
(2017) 04 MEG CK 0014
In the Meghalaya High Court
Case No : 83 of 2016

Shri K.M. Singh and others	Vs	APPELLANT
Manipur University and others		RESPONDENT

Date of Decision : 20-04-2017

Acts Referred:

Central Educational Institutions (Reservation in Admission) Act, 2006, Section 3, Section 2(a), Section 2(ib) - Reservation of seats in Central Educational Institutions - Definiti

Citation : 2017 0 AIR(Megh) 46

Hon'ble Judges : Dinesh Maheshwari, Ved Prakash Vaish

Bench : Division Bench

Judgement

PRELIMINARY

1. This writ appeal, directed against the order dated 01.09.2015, as passed by a learned Single Judge of the High Court of Manipur in Writ

Petition (C) No.753 of 2014, has been registered and heard in this Court on being transferred from the High Court of Manipur pursuant to the

order passed by the Hon"ble Supreme Court on 19.09.2016 in Transfer Petition (C) No.1715 of 2015.

2. The matter in issue essentially relates to the reservation of seats for admission in the Manipur University [respondent No.1 - hereinafter also

referred to as "the University" or "the respondent University"], more particularly to the distribution of reservation for the candidates belonging to

Scheduled Caste ["SC"] and Scheduled Tribe ["ST"]; and revolves around the operation of provisions contained in the Central Educational

Institutions (Reservation in Admission) Act, 2006 [hereinafter also referred to as "the Act of 2006" or "the Act"], as amended by the Central

Educational Institutions (Reservation in Admission) Amendment Act, 2012 [hereinafter also referred to as "the Amendment Act of 2012"] read

with the Manipur University Act, 2005 [hereinafter also referred to as "the Act of 2005"] and the Ordinances issued thereunder.

3. The appellants of this writ appeal, being the candidates belonging to Scheduled Caste category, had been the petitioners No. 1-3 and

respondents No. 13-19 in the writ petition aforesaid. The appellants had asserted in the petition that as per the relevant provisions of the Act of

2006 and the Amendment Act of 2012, reservation for the candidates belonging to the Scheduled Caste category is and ought to be 15%; and

had questioned the purported reduction of this quota for SC category to 2%, as per the breakup of seats for admission to various courses in the

Academic Year 2014-15 in the letter issued by the Registrar, Manipur University on 23.7.2014. The respondents No.1-3 in this appeal are the

Manipur University and its functionaries; the respondent No.4 is the Secretary, National Commission for Scheduled Caste; the respondent No. 5

is the Union of India sued through the Ministry of Human Resources Development; respondent No.7 is the State of Manipur; and respondents

No.8-12 are the candidates belonging to the Scheduled Tribes category.

4. It may be noticed that the original writ petitioner No.1, Shri N. Rakesh Singh, who was appellant No.1 herein, expired during the pendency of

this appeal and his name was ordered to be deleted from the array of parties. Further, at the request of the counsel for the appellants, the name of

respondent No.11, who could not be served and whose whereabouts were not known, was also ordered to be deleted and the cause title of the

appeal has been amended accordingly.

5. The learned Single Judge of the High Court indicated at the outset the uncertainties hovering over and the intricacies involved in the matter

relating to the operation of the Act of 2006 on the question of extent of reservation for the Scheduled Caste, Scheduled Tribe and other Backward

Class candidates for admission in the respondent University. The learned Single Judge, thereafter, referred to the multifaceted arguments advanced

by the learned counsel for the respective parties and then, took up the process of finding out the meaning, purport and import of the referred

provisions. The learned Single Judge, after taking note of the statement of

objects and reasons for the Amendment Act of 2012, held that the provisos were added to Section 3 of the Act essentially in order to protect the interest of Scheduled Tribes inhabiting the North-Eastern States; and, while rejecting the contentions urged on behalf of the present appellants, held that the second proviso inserted to Section 3 of the Act of 2006 by the Amendment Act of 2012 carved out an exception to the general percentage of reservation as provided in the principal part of this Section 3; and further held that the percentage of reservation for admission to various courses in the respondent-University for the respective categories of STs, SCs and OBCs shall be maintained at 31%, 2% and 17% respectively, as was applicable prior to the commencement of the Act of 2006.

6. Aggrieved by the order aforesaid, the appellants, being the candidates of Scheduled Caste category, have preferred this appeal questioning the process of interpretation adopted by the learned Single Judge; and with the submissions that Ordinances 5.2 and 5.4, as made by the respondent University, providing for the percentage of reservation in terms of clauses (i), (ii) and (iii) of Section 3 of the Act of 2006, continue to hold the field and the reservations in the respondent University shall be governed by the said Ordinances.

7. In order to appreciate the controversy and the contentions urged in this matter, appropriate it would be to take note of, in the first place, the relevant features of the Act of 2006 and of its amendment by way of the Amendment Act of 2012.

The Central Educational Institutions (Reservation In Admission) Act, 2006 And Its Amendment

8. The Central Educational Institutions (Reservation in Admission) Act, 2006 was promulgated essentially in order to provide for the reservation in admission of the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes to the Central Educational Institutions established, maintained or aided by the Central Government.

9. As originally enacted, this Act of 2006 provided for reservation of seats in a Central Educational Institution [hereinafter referred to as "the Institution" or "CEI"] to the extent of 15% for Scheduled Castes; 7½% for Scheduled Tribes; and 27% for Other Backward Classes, out of the annual permitted strength in each branch of study or faculty. The expression,

""annual permitted strength"" has been defined to mean the number of seats in a course or programme in each branch of study or faculty as authorised by an appropriate authority for admission of the students.

However, this Act of 2006 was excluded from its operation in relation to certain institutions as specified in Section 4; and as per clause (a) of

Section 4, the Act was not to apply to the Central Educational Institutions established in the tribal areas referred to in the Sixth Schedule to the

Constitution. This enactment was subjected to substantial changes and alterations by way of the Amendment Act of 2012 whereby, clauses (ia)

and (ib) were inserted in the definition clause in Section 2 of the Act as under :

(ia) ""specified north-eastern region"" 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;

(ib) ""State seats"", in relation to a Central Educational Institution, means such seats, if any, out of the annual permitted strength in each branch

of study or faculty as are earmarked to be filled from amongst the eligible students of the State in which such institution is situated;

10. Further, by way of the Amendment Act of 2012, two provisos were inserted to Section 3 of the Act of 2006, in order to provide for a

departure from the principal provisions contained in clauses (i), (ii) and (iii) thereof in relation to certain specified CEIs. By the first proviso,

reservation for State seats in the CEIs in the tribal areas referred to in the Sixth Schedule was left open to be governed by the reservation provided

by the Government of the State concerned. However, by the second proviso, special provisions were made in relation to the specified class of

CEIs where the percentage of seats reserved for SC and/or ST category exceeded the percentage provided in clauses (i) and/or (ii) of this Section

3. This second proviso inserted to Section 3 of the Act forms the subject matter of interpretation in this case and is the bone of contention. Section

3 of the Act of 2006, in its present form after insertion of the aforesaid two provisos, reads as under:

Reservation of seats in Central Educational Institutions.- The reservation of seats in admission and its extent in a Central

Educational Institution shall be provided in the following manner, namely:-

(i) out of the annual permitted strength in each branch of study or faculty, fifteen per cent seats shall be reserved for the Scheduled Castes;

(ii) out of the annual permitted strength in each branch of study or faculty, seven and one-half per cent seats shall be reserved for the

Scheduled Tribes;

(iii) out of the annual permitted strength in each branch of study or faculty, twenty-seven per cent seats shall be reserved for the Other

Backward Classes:

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

11. By the same Amendment Act of 2012, Section 6 of the Act of 2006 was also amended; and in the present form, reads as under:-

Reservation of seats in admissions to begin in calendar year, 2008.- The Central Educational Institutions shall take all necessary steps,

which are required in giving effect to the provisions of Sections 3, 4 and 5 of this Act, for the purposes of reservation of seats in admissions

to its academic sessions commencing on and from the calendar year, 2008

12. Further, by the same Amendment Act of 2012, the aforesaid clause (a) of Section 4 was omitted. There had been a few more amendments in

relation to Section 5 of the Act of 2006, which are, however, not relevant for the present purpose.

The Relevant Background; Cause of Contention; and Submissions before the Single Judge

13. The relevant background aspects of the matter could be taken in comprehension as follows: The respondent No. 1, Manipur University, was

initially constituted under the Manipur University Act 1980, as enacted by the legislature of the State of Manipur; and came into existence on

05.06.1980. Having been created as a State University, initially, the norms of reservation of the State of Manipur were followed in this University

for the purpose of admission. However, with enactment of the Manipur University Act of 2005 by the Parliament, the Manipur University became

a Central University on 03.10.2005. Soon thereafter, the Act of 2006 came to be enacted and came into force on 03.01.2007. As noticed, this

Act of 2006, as originally enacted, was not to apply to a CEI established in the tribal areas referred to in the Sixth Schedule to the Constitution.

The tribal areas referred to in the Sixth Schedule to the Constitution do not comprise the State of Manipur and hence, the Act of 2006 directly

became applicable to the respondent University in the State of Manipur and as a necessary consequence, the reservation of seats in this Institution

came to be governed by clauses (i) (ii) and (iii) of Section 3 of the Act of 2006, leading to the percentage of reservation for the candidates of

Scheduled Castes, Scheduled Tribes and Other Backward Classes at 15%, 7½% and 27% respectively.

14. However, as noticed, by the Amendment Act of 2012, two provisos were added to Section 3 of the Act of 2006. It is not in dispute that first

proviso to Section 3 has no application to the present case because respondent University is not situated in the tribal areas referred to in the Sixth

Schedule nor there are any State seats. However, because of the second proviso to Section 3 *ibid.*, a view was sought to be taken that the norms of reservation, as were applied in respondent University before the commencement of the Act of 2006, shall stand revived and hence, the percentage of reservation would stand restored at 31% for STs, 2% for SCs and 17% for OBCs. This led to discontentment amongst the candidates like the appellants belonging to the Scheduled Caste category and to the writ petition in the High Court of Manipur, which has been decided by the impugned order dated 01.09.2015.

15. On behalf of the present appellants, the following principal contentions were urged before the learned Single Judge: (a) that the second proviso to Section 3 did not specify the percentage of reservation for SCs and STs and merely provided a formula for determining the percentage of reservation for OBCs; (b) that the second proviso could not be interpreted to override and nullify the general rule of reservation provided in the principal provisions of Section 3; (c) that the Manipur University, being a Central University, was not existing only for the State of Manipur but was open to all the eligible candidates of the country and hence, the central norms for reservation of seats, as provided in the principal part of Section 3 were required to be applied; (d) that even for the purpose of the second proviso to Section 3, the percentage of reservation would be such as was existing on the date immediately preceding the date of commencement of the Amendment Act of 2012; and as the percentage before the commencement of the Act of 2012 had been 15%, 7½% and 27% for SCs, STs and OBCs respectively, the same norms would apply even after the Amendment Act of 2012.

16. On the other hand, it was contended on behalf of the Manipur University as also the candidates of ST category that the provisos had been inserted to cater to the needs of STs inhabiting the North-Eastern region including the State of Manipur by carving out an exception to Section 3 of the Act. It was submitted that even when the second proviso did not specifically state the percentages of reservation for the SCs, STs and OBCs, since it referred to the seats reserved for these categories on the date immediately preceding the date of commencement of the Act, the University has rightly adopted the reservation pattern that was being followed earlier and

before commencement of the Act of 2006. The Statement of Objects and Reasons for introducing the Amendment Bill were also referred and it was emphasized that the purpose of introduction of the amendment was to make a departure from the principal provisions of Section 3 which had been working to the prejudice of the Scheduled Tribes in the North-Eastern States including the State of Manipur. Even on behalf of the UGC, the submissions had been that Manipur being one of the States specified in North-Eastern region, the reservation of seats for SCs and STs as in force on the date preceding the commencement of the Act of 2006 would be applicable. For the purpose of this order, it is not necessary to dilate upon other submissions made on behalf of the other respondents which have been discarded by the learned Single Judge and are, in fact, not relevant.

Key Features Of The Order Impugned

17. In the impugned order dated 01.09.2015, learned Single Judge of the High Court of Manipur, after taking note of the submissions of the parties, dilated on the broad features of Section 3 of the Act of 2006 and the historical development of the Manipur University from the State University to a Central University and the reservation norms applied therein. The learned Single Judge observed that as per the originally enacted provisions, the Act of 2006 became applicable to the Manipur University and the norms of reservation provided therein were followed but, after the Amendment Act of 2012, the Manipur University made the changes in its reservation policy and adopted, again, the State norms in view of the provisos inserted to Section 3. The learned Single Judge embarked upon a minute analysis of Section 3 *ibid.* and, in the first place observed that the second proviso to Section 3 did not indicate the percentage of reservation for SCs, STs or OBCs but provided formulae to calculate the percentage of reservation for the OBCs. The learned Single Judge, thereafter, indicated that the second proviso was applicable to the CEIs in the specified North-Eastern region as per the phrase occurring in the last sentence of clause (b) thereof. The learned Single Judge also observed that the reason for not providing the percentage of reservation for SCs and STs in the second proviso had been that there would be different reservations in different CEIs located in different areas. Thereafter, the learned

Single Judge referred to the 234th report of the Parliamentary

Standing Committee indicating the reasons for introduction of the Bill for amendment of the Act of 2006 in the Parliament; as also to the Statement

of Objects and Reasons for introduction of the Amendment Bill and then, pointed out that reference to the external aids was required to be made

for the purpose of understanding the real meaning and purport of the provisos added to the principal enactment. The learned Single Judge,

thereafter, relied upon the said Parliamentary Committee report in support of the conclusion that the two provisos were inserted to protect the

interest of Scheduled Tribes in the CEIs located in the North-Eastern States to whom, the general norms provided in clauses (i), (ii) and (iii) of

Section 3 would not apply. Thereafter, while rejecting the contentions of the appellants, the learned Single Judge held that the expression "'date

immediately preceding the date of commencement of the Act'" refer only to the date of commencement of the Principal Act of 2006 and not the

Amendment Act of 2012. The learned Single Judge also rejected the contention that the decision of the Hon"ble Supreme Court in Ashok Kumar

Thakur's case [(2008) 6 SCC 1] operated against the Amendment Act of 2012.

18. Thereafter, while referring to the principles of interpretation that the entire Statute is required to be read as a whole and Court must give effect

to each of the provisions of the Act so that none of the provisions is rendered redundant, the learned Single Judge entered into the delicate aspect

of the matter as to what would be the percentage of reservation for SCs and STs in relation to the operation of the second proviso to Section 3

ibid.; and, even while finding that percentages of reservation for SCs and STs were not mentioned in the second proviso, held that such

percentages would be the same as were available prior to the date of commencement of the Act of 2006. This part of paragraph 27 of the order

impugned, forming the core of consideration of the learned Single Judge, could be taken note of as under:

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 north-east provide different percentages of reservation for the SCs and STs. Understood in that context, the said provisos cannot be said to be vague.

19. In view of the above and for the other observations, the learned Single Judge proceeded to hold that the percentage of reservation of SCs and STs, as were applied to Manipur University prior to the commencement of the Act of 2006, would be adopted for determination of percentage of reservation for the referred categories; and specifically directed that the percentage of reservation for STs, SCs, and OBCs in Manipur University shall be 31%, 2% and 17% respectively. The learned Single Judge, of course, left open for examination any particular grievance as regards determination of annual number of seats on the basis of the percentage so declared. The learned Single Judge held and directed as under:

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.

The Manipur University Act 2005 And The Ordinances Thereunder

20. At this juncture, we may take note of a different facet of the matter that had its foundation in the petition but was not projected as such before

the learned Single Judge; but which has been the frontline of contentions in this appeal. While referring to the authorities under the Manipur

University Act, 2005 and their powers, it was averred in the petition that as per Section 31(1) of the said Act of 2005, the Ordinances may

provide for the matters relating to admission of the students to the University and their enrolment; and that the respondent University had issued

Ordinance 5.2 on the rules regarding admission of students and therein, the percentage of reservation was also provided in accord with the Act of

2006 as amended. It was submitted that the Registrar of Manipur University could not have performed any function independently of the Manipur

University Act, 2005 and such Ordinances. The relevant averments occurring in paragraph 10 of the petition are reproduced for ready reference

as under:

That, accordingly, the authority of the Manipur University issued an Ordinance-5.2 on rules regarding admission of students to the

University and under such Ordinance at item No.18, the relevant percentage of seats in the academic programme offer by the Manipur

University for the students belonging to SC/ST and Other Backward Classes are provided. Such percentage of reservation provided therein

is/are in accordance with the Central Educational Institutions (Reservation in Admission) Act, 2006 and its subsequent Amendment Act,

2012.

21. The reply to the aforesaid averments on behalf of the respondent University had been to the effect that after the Amendment Act of 2012, the

provisions of Ordinance 5.2 ceased to exist. Such averments of the respondent University could also be taken note of as under:

That, in reply to the contents of para No.10 of the writ petition under reply, it is submitted, as stated in the foregoing paragraphs that the

Central Educational Institutions (Reservation in Admission) Act, 2006 has been adopted by the Manipur University from the Academic

Session 2009-2010 by providing the quota of seats to the candidates belonging to the reserved categories in accordance with the said Act.

It is to state that after the enactment of the Amendment Act, 2012 the provision of Ordinance 5.2 ceased to exist and the provision of the

Act is to be implemented/acted upon, as per the law.

22. A few aspects relating to the Manipur University Act, 2005 and Ordinances thereunder could also be taken note of at this juncture itself. As

noticed, the respondent University was initially established as a State University but came to be incorporated and established as a Central

University in the State of Manipur by virtue of the Manipur University Act, 2005. Section 8 thereof provides that the University would be open to

all classes, castes and creed but nothing in this Section would prevent the University from making special provisions for employment or admission

of specific classes. This Section 8 of the Act of 2005 reads as under :

The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University

to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher

of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or

exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provision for the employment or

admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the

Scheduled Castes and the Scheduled Tribes.

23. In terms of Section 30 of the Act of 2005, the Statutes of the University are to be made by the Executive Council but the first Statutes of the

University are set out in the Schedule to this enactment. Section 31(1) of the Act of 2005 enumerates the matters which could be provided for in

the Ordinances of University; and clause (a) thereof refers to the matters relating to admission of students and their enrolment. Per Section 31(2),

the first Ordinances could be made by the Vice Chancellor with previous approval of the Central Government and the Ordinances so made may

be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes. Section 46 of the Act of 2005

provides that every Statute, Ordinance or Regulation made under this Act is required to be published in the Official Gazette and is required to be

laid before the Parliament; and both Houses of Parliament may agree on making any modification thereto or may agree that such a Statute,

Ordinance or Regulation should not be made; and such a Statute, Ordinance or Regulation shall thereafter have the effect only in the modified form

or shall be of no effect but such modification or annulment shall be without prejudice to the validity of anything done thereunder. The first Statute of

the University are set out in the Schedule to the Act of 2005. As per Statute 41, the first Ordinances made under Section 31(2) may be amended,

repealed or added to at any time by the Executive Council in the manner specified thereunder. Significantly, clause (5) of Statute 41 provides that

"Every Ordinance made by the Executive Council shall come into effect immediately."

24. During the course of hearing of this appeal, when submissions were sought to be made with reference to Ordinance 5.2 of the Manipur

University, we had noticed that specific contentions on its basis were not

projected before the learned Single Judge. However, looking to the nature of controversy, we proceeded to examine as to whether these contentions be permitted to be raised in this appeal and posed certain queries

about the date of making of Ordinance 5.2 and as to whether the same was notified to which, learned counsel for the parties prayed for time.

Thereafter, an additional affidavit came to be filed on behalf of the appellants stating, inter alia, that the draft Ordinances 5.2 and 5.4 relating to the

reservation in admission for SC, ST and OBC categories were approved and adopted by the Executive Council of the University in its meeting

dated 23.07.2013 and these Ordinances were submitted to the Central Government; and according to the appellants, the Central Government

conveyed its approval on 24.09.2014. Clause (18) of Ordinance 5.2 relating to the rules of admission of students to the University, which has been

pressed for consideration in this appeal, reads as under:

15% of the seats in the academic programmes offered by the University shall be reserved for students belonging to Scheduled Caste, 7½%

for students belonging to Scheduled Tribe and 27% for students belonging to Other Backward Classes.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for admission of women,

persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the

Scheduled Tribes and the other socially and educationally backward classes of citizens.

Provided further that no such special provision shall be made on the ground of domicile.

25. Clause (2) of Ordinance 5.4 relating to reservation of seats and other special provisions for admission, which has also been pressed for

consideration in this appeal, reads as under:

22.5% of seats in all Courses will be reserved for Scheduled Castes and Scheduled Tribes candidates in the following order :

2.1. 15% of seats will be reserved for Scheduled Castes and 7.5% for Scheduled Tribes. 27% of seats will be reserved for OBC.

2.2. The reservation, as mentioned in sub-para (2.1) above, is interchangeable, i.e., if sufficient number of candidates is not available to fill

up the seats reserved for Scheduled Tribes, they may be filled up by suitable candidates from Scheduled Castes and vice-versa.

Rival Submissions

26. Having taken note of the relevant background aspects of the matter, we may now take note of the substratum of the rival submissions. The

learned senior counsel appearing for the appellants has strenuously argued that the power to provide reservation in admission for SC, ST and

OBC categories is conferred on the University under Section 8 of the Manipur University Act, 2005 and such a power could be exercised by

promulgation of an Ordinance. The learned counsel contended that in accordance with such powers read with Sections 31 and 46 of the Act and

further read with Statute 41, Ordinances 5.2 and 5.4 were made by the University Authorities that were adopted by the Executive Counsel of the

University in its meeting held on 23.07.2013; and these Ordinances, along with various other Ordinances, were approved by the Union Ministry of

Human Resources Development and the approval was conveyed on 24.09.2014. According to the learned counsel, as per Statute 41(5), the

aforesaid Ordinances came into effect immediately after approval of the Executive Council and still hold the field; and when reservation for SC at

15% and for ST at 7½% is provided in these Ordinances, the respondents are not entitled to assert any other percentage of reservation for ST and

SC candidates. The learned counsel also referred to the pleadings of the parties and submitted that the averments of the appellants in this regard

were not disputed by the University and its only contention had been that the provisions of Ordinance 5.2 ceased to exist after the enactment of the

Amendment Act of 2012 whereas the other respondents belonging to the ST category did not offer any comment. Thus, according to the learned

counsel, when the aforesaid Ordinances were never challenged and hold the field, the learned Single Judge erred in providing for a different

percentage of reservation in the respondent University while overlooking these Ordinances. The learned counsel also contended that the learned

Single Judge has proceeded to provide for certain percentage of reservation to be applied in Manipur University on the alleged basis of the

percentage, as was being applied before the commencement of the Act of 2006, but such directions and findings are based on no material because

there is nothing on record to show as to what percentage of reservation was being applied prior to the year 2006.

27. The learned counsel has further contended that the second proviso to Section 3 of the Act only speaks about the adjustment of seats for OBC

category in case the reservation for SC or ST exceeds the percentage provided in clauses (i) and (ii) whether taken separately or together; and the

plain meaning of this second proviso is that in case such excess reservation for SC and ST is less than 50%, the reservation for OBC would be

restricted to the extent such percentage of SC/ST reservation falls short of 50% of annual permitted strength; and in case it exceeds 50%, no seat

shall be reserved for OBC. According to the learned counsel, in any case there is nothing in the second proviso to deduce that the expression

such seats"" refers to the seats which were reserved by the State Government prior to the year 2006.

28. Learned counsel for appellant has yet further argued that while giving a different meaning to the words of the enactment, the learned Single

Judge has heavily relied on the external aids but, for the language being plain and simple, there was no justification to take recourse to such external

aids. The learned counsel has referred to and relied upon the decisions in B. Prabhakar Rao and Ors v. State of Andhra Pradesh & others:

1985 (Suppl) SCC 432; Sub Committee on Judicial Accountability v. Union of India & others: (1991) 4 SCC 699; R.S Nayak v. AR

Antulay: AIR 1984 SC 684; and Kanai Lal v. Paramidhi Sadhukhan: AIR 1957 SC 907. The learned counsel has also argued that the

learned Single Judge has erred in failing to notice that a proviso cannot be used to totally nullify the real object of the principal provision and has

referred to the decisions in S. Sundaram Pillai & Ors v. VR Pattabiraman & Ors: (1985) 1 SCC 591; Sidharth Vyas & another v. Ravi

Nath Mishra: (2015) 2 SCC 701; Delhi Gymkhana Club Limited v. Employees" State Insurance Corporation: (2015) 1 SCC 142; and

Balram Kumawat v. Union of India & others: (2003) 7 SCC 628.

29. Per contra, learned counsel for the respondent University has argued that in the wake of the amendment of the Act of 2006, the University

authorities had to follow the provisions as contained in the amended Act and hence, the proposition of following the reservation pattern as

employed before the commencement of the Act of 2006 cannot be said to be unjustified or suffering from any illegality. The learned counsel would

also submit that the Ordinances in question were never placed for consideration before the learned Single Judge and in any case, they had never

been acted upon. According to the learned counsel, the limited prayer as made in the writ petition related only to the academic session 2014-15

and nothing further survived for consideration in the writ petition which has rightly been dismissed by learned Single Judge.

30. The learned counsel appearing for the private respondents No.8-10 and 12 has strenuously argued that even when a cursory averment was

taken in the petition in relation to Ordinance 5.2, no such argument was advanced before the learned Single Judge nor this issue has been taken as

one of the grounds in the memo of appeal and hence, the appellants are not entitled to agitate this ground before this Court. Even otherwise,

according to the learned counsel, the said Ordinances were neither published nor laid before both Houses of Parliament as required under Section

46 of the Manipur University Act, 2005; and even the Ministry concerned has not approved the Ordinances but has merely taken note of the same

as per their letter dated 24.09.2014. Thus, according to the learned counsel, Ordinance 5.2 as also Ordinance 5.4 prescribing 15% seats for SC,

7½% for ST and 27% for OBC cannot be relied upon by the appellants as the said Ordinances are yet to see the light of day in the eye of law.

31. The learned counsel has proceeded to analyse the second proviso with the submissions that the Amendment Act of 2012 was enacted in order

to restore the balance of reservation concerning SC and ST vis-a-vis the reservation for OBC, particularly in relation to the specified North-

Eastern region including the State of Manipur, inhabited by a substantial tribal population. According to the learned counsel, the second proviso

has been inserted as an exception to the general rule of reservation in clauses (i), (ii) and (iii) of Section 3 of the Act of 2006; and, in either of the

eventualities of excess percentage of reservation for SC and/or ST, as specified in this proviso, the exception becomes operational; and in the

present case, when the seats reserved for Scheduled Tribes had been 31% on the date immediately preceding the date of commencement of the

Act of 2006 and the combined seat reserved for Scheduled Caste and Scheduled Tribe on such date had been 33%(2+31), the exception became

operational and thereby, the seats for OBC got reduced. The learned counsel has made elaborate submissions that the words "the seats reserved

for Scheduled Castes" and "the seats reserved for the Scheduled Tribes" employed by the Parliament in the first part of second proviso indicate

towards the ratio of reservation for SCs and STs before the enactment of 2006 i.e., 2% for SC and 31% for ST in the case of the respondent

University. According to the learned counsel, since the words/phrases "the date immediately preceding the date of commencement of this Act

employed by the Parliament in the later part of the second proviso refer to the principal Act of 2006, the reservation for the SC and ST students in

the Manipur University, after the Amendment Act of 2012, would be 2% and 31% respectively, as was indisputably available and followed by the

University prior to the enactment of the Act of 2006.

32. The learned counsel further contended that the phrase "on the date immediately preceding the commencement of this Act" of the second

proviso having been interpreted by the parties differently, the Learned Single Judge has rightly taken the external aid of the background of the said

amendment so as to ascertain the legislative intent. The learned counsel has referred to and relied upon the decisions in Grid Corporation of

Orissa Limited and others v. Eastern Metals and Ferro Alloys & others: (2011) 11 SCC 334; Hardeep Singh v. State of Punjab &

others: (2014) 3 SCC 92; State of Gujarat & another v. Justice R.A. Mehta (Retired) & others: (2013) 3 SCC 1; UCO Bank &

another v. Rajinder Lal Capoor: (2008) 5 SCC 257; and P. Nallammal & another v. State Represented by Inspector of Police: (1999)

6 SCC 559.

The matter requires re-consideration by the learned Single Judge

33. Having given thoughtful consideration to the rival submissions and having examined the record, we find it inevitable that this matter be restored

to the file of the learned Single Judge for consideration afresh. Such a course appears rather necessary in the singular circumstances of this case

and in view of the nature of controversy, particularly where a material part of the matter relating to the effect of the provisions of the Manipur

University Act, 2005 and the actions taken thereunder has not formed the part of consideration in the order impugned; and this part of the matter

cannot be ignored altogether as irrelevant or only because the same was not properly projected in the writ proceedings. Looking to the issues

involved, it would also not be appropriate to examine and pronounce on this material part of the matter relating to the provisions of, and actions

under, the Act of 2005 for the first time in this appeal when the learned Single Judge has not pronounced on the same in the order impugned.

34. In the peculiar circumstances, where the matter is proposed to be restored to the file of the learned Single Judge, we would not be making final

comments on the questions being remitted but, imperative it is to deal with a few of the contentious issues, to the extent relevant for the purpose of

this order.

35. In the first place, we would unhesitatingly express total agreement with the opening comments made by the learned Single Judge of Manipur

High Court that the extent of reservation of seats in Manipur University is shrouded in several uncertainties; and that the provisions as contained in

the Act of 2006, particularly those inserted by way of the Amendment Act of 2012, do give out contra and incongruous indicators. However, it

remains trite that the primary task before the Court is to interpret the law on the basis of the words and expressions used by the legislature while, of

course, keeping in view the object thereof. It is also trite that the plain meaning of the provisions in the statute cannot be ignored nor an

interpretation different than what normally and naturally follows the expressions used could be made. The external aids in the process of

interpretation cannot be the substitutes for the fundamental principles of giving effect to the natural meaning of the words and expressions used in

the provision. The first and primary rule of construction is, and has always been, that the intention of legislature must be found in the words used in

the statute. Of course, a narrower meaning cannot be given to the words used; but only when the words used are capable of bearing two or more

constructions that the process of purposive construction is taken up while ascertaining the object of the provision and choosing the interpretation

that would advance the object thereof. In the given set of circumstances, we need not elaborate on several decisions cited by the learned counsel

for the parties on the principles of interpretation; and appropriate it would be to examine the provisions in question while keeping in view the rules

expounded in the said decisions.

36. Going by the statement of objects and reasons for introducing the Bill that ultimately led to the Amendment Act of 2012, it could be seen that

some of the CEIs situated in the North-Eastern States, predominantly inhabited by tribal population and one CEI at Lucknow that had reserved

50% seats for SCs and STs, had expressed the inability to reduce the extent of reservation. This was apart from the position realised later that

CEIs situated in tribal areas were not intended to be exempted altogether from the operation of the Act of 2006 and there were other reasons too

which led to the introduction of the Bill and ultimate insertion of the two provisos to Section 3 of the Act of 2006.

37. We generally agree with the learned Single Judge that the phrase "'on the date immediately preceding the date of commencement of this Act'" as

occurring in clauses (a) and (b) of the second proviso, though inserted by the Amendment Act of 2012, obviously refers to the date of

commencement of the Act of 2006 and not to the date of commencement of the Amendment Act of 2012. Of course, this proviso was added to

Section 3 of the Act of 2006 by way of the Amendment Act of 2012 but once this proviso has become a part of Section 3 of the Act of 2006 and

there is no expression to the contrary in this enactment or in the Amendment Act of 2012, the obvious meaning is that the expression "'date of

commencement of this Act'", as occurring in this proviso, refers to the Act of 2006 and not the Amendment Act of 2012. We also agree with a part

of observations of the learned Single Judge in paragraph 25 of the order impugned that there was no question of retrospective effect of the

provision in question because the provision itself has been inserted for the purpose of determining the percentage of reservation for the OBCs in

the eventualities referred in the principal part of this proviso, i.e., where the seats reserved for SCs or STs separately or cumulatively exceed the

percentage or the sum of percentage specified in the principal clauses (i) and (ii) of Section 3. We also agree with the learned Single Judge that the

decision of Hon'ble Supreme Court in Ashok Kumar Thakur's case cannot have any overriding effect on the proviso subsequently added to the

statute.

38. However, and even while generally agreeing with the learned Single Judge on

the above mentioned aspects of the matter, we find it difficult to agree with the core of reasoning of the learned Single Judge that by inference, one can determine the percentage of reservation for SCs and STs for the purpose of this second proviso to Section 3 of the Act of 2006. The learned Single Judge has drawn this inference on the basis of paragraph 3.4 of the Parliamentary Standing Committee Report that preceded the introduction of the Bill leading to the Amendment Act of 2012.

The said paragraph 3.4 as a whole reads as under:

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.

39. Even in the face of what had been observed in the aforesaid paragraph of the Standing Committee Report, if the plain provisions as inserted to

the statute carry a somewhat different meaning, we are afraid, the plain meaning of the words of statute cannot be overtaken by the said Report of

the Parliamentary Standing Committee; nor a different meaning could be given to the words of the statute than the plain and natural one.

40. On a plain reading of Section 3 as a whole, in our view, the normal and natural outcome is as follows: (A) Ordinarily, there would be

reservation of seats in CEIs to the extent of 15% for SCs, 7.5% for STs and 27% for OBCs. (B) The State seats in a CEI situated in tribal areas

referred to in Sixth Schedule would be governed by reservation policy of the concerned State Government. (C) In relation to non-State seats in

CEIs situated in the specified North Eastern region, if the seats reserved for SC exceed 15% or the seats reserved for STs exceed 7.5% or the

combined reserved seats for SCs and STs exceed 22.5% of the annual permitted strength, the reservation for OBC shall be re-settled in the

manner that - (i) if such excess reservation is less than 50% of the annual permitted strength on the date immediately preceding the commencement

of the Act of 2006, only the reminder of 50% would the reservation for OBCs; and (ii) if such excess reservation is more than 50% of the annual

permitted strength immediately preceding the commencement of the Act of 2006, there would be no seats reserved for OBCs but the extent of

reservation for SCs and STs would not be reduced.

41. In other words, the second proviso to Section 3 essentially takes away the assured reservation of OBCs [as assured in clause (iii)] in the case

of CEIs situated in specified North-Eastern region where the seats reserved for SCs and/or STs are more than the reservation envisaged by

clauses (i) and/or (ii). The reduced or nil percentage of reservation for OBC (per clauses (a) and (b) of the second proviso) in the case of CEIs

situated in specified North-Eastern region is to be worked out with reference to the percentage of annual permitted strength of the CEI concerned,

as was available on the date immediately preceding the date of commencement of the Act. Thus, the second proviso essentially provides the

formulae to reduce the reservation for OBC in the case of CEIs situated in specified North-Eastern region where the seats reserved for SCs

and/or STs are more than the reservation envisaged by clauses (i) and/or (ii).

42. However, the most important and significant issue still remains as to how the percentage of reservation for SCs and/or STs for the purpose of

this second proviso is to be worked out? The statute does not make any provision

in this regard and only refers to "the seats reserved". The question is : who is to provide for this reservation and where? The obvious answer to this question, in our view, is that the reservation has to be provided by the Institution concerned and this reservation, provided by a CEI in specified North-Eastern region, would be saved, even if exceeding the percentage specified in clause (i) and/or clause (ii) of Section 3 ibid. with obvious displacement of the percentage of reservation for OBCs.

43. It is seen from Section 6 of the Act of 2006 that with coming into force of this enactment, it was enjoined upon the CEIs to take necessary steps to give effect to the provisions of Sections 3, 4 and 5 of the Act for the purpose of reservation of seats for admission to its Academic Sessions commencing from the year 2007. This year "2007" was substituted by the year "2008" by way of the same Amendment Act of 2012 but in any case, the percentage of reservation of seats for admission is necessarily to be provided by the CEI concerned.

44. For what has been observed herein above, the onus shifts to the Manipur University, the CEI in question in the present case; and the question, obviously, is as to what has been the reservation provided by the respondent University?

45. As already noticed, the pleadings in relation to Ordinance 5.2 were indeed taken in the writ petition and the University replied in the manner that the said Ordinance ceased to be operational after the Amendment Act of 2012. Unfortunately, it appears that this aspect of the matter was not appropriately placed for consideration before the learned Single Judge; and as pointed out by the learned counsel for the contesting respondents, even has not been projected in the memo of this appeal. Had it been a matter relating to the questions of fact, such objections on behalf of the respondents might have carried weight and we would have been reluctant to enter into these questions raised in appeal but then, the present case specifically revolves around the question as to what had been the seats reserved by the respondent University; and without finding an appropriate and convincing answer to this root question, in our view, the operation of the expression "seats reserved" in the second proviso to Section 3 of the Act of 2006 cannot be ensured.

46. As indicated, for the purpose of the Act of 2006, the necessary reservation has to be provided by the Institution concerned. Now, if the respondent University has made Ordinances 5.2 and 5.4 even after coming into force of the Amendment Act of 2012 and the same had been acknowledged by the Central Government on 24.09.2014 and there had not been any indication on record if the Ordinances had not been approved or have been modified by the Parliament, then, the import and effect of such Ordinances, in view of Statute 41(5) *ibid.*, does require appropriate consideration. We would hasten to observe that we are neither holding on the legal existence or validity of such Ordinances nor pronouncing on the inter-play of the provisions contained in the Ordinances and the second proviso to the Act of 2006. In our view, all these questions need to be examined and then, a considered decision is required to be taken on the percentage of reservation for SC, ST and OBC categories for the purpose of the second proviso to Section 3 of the Act of 2006. For these reasons, we feel it rather imperative that the matter be restored to the file of the learned Single Judge for consideration afresh.

47. It is also considered appropriate to observe that such of the issues, on which the findings of the learned Single Judge have been endorsed in this order, need not be re-opened. The basic questions for consideration would now be as to what is the value, worth and effect of the aforesaid Ordinances 5.2 and 5.4; and what is the percentage of reservation for SC and ST category candidates for the purpose of second proviso to Section 3 of the Act of 2006.

Conclusion

48. For what has been discussed herein above, the impugned order, particularly in relation to its paragraphs 27 and 31, is set aside and the matter stands remanded for consideration afresh by the learned Single Judge of the Manipur High Court in the light of the observations foregoing.

49. Having regard to the circumstances of the case and looking to the questions that are required to be taken up for consideration/re-consideration, we deem it appropriate and hence observe that the parties to this litigation may file additional affidavits before the learned Single Judge on or before the first date of appearance pursuant to this order. It shall also be required of the appellants of this appeal to place on record,

by way of affidavit before the learned Single Judge, copies of the affidavits and documents filed in this appeal.

50. For the purpose of putting the record straight, it is also provided that the names of the petitioner No.1 as also the respondent No.11 of the writ

petition shall stand deleted from the array of parties.

51. All other parties being represented, fresh notices need not be issued to any of the parties. The parties, through their respective counsel, shall

stand at notice to appear before the learned Single Judge of High Court of Manipur on 05.05.2017. The record of writ petition bearing No.753 of

2014 be returned to the High Court of Manipur with a copy of this order immediately.