limit of three years for the implementation of the Act had proved to be insufficient inspite of Oversight Committees working in coordination with UGC and AICTE. Attention of the Committee was also drawn to special problem areas experienced in respect of Central Educational Institutions in Delhi due to permission required from different agencies for building up the required infrastructure.

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3.4 The Committee takes note of the following clarification given by the Department for bringing the proposed amendments in Section 3:--

(i) State Seats, if any, in a Central Educational Institution (CEI) situated in the tribal areas referred to in the Sixth Schedule to the Constitution shall be governed by the reservation policy of the concerned State Government in the matter of admissions of SCs, STs and OBCs to that CEI.

(ii) In a CEI with no State seats, if the seats reserved for the SCs exceed 15 per cent or the seats reserved for the STs exceed 7.5 per cent or the seats reserved for the SCs and the STs taken together in a CEI exceed 22.5 per cent but fall short of 50 per cent of the annual permitted strength, the percentage of seats reserved for the OBCs shall be restricted to such shortfall.

(iii) In a CEI with no State Seats, if the seats reserved for SCs or the STS or both taken together in a CEI exceed 50 per cent of the annual permitted strength, that CEI shall be exempt from making any reservation for the OBCs. Further, if such a CEI is situated in the north-eastern States, including Sikkim but excluding the non-tribal areas of Assam, the percentage of seats reserved for the SCs or the STs shall not be reduced from the level obtaining on the date immediately preceding the date of the commencement of the Act; while in case of a CEI situated in other areas the percentage of seats reserved for the SCs and STs in that CEI shall stand reduced to 50 per cent."

(emphasis added)

The relevant portion of the Statement of Objects and Reasons for introducing the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 is also reproduced hereinbelow:--

"2. It is noted that some of the Central Educational Institutions particularly those situated in the North-Eastern States including Sikkim (but excluding the non-tribal areas of Assam) inhabited significantly, and in some cases predominantly by tribal population and Babasaheb Bhimrao Ambedkar University, Lucknow, which has been reserving fifty per cent seats for the Scheduled Castes and the Scheduled Tribes in keeping with the objects specified in the Act establishing that

University, have been showing their inability to reduce the extent of reservation of seats for the Scheduled Castes and the Scheduled Tribes prevailing therein, in order to give way for reservation of twenty-seven per cent of seats for the Other Backward Classes as stipulated under the Act. Further, the existing provisions of the Act exempt the Central Educational Institutions situated in the tribal areas referred to in the Sixth Schedule to the Constitution from reservation for the Scheduled Castes and the Scheduled Tribes, if any, but this was not intended while enacting the aforesaid Act, except in case of Minority Educational Institutions which are exempt in terms of clause (5) of article 15 of the Constitution. Moreover, some of the Central Educational Institutions have been finding it difficult to adhere to the time-limit of three years for creation of the requisite physical and academic infrastructure owing to various reasons beyond their control.

3. In order to remove the aforesaid practical difficulties being faced by the various Central Educational Institutions in giving effect to the provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006, it has become necessary to amend certain provisions of the Act. It is also proposed to clarify that implementation of the Act has, in fact, taken effect from the calendar year 2008 and not from the year 2007 as specified in section 6 of the Act."

20. This Court has referred extensively to these external aids to understand the real meaning and purport of the provisos added to the Principal Act as it is well established cannon of interpretation of statutes that it is permissible to resort to both external and internal aid to understand the meaning and scope of statutory provisions and to clear any doubt or ambiguity. The words of statutes take colour from the reason for their presence in the statutes which can be discovered from external aid like Parliamentary debates or proceedings or report or internal aid like "Objects and the Reasons" appended to the bill or the Act. [See Sub-Committee of Judicial Accountability Vs. Union of India and others, AIR 1992 SC 320 : (1991) 6 JT 184 : (1991) 2 SCALE 844 : (1991) 4 SCC 699 : (1991) 2 SCR 1 Supp : The Commissioner of Income Tax, Madhya Pradesh and Bhopal Vs. Sodra Devi, AIR 1957 SC 832 : (1957) 32 ITR 615 : (1958) 1 SCR 1 ; R.S. Nayak Vs. A.R. Antulay, AIR 1984 SC 684 : (1984) CriLJ 819 : (1984) CriLJ 613 : (1984) 1 Crimes 926 : (1984) 1 Crimes 568 : (1984) 1 SCALE 239 : (1984) 1 SCALE 198 : (1984) 2 SCC 183 : (1984) 2 SCR 495 : (1984) 1 SLJ 347 .

21. A minute examination of the two provisos inserted would clearly indicate that the two provisos have been inserted to protect the interest of the Scheduled Tribes inhabiting the north-eastern states. The first proviso specifically deals with the Central Educational Institutions located in the tribal areas covered by the Sixth Schedule as far as the "State seats" are concerned in which reservation policy of the State has to be followed by ignoring the percentages of reservation fixed under Section 3(i), (ii) and (iii). In other words, irrespective of the percentages of reservation fixed under clause (i), (ii) and (iii) of Section 3, as far as the "State seats" are concerned in the Central Educational Institutions located

in the tribal areas under Sixth Schedule, the State norm would be applicable. However, as regards the remaining non-State seats, it has not been clearly mentioned as to what norm should be followed. In absence of any further provision and had not the second proviso been inserted, the normal inference would have been that in respect of the remaining seats other than State seats, reservation norm has to be in terms of Section 3(i), (ii) and (iii). Thus, in respect of the non-State seats, reservation for the SCs, STs and OBCs ought to be 15%, 7.5% and 27% respectively, as provided under Section 3(i), (ii) and (iii). But this is not to be, because of the second proviso to Section 3. As discussed above, the second proviso provides the formula for determining the percentage of Other Backward Classes. This formula, however, cannot be applicable in respect of the State seats of the Central Educational Institutions, as in respect of the State seats, the reservation has to be in terms of the State norm. Therefore, it can be only in respect of the non-State seats in the specified north eastern region, as for the rest of the country, the percentage has been already fixed under clause (iii) of Section 3. The fact that the second proviso will be applicable in respect of the specified areas in the north-eastern States as mentioned in the last line of the second proviso would clearly indicate that this formula for determining the percentage of Other Backward Classes will be in respect of the Central seats (non-State seats) in all Central Educational Institutions located in the specified northeastern States. Therefore, the clear inference which can be drawn is that in view of the second proviso, in respect of seats which are not State seats, in the Central Educational Institutions located in the specified north-eastern region, these would be governed by this formula under the second proviso and not by the percentages provided in the main provisions of Section 3(i), (ii) and (iii). It is also to be noted that clause (b) of the second proviso clearly provides for non reservation for the OBCs on certain eventuality. Thus under the scheme, reservation for the OBC may also be entirely done away with to ensure that the high percentage of reservation for the STs is not in any way compromised in the north eastern states. The Legislative intent to protect the interest of the Scheduled Tribes can be seen from the insertion of clause (b). Clause (b) to the second proviso goes to the extent that even if the percentages of reservations for the SCs and STs exceed 50% of the annual permitted strength, these shall not be reduced in respect of Central Educational Institutions in the specified north-eastern region. These special provisions for retaining the high percentage of reservation for the STs keeping in mind the population composition, to the extent of completely doing away with reservation for the OBC, have been incorporated to protect the interests of tribals inhabiting the north eastern region, which has been clarified by inserting the phrase "specified north-eastern region" in the proviso, as defined under Section 2(ia) of the Act. This interpretation is in conformity with the intention of the legislature as clearly indicated as can be gleaned from the Report of the Parliamentary Standing Committee of Rajya Sabha and the Statement of Objects and Reasons appended to the Bill, to protect the interest of the Scheduled Tribes as quoted above. The report of the Parliamentary Standing Committee, relevant portions of which have been already

quoted above, clearly indicates that the Parliamentary Standing Committee was fully aware of the existence of large population of the Scheduled Tribes either in majority or in substantial number in all the north-eastern States and these Central Educational Institutions also having adopted the respective State Government norms earlier which provide for a very high percentage of reservation for the STs before coming into existence of this Act and accordingly, to adjust the reservation for the OBCs according to the existing reservation for the Scheduled Tribes. The observation of the Committee at para No. 3.4 of the report as quoted above clearly shows the reason for incorporation of these two provisos in which it has been clearly mentioned that in a CEI with no State seats, if the seats reserved for the SCs exceed 15 per cent, or the seats reserved for the STs exceed 7.5 per cent, or the seats reserved for the SCs and the STs taken together in a CEI exceed 22.5 per cent but fall short of 50 per cent of the annual permitted strength, the percentage of seats reserved for the OBCs shall be restricted to such shortfall and if the seats reserved for Scheduled Castes or Scheduled Tribes, both taken together in a Central Educational Institutions exceed 50% of the annual permitted strength, that CEI shall be exempt from making any reservation for the OBCs. It was further clarified in the said report that if such a CEI is situated in the north-eastern States, including Sikkim but excluding the non-tribal areas of Assam, the percentages of seats reserved for the SCs or the STs shall not be reduced from the level obtaining on the date immediately preceding the date of the commencement of the Act.

22. From the above Parliamentary Standing Committee Report as also indicated in the Objects and Reasons appended to the Bill, as quoted above, it is very clear that the intention for bringing the aforesaid two provisos is to protect the interest of the Scheduled Tribes in the Central Educational Institutions located in the tribal areas of the north-eastern State including Sikkim. Therefore, the general norm provided under Section 3(i), (ii) and (iii) of the Act which is meant for Central Educational Institutions located in the rest of the country, will not be applicable in the case of Central Educational Institutions located in the north-eastern region, which shall be governed by the two provisos inserted. Having taken that view, it would further required to be clarified as to how the percentages of reservation for the Scheduled Tribes and Scheduled Castes in respect of Central Educational Institutions located in the North-eastern States other than "State seats" have to be worked out. The formula indicated in second proviso to determine the percentage of OBCs is to be worked out on the basis of percentages of reservation for the SCs and STs. The percentages of Scheduled Tribes and Scheduled Castes on the basis of which the percentage of OBCs has to be calculated is to have reference to the percentages of reservation fixed for Scheduled Tribes and Scheduled Castes which were obtaining immediately preceding the date of commencement of the Act. In other words, the percentages of reservation fixed for the Scheduled Castes and Scheduled Tribes immediately preceding the date of commencement of the Act, would be percentages of reservation for these categories to be followed by the Central

Educational Institutions after the amendment of the Act in the year 2012 as it on the basis of these that the percentage of reservation for the OBCs has to be worked out as provided under the second proviso as explained above.

23. This construction will be clarified by the expression "the date immediately preceding the date of commencement of this Act" mentioned in the proviso which according to the petitioners would be the commencement of the Amendment Act of 2012 and not the commencement of the Principal Act of 2006.

As regards this contention of the petitioners and the private respondents 13-19, this Court does not find much merit. The Amendment Act of 2012 brought in certain new provisions in the principal Act of 2006. Section 2 of the principal Act was amended by incorporating the definition clauses, Section 2(ia) and (ib), which define "specified north-east region" and "State seats" respectively. Further, amendment was made to Section 3 of the principal Act by adding two provisos as has been elaborately discussed. Other amendments made are in respect of Section 4, 5 and 6 of the principal Act.

These provisions after having been inserted by the Amendment Act of 2012 have now become part of the Principal Act of 2006 and as such these have to be read with reference to the Principal Act of 2006 and cannot be read with reference to the Amendment Act of 2012, unless specifically so provided in the Amendment Act. The Amendment Act of 2012 does not mention that "commencement of this Act", mentioned in the proviso would mean "commencement of the Amendment Act" as the petitioners and respondents 13-19 would like this Court to accept. It is not permissible to read into an Act, words which are not mentioned therein, unless the Amendment Acts specifically so provides. The newly added provisions have to be given their plain and the grammatical meaning. Therefore, this Court would reject the contention of the petitioners and the respondents No. 13 to 19.

24. Apart from this plain construction of the expression "commencement of the Act" which prohibits reading into or adding the word, "Amendment", the argument of the petitioners and the respondent Nos. 13 to 19 suffers from a fundamental flaw. It cannot be disputed that after the enforcement of the Principal Act of 2006, all the Central Educational Institutes all over the country (except those located in the tribal areas referred to in the Sixth Schedule to the Constitution as provided under the earlier Section 4(a) of the Principal Act) were to follow the reservation norm laid down under Section 3(i), (ii) and (iii) of the Act i.e., 15% for the SCs, 7.5% for the STs and 27% for the OBCs. This also will include Manipur University as it was not covered by the exemption clause provided under the earlier unamended Section 4(a) of the Act. If we accept the contention of the petitioners and the respondents No. 13 to 19, what it would mean is that, this norm which was in operation just immediately preceding the Amendment Act viz., 15% for the SCs under clause (i), and 7.5% for the STs under clause (ii) will have to be compared with the percentages specified under clauses (i) and (ii) respectively as mentioned in the second proviso. The result will be that the same percentages for SCs and STs will be compared with, which

is quite absurd. Any such interpretation which leads to absurdity must be avoided. Therefore, the only reasonable and rational interpretation of the expression "on the date immediately preceding the date of this Act", will have reference to the Principal Act and not the Amendment Act of 2012.

25. There is yet another contention of the petitioners and the private respondents 13-19 which needs to be dealt with at this stage. It had been vehemently argued that the provisions of an Act which had been added by way of amendment cannot have any retrospective effect. It had been submitted that even if the change in percentages of reservation for the SCs, STs and OBCs as contemplated under the newly amended provisions of the Act is held permissible, it cannot take away the rights which had accrued prior to the Amendment Act of 2012. There cannot be any dispute about this contention as it is neither the case of the other respondents that the Amendment Act would have retrospective effect. No one has come before this Court in this proceeding contending that the reservation already enjoyed before the Amendment Act of 2012 has been denied or adversely affected or taken away. The grievance relates to the adoption of the State reservation norm after the enforcement of the amendment of the Act by the Manipur University. This Court while interpreting the second proviso has already held that the formula for determining the percentage of reservation for the OBC has to be calculated with reference to the percentages of the reservation of the SCs and STs prevalent on the date immediately preceding the date of commencement of the Act of 2006. Therefore, this Court would like to clarify that adoption of certain formulae or criteria with reference to a past period does not mean that particular provision has been given retrospective effect. The amendments made in Section 3 by bringing in two provisos would have a prospective effect and cannot change the reservation which had been already followed before the Amendment Act of 2012 came into existence or was enforced. These provisions have to be given prospective effect from the date these amendments have become part of the principal Act. However, this will not affect the formula or criteria which may refer to a past situation, which had been mentioned in the said proviso for determining the percentages of reservation which have to be worked out on the basis of the situation obtaining on the date immediately preceding the date of commencement of the 2006 Act.

26. This Court would also like to deal with the argument advanced by the petitioners and the respondents 13-19 that the two provisos are not at all applicable for fixing percentage of reservation for the SCs, STs for Manipur University and it has to be fixed as provided in the main provision of Section 3(i), (ii) and (iii). It has been also submitted that even if the second proviso is applied, since it does not specifically lay down the percentages for reservation for the SCs, STs in the teeth of what have been specifically provided under Section 3(i), (ii) and (iii), the second proviso cannot be invoked to determine the percentages of reservation for the SCs and STs on the ground of vagueness. Accordingly, they have submitted that the percentages for reservation provided for the SCs and STs specifically in Section 3(i) and (ii) must be followed by the

Manipur University even after the amendment of the Act.

The other argument raised by the petitioners is that the Principal Act of 2006 having been upheld by the Constitution Bench of the Supreme Court in *Ashok Kumar Thakur* (supra), no tinkering with the Act, by reducing the percentage provided for the SCs by any subsequent legislation, is impermissible.

27. It is a well established principle of interpretation of statute that the Court must give effect to each of the provisions of an Act so as to not render any provision odious or redundant. Further, any apparently contradictory or ambiguous provision ought to be harmoniously construed and only in such rare case where any such provision is not possible to be harmoniously construed with the main provision, the issue of ignoring such provisions may arise. However, in the present case as already discussed above, the two provisos could be harmoniously construed with the main provision of Section 3. This Court has already held that these two provisos provide an exception to the general norm of reservation provided under Section 3(i), (ii) and (iii) only in respect of the tribal areas or states located under Sixth Schedule and specified north-eastern states as defined under Section (ia) of the Act. In other words, these two provisos have been inserted as exceptions to the general rule and interpreted in such a manner would lead to harmonious existence of all the provisions of the Act after the amendment of the Act. Any interpretation to discard any of these two provisions as redundant ought to be avoided and can be avoided if interpreted in the manner as has been discussed above.

Further, as regards the contention that no specific percentages for reservation have been provided under the second proviso for the STs and SCs, this Court is of the view that this will not come in the way of determining the percentages of reservation for the STs and SCs. Merely because percentages have not been mentioned in the second proviso, this would not lead ipso facto to the conclusion that such provision is vague. If the words "the seats reserved for the Scheduled Castes", and, "the seats reserved for the Scheduled Tribes" as mentioned in second proviso are read with reference to what was available on the date immediately preceding the commencement of the Act, as mentioned therein and also stated at para No. 3.4(iii) of the Parliamentary Committee Report quoted above, the vagueness will disappear as these can be referred to the percentages which were being followed prior to the date of commencement of the Act of 2006. Therefore, by clear inference, by reading the entire provisos, one can determine the percentages of reservation for the SCs and STs. Therefore, this Court holds the view that the aforesaid provisos do not suffer from the vice of vagueness or uncertainty. It may be noted that no specific percentages have been fixed in the second proviso in view of the fact that different states in the northeast provide different percentages of reservation for the SCs and STs. Understood in that context, the said provisos cannot be said to be vague.

28. Coming to the other contention of Mr. I. Lalitkumar, learned senior counsel for the petitioners that since the Principal Act 2006 had been upheld by a

Constitution Bench of the Hon''ble Supreme Court, and it is impermissible to make any changes subsequently even by the legislative action, it may be observed that in the present writ petition, nobody is assailing the vires of the provisos inserted by the Amendment Act of 2012. In fact, it is the contention of the petitioners as well as the respondents No. 13 to 19 that these provisos as they stand are not applicable in the case of State of Manipur.

29. As regards the contention of Mr. I. Lalitkumar, learned senior counsel that since the percentage of reservation for SC has been already fixed at 15% under Section 3(i) of the Act, which had been upheld by the Constitution Bench of the Hon''ble Supreme Court, it is not permissible to reduce the said percentage by invoking the second proviso, it is to be stated that the proviso provides an exception to the general rule and since the Scheduled Castes have not been totally deprived of reservation under the two provisos, in Manipur University, the said provisos cannot be said to be ultra vires the Act or violation of the judgment of the Hon''ble Supreme Court. It may be also noted that the Hon''ble Supreme Court in Ashok Kumar Thakur (*supra*) was dealing with the constitutional validity of the CEI Act, 2006 with particular reference to reservation of seats for the OBCs in the state aided institutions as defined in Section 2(d) and not to any other private unaided institutions. In any event reservation for the SCs have not been entirely taken away by the provisos. However, it may be noted that under clause(b) of the second proviso, it has been provided that no seats shall be reserved for the OBCs in the eventuality of the position obtaining as contemplated under the clause (b) of second proviso which may be contrary to the provision for reservation for the OBCs under Section 3(iii). Whether such total denial of reservation for the OBCs in the face of certain specific percentage being provided under Section 3(iii), is constitutionally permissible or not, is an issue before this Court and hence not considered.

Coming to the number of judgments of the Hon''ble Supreme Court referred to by Mr. Lalitkumar, Ld. Senior Counsel, this Court is of the view that the principles laid down therein are not applicable to support his contentions in this case and hence, not separately discussed elaborately. So are the decisions relied upon by Mr. A. Rarry.

30. As regards the contention of Mr. S. Rupachandra, Ld. C.G.S.C., the same being not consistent, and being based on both the rival contentions cannot be accepted as these two rival contentions cannot be reconciled.

31. This Court, therefore, holds that the percentages of reservation for the STs and SCs as were existing and being applied in the Manipur University prior to the commencement of the Central Educational Institutions (Reservation in Admission) Act, 2006 viz., 31% for the STs and 2% for the SCs shall be adopted for determination of percentage of reservation for the Scheduled Tribes and Scheduled Tribes in Manipur University and the percentage of reservation for the OBCs will be restricted to the extent the percentages of reservation of the Scheduled Tribes and Scheduled Tribes taken together fall short of fifty percent of

the annual permitted strength as provided under second proviso to amended Section 3. It follows, therefore, that the percentages of reservation for the STs, SCs and OBCs shall be 31%, 2% and 17% respectively for admission to various courses in Manipur University which were applicable prior to commencement of the 2006 Act. This Court would also like to clarify that this Court has not gone into the correction or otherwise of the calculation of the actual seats notified as reserved for the Scheduled Tribes, Scheduled Castes and Other Backward Classes, by the Manipur University for admission to various disciplines but only has clarified and explained the principle/criteria to be adopted for determining the percentages of reservation of seats in this judgment, on which basis the calculation of seats has to be made. Accordingly, it would be open to any aggrieved person to approach this Court if there be any mistake in the calculations/determination of the actual number of seats reserved for the Scheduled Tribes (31%), Scheduled Castes (2%) or Other Backward Classes(17%) or for any wrong application of the above discussed principle for determination of percentages of reservation.

32. For the reasons discussed above, the writ petition is dismissed, subject to the observations made above. Interim order, if any, stands vacated.