
(1992) 08 AP CK 0018
In the Andhra Pradesh High Court
Case No : Writ Petition No. 6998/91

T. Devender and Others

APPELLANT

Vs

The State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 19-08-1992

Acts Referred:

Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Pranalika Abhivrudhi Sameeksha Mandals Act, 1986 — Section 26(1), 26(7), 28(1), 28(6), 46(4)
Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Pranalika and Abivrudhi Sameeksha Mandals (Amendment) Act, 1991 — Section 3, 3(1), 6, 6(1)
Constitution of India, 1950 — Article 12, 14

Citation : (1992) 3 ALT 1 : (1992) 2 APLJ 156

Hon'ble Judges : M.N. Rao, J;D. Reddeppa Reddy, J

Bench : Division Bench

Advocate : M.V. Ramana Reddy and P. Kesava Rao, for the Appellant; A.G., for the Respondent

Judgement

M.N. Rao, J.—This judgment will dispose of all the six writ petitions since they raise common questions for decision. When the writ petitions were filed, the petitioners were either Chairmen of Zilla Praja Parishads or Presidents of Mandala Praja Parishads. Except the Chairman of the Rangareddy Zilla Parishad, the term of office of the other petitioners has expired. The challenge in the writ petitions, was originally confined to the legality of (1) G.O.Ms. No. 164, Panchayati Raj and Rural Development Department (Mandals-I) dated 8-3-90 by which a rule was made under Sub-section (1) of Section 92 and Sub-section (6) of Section 28 of the Mandala Praja Parishads, Zilla Praja Parishads and Zilla Abhivrudhi Sameeksha Mandals Act, 1986 (MPP & ZPP Act for short) and (2) G.O.Ms. No. 303, General Administration (Services-A) Department dt. 17-4-90, by which, the District Selection Committee for recruitment to the posts both in Government Departments and Panchayat Raj Bodies in the district was reconstituted with the District Collector as Chairman, the Joint Collector and the District Development Officer as members. During the pendency of these writ petitions, Act No. 5 of 1991 was enacted by the State Legislature by which, inter alia, the

administrative control of the President of the Mandala Praja Parishad over the Mandal Development Officer and the administrative control of the Chairman of the Zilla Praja Parishad over the District Development Officer, which was hitherto extended "for the purposes of the Act" was restricted to "for the purposes of the implementation of the resolutions" passed by the local authority or any standing committee thereof. The Amendment Act also enjoins that no meeting of the Zilla Praja Parishad or Mandala Praja Parishad shall be convened on a public holiday and during the period in which the legislative Assembly or either House of Parliament is in session. These provisions contained in Sections 3(ij, (ii) and 6(i), (ii) of Act 5/91 have been challenged by the petitioners with the leave of the Court by filing appropriate miscellaneous petitions. Besides questioning Section 3 of Act 5/91, the petitioners in W.P. No. 11099/90, Presidents of thirty Mandala Praja Parishads, have questioned the legality of G.O.Ms. No. 43, Panchayat Raj and Rural Development, dated 23-1-1990 and Memorandum No. 71912/Mdl., II/90/I, dated 11-6-91 by which powers of appointment and transfer of employees-teachers, ministerial staff and other executive staff-were conferred on the Mandal Development Officers. The changes effected by issuing appropriate amendments to the statutory rules by G.O.Ms. No. 428 dated 9-8-91 have also been challenged.

2. There is a three-tier system of local self-government in the rural areas of the State of Andhra Pradesh. At the village level the local self-government unit is Gram Panchayat; the A.P. Gram Panchayats Act, 1964 regulates the constitution of Gram Panchayats, their powers, functions and other related matters. Act No. 31/86 was enacted by the Andhra Pradesh State Legislature to provide for constitution of Mandala Praja Parishads and Zilla Praja Parishads and Zilla Abhivrudhi Sameeksha Mandals. A group of villages constitute a Mandal. Section 4 of the Act deals with the composition of Mandala Praja Parishad; every Mandal has ex-officio as well as elected members. All the Sarpanches of the Gram Panchayats comprising the Mandal area, the local M.L.A., a Member of the Lok Sabha whose constituency encompasses the Mandal and a Rajya Sabha Member nominated by Government are also members of the Mandala Praja Parishad. The President of the Mandal is directly elected for a specified time by the registered voters in the entire area comprising the Mandal. Every Mandal has a Vice-President elected by the Members from among themselves. Sections 22 to 25 deal with the powers and functions of the Mandala Praja Parishad. Section 26 enumerates the powers and functions of the President and Vice-President. The President of the Mandala Praja Parishad exercises administrative control over the Mandal Development Officer "for the purposes of this Act" by clause (a) of Sub-section (1) of Section 26. The chief executive officer of the Mandala Praja Parishad is statutorily designated as "Mandal Development Officer" and his powers and functions are enacted in Section 28. Section 29 enjoins that the chief executive officer, other officers and staff of the Mandala Praja Parishad and staff employed in the institutions and schools under the mandal shall be subordinate to the local body i.e., the Mandala Praja Parishad. Government is empowered by

Section 30 Sub-section (1) to create posts of officers and other employees of the Mandal. The salaries, allowances, pension and contributions towards Provident Fund of the officers and other employees of the Mandal are to be paid out of the consolidated fund of the State.

3. At the district level, the local body is known as Zilla Praja Parishad. Its constitution, incorporation and composition are dealt in Section 43. All the Presidents of the Mandala Praja Parishad in the district are ex-officio members of the Zilla Praja Parishad. Besides, all the M.L.As and M.Ps who are members of the Mandala Praja Parishads also are members of the Zilla Praja Parishad. The Chairman is directly elected for a term of office by all the registered voters in the district. The Vice-Chairman is elected by the members of Zilla Praja Parishad from among themselves. The District Development Officer who is the chief executive officer of the Zilla Praja Parishad is appointed by Government and he exercises powers and discharges functions as laid down in Section 46. Section 57(1) enacts the powers and functions of the Chairman; he exercises administrative control over the chief executive officer "for the purposes of this Act Creation of posts in the Zilla Praja Parishads, appointments to the posts, payment of salaries to the incumbents and other related matters are comprehended by Section 60. Section 82 confers power on Government or any officer authorised in that regard to call for any record, register or document under the control of any Mandala Praja Parishad or Zilla Praja Parishad and record in writing for consideration of the local body any observations the officer may think appropriate in regard to any proceedings or duties of the local body. Section 92 confers power on Government to make rules for carrying out the purposes of the Act. The local bodies are empowered to make bye-laws u/s 93. The section also lays down that Government shall prescribe the procedure for making the bye-laws, the publication thereof and the date on which they shall come into effect.

4. The MPP & ZPP Act repealed the Andhra Pradesh Panchayat Samithis and Zilla Parishads Act, 1959. Under the repealed 1959 Act, the heads of Panchayat Samithis were chosen by direct election and Zilla Parishads by indirect election. The present Act i.e., MPP & ZPP Act, has brought about many radical changes in the structure of the local bodies and the extent of devolution and decentralisation of power at various stages.

5. In the general elections held in November, 1989, the Congress Party was returned to power in the State defeating the Telugu Desam Party. The petitioners allege that in order to consolidate their newly obtained political power, the Congress Party initiated changes to,

"gradually erode the powers of the Zilla Praja Parishads including the powers of Chairmen."

6. We shall first consider the legality of G.O.Ms. No. 164, Panchayati Raj and Rural Development Department (Mandals-I) dated 8-3-90, by which the following

rule was made;

"The District Development Officer shall be the competent authority to effect postings and transfers of Mandal Development Officers within the district. In cases of deviation from Government guidelines the approval of the District Collector should be obtained."

The above rule was issued in exercise of power conferred by Section 92 of the MPP & ZPP Act read with Sub-section (6) of Section 28. Section 92 of the Act confers power on Government to make rules for carrying out the purposes of the Act. Sub-section (6) of Section 28 empowers Government to make rules to regulate the classification and methods of recruitment, conditions of service, pay and allowances and disciplinary conduct of the Mandal Development Officer. The earlier rule in force issued in G.O.Ms. No. 167 dated 14-3-88 designated the Chairman as the competent authority to effect postings and transfers of Mandal Development Officers within the district. In supersession of that rule the present impugned rule was made.

7. The contention of Shri Venkataramanaiah, learned counsel, who advanced leading arguments is that the impugned G.O., is politically motivated and vitiated due to mala fide exercise of power: with a view to undermining the democratic system of the Government and consolidating single party rule by eroding the structure of the local bodies, the present rule was enacted. He also submits that when Section 57(1) of the Act confers power on the Chairman to exercise administrative control over the District Development Officer for the purposes of the Act, the Government cannot take away that power by the impugned rule.

8. We do not agree. By the date of the impugned rule i.e., 14-3-90, Section 57(1), empowering the Chairman of the Zilla Praja Parishad to exercise administrative control over the District Development Officer for the purposes of the Act, was in force. That power in no way was affected by the impugned rule by which the District Development Officer is designated as the competent authority to effect postings and transfers of Mandal Development Officers within the district. By conferring such a power on the District Development Officer it cannot be said that the administrative control of the Chairman over the District Development Officer was taken away in any measure. If the District Development Officer were to commit any lapses in the performance of his functions, it would be open to the Chairman to initiate action against him by virtue of the power conferred u/s 57(1). The answerability and accountability of the chief executive officer to the Chairman of the Zilla Praja Parishad under 57(1)(a) was not in any manner eroded by the impugned rule. The contention that the impugned rule was the result of political considerations and mala fide exercise of power was not seriously pursued for the obvious reason that no legal or factual foundation is discernible from the pleadings in this regard. We, therefore, sustain the legality of G.O.Ms. No. 164, Panchayat Raj and Rural Development Department (Mandals-I) dated 8-3-90.

9. The second order under challenge in G.O.Ms. No. 303, General Administration (Services-A) Department, dated 17-4-90. This is an executive order by which the District Selection Committee for recruitment to certain posts in the Government Departments and Panchayat Raj bodies in the districts was reconstituted. The District Collector is designated as the Chairman and two others- the Joint Collector and the District Development Officer-as members of the Committee. The main ground of attack against this G.O., is that the earlier statutory rule issued in G.O.Ms. No. 393. Panchayati Raj and Rural Development, dated 24-6-87 constituting the District Selection Committee with the Chairman, Zilla Praja Parishad and the District Collector, President of the Mandala Praja Parishad, District Educational Officer and the District Development Officer as the other members, could not be superseded by the impugned executive order. Obviously realising the mistake the State Government, during the pendency of the writ petition, issued a statutory rule in G.O.Ms. No. 159, Panchayati Raj and Rural Development (Estt. VIII), dated 23-3-92 making an ad hoc rule superseding the earlier statutory rule issued in G.O.Ms. No. 393, dated 24-6-87. This ad hoc rule lays down that the District Collector shall be the Chairman and the other two members of the District Selection Committee shall be the Joint Collector and the District Development Officer. The consequence of this G.O., is that, with effect from 17-4-90, the reconstituted District Selection Committees are immune from attack on the ground that their constitution is contrary to the statutory rules. We, therefore, uphold the reconstitution of the District Selection Committees brought into being under the ad hoc rule made in G.O.Ms. No. 159, dated 23-3-92 with retrospective effect from 17-4-90.

10. The challenge to G.O.Ms. No. 43, Panchayati Raj and Rural Development (Mandals-II) Department dated 23-1-90, G.O.Ms. No. 428, Panchayati Raj and Rural Development (Mandal-I) Department dated 9-8-91 and the Government Memorandum No. 71912/Mdl. II/90/1, dated 11-6-91 must also fail for the reason that the term of office of the petitioners, Presidents of Mandala Praja Parishads, has expired and they have no locus standi now to challenge the impugned orders which relate to conferment of power on the Mandal Development Officer to make appointments and transfers of employees of the local bodies.

11. We now come to the main question-constitutionality of sub-sections (i) and (ii) of Sections 3 and 6 of Act 5 of 1991. The impugned provisions read:

"3. In Section 26 of the principal Act:- (i) in Sub-section (1), in clause (a), for the words "for the purposes of this Act," the words "for the purposes of implementation of the resolutions of the Mandala Praja Parishads", shall be substituted;

(ii) to Sub-section (7), the following provisos shall be added at the end, namely,

"Provided that no meeting of the Mandala Praja Parishad shall be convened on any day declared by the Government as a public holiday and during the period in

which the Legislative Assembly or either House of Parliament is in session:

Provided further that in reckoning any such period of sixty days or the period of thirty days following such period as the case may be referred to above, any public holiday and any period during which the Legislative Assembly of the State, or either House of the Parliament is in session shall be excluded."

"6. In Section 57 of the principal Act;-

(i) in Sub-section (1), in clause (a) for the words "for the purposes of this Act", the words for the purposes of implementation of the resolutions of the Zilla Praja Parishad or any Standing Committee thereof" shall be substituted.

(ii) to Sub-section (6), the following provisos shall be added at the end, namely:-

"Provided that no meeting of the Zilla Praja Parishad shall be convened on any day declared by the Government as a public holiday and during the period in which the Legislative Assembly or either House of Parliament is in session:

Provided further that in reckoning any such period of ninety days or the period of thirty days following such period as the case may be referred to above, any public holiday and any period during Which the Legislative Assembly of the State or either House of the Parliament is in session shall be excluded."

Sections 26(1) and 57 (1) of the Principal Act (MPP & ZPP Act 31 /86) deal with the powers and functions of the President of the Mandala Praja Parishad and Chairman of the Zilla Praja Parishad respectively. Prior to the impugned amendments the two provisions read:

"26. Powers and functions of the President and Vice-President:-

(1) The President of a Mandal Praja Parishad shall:

(a) exercise administrative control over the Mandal Development Officer for the purposes of this Act."

"57. Powers and functions of Chairman and Vice-Chairman of the Parishad:-

(i) The Chairman of a Zilla Praja Parishad shall-

(a) exercise administrative control over the District Development Officer for the purposes of this Act."

Administrative control over the chief executives before the impugned Act was exercised by the elected heads of local bodies "for the purposes of this Act". That power, by the aforesaid impugned provisions, has been reduced to "for the purposes of implementation of the resolutions" of the local bodies. It is submitted by Shri Venkataramanaiah, and Shri Ramana Reddy, learned counsel for the petitioners that the impugned provisions are arbitrary in that, they take away the effective power of the elected heads of the local bodies, with the result, the local bodies will not be in a position to exercise their powers and discharge the

functions ordained by the statute. The non-accountability of the Chief executives to the elected heads will convert the local body into a direct administrative subordinate of the State Government. The purpose mentioned in the Statement of Objects and Reasons for bringing the amendment is to enable the elected heads to exercise administrative control over the chief executives for purposes of implementation of the resolutions of the local bodies and this, according to the learned counsel, is irrational since already there are specific provisions in the Act conferring such power on the chief executives. The provisions must be struck down as violative of Article 14 of the Constitution, they contend.

12. Opposing these contentions, the learned Advocate-General says that the local authorities being the creatures of the statute, the ambit and limits of their powers and functions shall be as prescribed in the statute itself. They can exercise only such powers and discharge functions as may be conferred on them from time to time by the State Legislature by law. The law making body cannot be compelled to confer any particular power or authority on the local bodies. The Chairman of Zilla Praja Parishad and the President of Mandala Praja Parishad being creatures of the statute are entitled to exercise whatever rights are conferred on them by the statute. Under the repealed 1959 Act, the heads of local bodies exercised only the "same quantum of power" now available under the amended Act 5 of 1991. The impugned provisions only restored the status quo ante in regard to the powers of Chairman of the Zilla Parishad and President of the Mandala Praja Parishad.

13. The learned Advocate-General has submitted written arguments covering a wide field. Well settled legal principles like-supposed inherent spirit of the Constitution cannot be the basis for striking down a legislation; in judging the constitutionality of a statute the Court must bear in mind that there is a presumption in favour of constitutionality; the validity of a law cannot be tested solely with reference to the Directive Principles of State Policy; the motives of the law making body are irrelevant; the propriety, necessity and expediency of a legislative enactment are matters solely within the domain of the legislature to determine-are some of the aspects highlighted in the written arguments. For reasons self evident, we do not propose to advert to any of them. The learned counsel for the petitioners very realistically conceded that they are in entire/ agreement with the soundness of the judicially tested legal principles mentioned in the written brief submitted by the learned Advocate-General. We are therefore, confining consideration to the constitutionality of the impugned provisions on the alleged grounds of arbitrariness and irrationality.

14. Before we deal with the contentions based on arbitrariness and irrationality, we deem it proper to refer to the position obtaining under the repealed 1959 Act-The Andhra Pradesh Panchayat Samithis and Zilla Parishads Act, 1959. Sections 22 (1) and 48 (1) of that Act dealt with the powers and functions of the President of a Panchayat and the Chairman of a Zilla Parishad. Clause (a) of Sub-section (1) of Section 22 empowered the President of the Panchayat Samithi to exercise

administrative control over the Samithi Development Officer for the purpose of implementation of the resolutions of the Panchayati Samithi or any standing committee thereof. Power of an identical nature was conferred on the Chairman of the Zilla Parishad u/s 48(I)(a) over the District Development Officer, the chief executive officer. It is true that the aforesaid provisions were not challenged when the Act was holding the field. Under the 1959 Act elections were not held to Panchayat Samithis and Zilla Parishads for over a decade between 1971 and 1981. The President of the Panchayat Samithi was directly elected by the registered voters in the Block and the Chairman of the Zilla Parishad was elected indirectly. The office of the chief executive at the district level - District Development Officer - was created under the 1959 Act for the first time in 1976 by Section 24(1) of Act 48 of 1976 (by which Section 38 of the principal Act was substituted) presumably for effective administration of the local body in the absence of elections. The first election under the 1959 Act was held in 1964, the second election in 1971 and the last election in 1981. The absence of challenge to the truncated power conferred by the 1959 Act on the heads of local bodies in regard to exercise of administrative control over the chief executive officers cannot be a relevant consideration or guiding factor in judging the constitutionality of the provisions now impugned before us. We cannot accept the argument of the learned Advocate-General that because the heads of local bodies were fully satisfied with the nature of the power conferred on them under the 1959 Act, they had chosen not to question the same and as the local bodies functioned very well under the 1959 Act, the Legislature thought it fit to restore the status quo ante. This contention ignores the obvious fact that in the 1986 M.P.P. & Z.P.P. Act power was conferred on the elected heads of local bodies to exercise administrative control over the chief executives "for the purposes of this Act". It could, therefore, also be conjectured that the extent of control allowed by the 1959 Act was found to be deficient and the defect was remedied by the 1986 MPP & ZPP Act.

15. In judging the vires of an enactment considerations of this nature have no role to play. Suppositions taken for granted, assumptions untested and expediency based ad hoc principles put forth in an attempt to unravel the telological concept hardly merit judicial assent.

16. The impugned provisions were enacted by the State. Legislature by virtue of Articles 245(1) and 246(2) read with Entry 5 of List II of the VII Schedule. Entry 5 reads:

"Local Government, that is to say the constitution and powers of municipal corporations, improvement trusts/ district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration."

One of the questions canvassed before us by the learned counsel for the petitioners is that, any legislation falling under Entry 5 must necessarily bring into being or relate to a body enjoying self-government. Except for the purpose

of local self-government the legislature cannot create any unit of local government. The submission is fallacious. Local government is understood in England in contra-distinction to Central Government functioning from the Westminster and the White hall in London; in that country to say that local government is local self government is a mere tautology. The legal framework within which local government functions and its relations vis-a-vis the Central Government according to Martin Loughlin, a British author may be noticed:

"Local government law is primarily concerned with powers rather than duties. Local government law essentially establishes legal framework within which local authorities are given discretionary powers to act. Many of these powers are subjectively formulated so that subject to judicial review, the local authority is effectively free to determine the limits of the power. Central Government possess a variety of powers enabling them to influence and restrain local authorities. However, what is most significant is that the law was never intended to establish norms governing relations between central departments and local authorities. That is, local government law primarily perform a facilitative role; central-local relations are conducted through an administrative process of structured bargaining and the courts are of marginal importance." "Law, Legitimacy and the Constitution" Edited by Patrick Me Auslan and John F. Me Edowney, 1985 Edition, P. 100.

"Local self-government", in the Indian context lacks precise meaning. Statutorily it is not defined. During the British Raj, the concept of local self-government was introduced for the purpose of associating natives living in a locality to attend to the immediate problems that arise from communal living-matters like sanitation, water supply, roads, health facilities etc. When we were allowed to administer our own local affairs it was felt by the British that they allowed self-government for the people and that led to the evolution of the expression "local self-government". Local self-government as understood in the modern sense dates back to 1687 in our country when a municipal corporation was set up in the city of Madras. How local self-government in India was understood by the British may be noticed as quoted in the Report of the Indian Statutory Commission:

"Local self-government in India, in the sense of a representative organisation, responsible to a body of electors, enjoying wide powers of administration and taxation, and functioning both as a school for training in responsibility and as a vital link in the chain of organisms that make up the government of the country, is a British creation. The ancient village communities were constituted on a narrow basis of hereditary privilege or caste, closely restricted in the scope of their duties - collection of revenue and protection of life and property were their main functions-and were neither conscious instruments of political education nor important parts of the administrative system.", Shriram Maheshwari, "Local Government in India", P. 13.

Some scholars have doubted the wisdom of retaining the expression "local self-government" after India became independent, Ibid Pp. 1 to 9. In what form a

representative organisation with the label of local government should be created by law is a matter for legislative judgment and wisdom. Entry 5 of List II only gives a broad indication that a unit of local government when created by law should be a self- governing one in the sense that it should be autonomous, the degree and extent of autonomy depending upon legislative wisdom. Even so it is clear that in the name of creating a local government the Legislature cannot set up an administrative department with little or no trace of autonomy. It is impossible to lay down the parameters of a statutory body to pass muster as a local self- government unit. The extent of the autonomy or "self governance" must be discerned only from the provisions of the statute creating the body. At the same time pragmatic perceptions do not cease to have their impact. Although it is trite to say that claims in relation to a local body must be found in the statute and do not spring from the Fundamental Rights guaranteed by the Constitution, we cannot ignore the irrefragable truth that local bodies play a fundamental role in maintaining the democratic structure of our society.

17. Viewed from this stand-point, with great respect we do not agree with the opinion of Ravi S. Dhawan, J., who spoke for the Division Bench of the Allahabad High Court in Anugrah Narain Singh and another Vs. State of Uttar Pradesh and others, .

"This entry is self-explanatory. One need not go into any other external side to extract the meaning of local Government. The interpretation of this entry is that there shall be a local Government but it will be constituted as local self Government. This simply descends to mean that there will be Government of the people, by the people and for the people, but not a corporate entity run by those who are not the people. The entry in the Constitution of India has been extracted out of the Government of India Act, 1935. The constitution of local Government as local self- Government is, thus, explained in continuity for the last half century to permit local Government to exist as local self-Government. To see it otherwise does not reconcile with the Constitution.

The process which degrades local self-Government to local Government is hostile to the text of the Constitution and is arbitrary to the core, as it is laying down the foundation for the destruction of parliamentary Government which cannot exist except for its roots in local self-Government."

18. The powers and functions of the President of the Mandala Praja Parishad and the Chairman of the Zilla Praja Parishad and the powers of the local bodies may be noticed. The local body is a distinct legal person. Section 22 says that every Mandala Praja Parishad shall exercise all the powers and functions flowing from the Act and such other powers and functions conferred on and entrusted to it by Government for carrying out the purposes of the Act. The body may with the previous approval of Government borrow moneys for carrying out the purposes of the Act. It shall also discharge the functions and exercise the powers of the erstwhile District Boards including the power to levy any tax or fee as may be transferred to it under the Act. The Schedule to the Act specifies the powers and

functions of the Mandala Praja Parishads. They cover a wide field and are classified under fifteen heads; (1) Community development; (2) Agriculture; (3) Animal Husbandry and Fisheries; (4) Health and Rural Sanitation; (5) Education; (6) Social Education; (7) Communications; (8) Co- operation; (9) Cottage Industries; (10) Women Welfare; (11) Social Welfare; (12) Emergency Relief; (13) Self-Help Programme and (15) Trusts. The Mandal Development Officer, the chief executive, and all the other officers and staff of the Mandal and also those working in institutions and schools under the Mandal shall be subordinate to the Mandal. This subordination of the chief executive and the staff to the local authority can only be ensured if administrative control over the chief executive is vested in the President. For that reason only the unamended provision empowered the Mandal President to exercise administrative control over the Mandal Development Officer "for the purposes of this Act."

19. Section 56 lays down the powers and functions of the Zilla Praja Parishad. It has inter alia, the power to examine and approve the budgets of the Mandal Panchayats in the district; it distributes the funds allotted by the State or Central Government among the Mandals; co-ordinates and consolidates the plans prepared in respect of Mandals in the district and it also prepares plans for the entire district. It secures the execution of plans and projects and supervises the activities of the Mandals. The District Development Officer being the chief executive of the Zilla Parishad exercises certain important powers and discharges functions as laid down in Section 46. Among others, his powers are: to attend the meetings of the Zilla Praja Parishad or any of its standing committees, call for information or report from any officer of Zilla Praja Parishad or Mandala Praja Parishad, to keep custody of all papers or documents connected with the proceedings of the Zilla Praja Parishad and of its standing committee; and he supervises and controls execution of all activities in Zilla Praja Parishads. He is the competent authority to enter into agreements and to sign and execute them in the name and on behalf of the Zilla Praja Parishad. The unamended provision empowered the Chairman of the Zilla Parishad by Section 57(1)(a) to exercise administrative control over the chief executive officer "for the purposes of this Act". He is also empowered to convene, preside over and conduct the meetings of the Zilla Praja Parishad and he has full access to all the records of the Zilla Praja Parishad.

20. If the head of the local body is deprived of the power of administrative control over the chief executive officer, except in matters relating to implementation of the resolutions of the local body, can the local body function in the manner ordained by the statute? Our answer is in the negative. The nature of the powers conferred on and functions entrusted to the local bodies are so vast and varied, as already noticed, it becomes imperative for the head of the body, as a necessary corollary, to have control over the chief executive to ensure effective functioning of the local body. The question is not why the elective head should exercise administrative control over the chief executive? The question is and must be whether without that power the elective body can function

effectively in conformity with the statutory mandate? We may test the proposition with reference to the powers of the Mandala Praja Parishad. The specific powers of the Mandala Praja Parishad enumerated in the Schedule to the Act covering a wide field of local government necessarily call for the attention and supervision of the President as for example if he comes across any faulty distribution of fertilisers or seeds to agriculturists, notices any defects in regard to matters concerning animal husbandry and fisheries, health and rural sanitation or lapses in the management of schools, organisation of the libraries or in the establishment of co-operative credit societies or social welfare activities. And so the President must necessarily have power to call for the explanation of the chief executive. The question has to be considered from the functional point of view as envisaged by the statute. When a statute commands certain activities to be performed by a body that too an autonomous body like a local authority, to the extent powers are conferred on and functions entrusted to that body, control and supervision for ensuring compliance with the same must be located in the head of the body especially when the statute entrusts him with certain responsibilities. When the head is denuded of the power to ensure compliance with the provisions of the Act, the body ceases to function in the manner envisaged by the statute. Husk is not grain, any more than a shell without kernel is a nut.

21. What applies to Mandala Praja Parishads applies with equal force to Zilla Parishads also. For example, one of the functions the Chairman of the Zilla Praja Parishad shall perform is to convene, preside over and conduct the meeting of the Zilla Praja Parishad (Section 57(1)(b)). If he had no administrative control over the chief executive, it would be impossible for him to discharge his statutory functions, likewise, the statute empowers him to have full access to all the records of the Zilla Praja Parishad (Section 57(1)(c)). In the absence of administrative control over the chief executive officer, it is hardly possible for the Chairman to have access to the records since the custody of records shall be with the District Development Officer by virtue of Section 46(4)(c).

22. If the control of the heads of the local bodies over the executives is confined only to the "implementation of the resolutions of the bodies". The chief executives in all other matters will be immune from accountability and answerability to the local body as well as the head of the local body and that encourages insubordination if not open defiance and hostility which is not in the interests of good government. The ratio legis of the principal Act, namely, creating local bodies and entrusting them with certain powers and functions and obligating them to carry out the same, is destroyed by the impugned provisions.

23. Getting mired in psychological conjectures as to the intention of the law makers will be an infructuous exercise. The available methodology is of no avail to unravel legislative confusion nor such an exploration under our public law, as we comprehend it, is permissible. Purposive interpretation obligates the court to understand the purpose lying behind the statute as discerned from the language employed and interpret the words of the statute in the light of the purpose. Our

strict and heightened scrutiny leads to the conclusion that the two provisions under challenge seek to erode the powers of the elective heads, a purpose prohibited, by necessary implication, by the principal Act.

24. If the Legislature intended to confer only limited powers on the local bodies and their elective heads the Act would have been narrowly drawn reflecting that intention. But that was not done. Having created the office of the elective head - President in the case of Mandal and Chairman in the case of Zilla Praja Parishad - the statute cannot treat the office unfairly. And in this we discern arbitrariness. The protective armour of Article 14 is an effective shield against all arbitrary actions of the State (as defined in the Article 12 of the Constitution.) Expounding the widening horizons of Article 14 in *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, ., the Supreme Court observed:

"The principle of reasonableness and rationality which is legally as well as philosophically an essential element of equality or non-arbitrariness is projected by Article 14, and it must characterise every State action, whether it be under authority of law or in exercise of executive power without making of law."

It will be impossible for the local body to achieve the goals targeted by law unless the officials, subordinates of the body, entrusted with statutory and ministerial responsibilities function efficiently. On their successful functioning depends the success of the body. It, therefore, stands to reason that the administrative control over them must not be confided in an outsider: it must rest with some one closely and integrally associated with the body itself. If the statute is scanned the elective head of the local body emerges as that some one. Only that way the officials can be made accountable to the local authority which they serve. Otherwise they will be serving one master with accountability to another. The impugned provisions thus do not fit into the scheme of the Act.

25. The next aspect to be considered is whether the impugned provisions are irrational and so are liable to be struck down as violative of Article 14 of the Constitution? The reasons for enacting the impugned provisions may be noticed.

26. The Statement of Objects and Reasons appended to L.A. Bill No. 20 of 1990 which was enacted as Act 5 of 1991, sets out the purpose and reasons:

"It has also been decided to amend Section 26 of the principal Act so as to enable the President to exercise administrative control over the Mandal Development Officer for the purpose of implementation of the resolutions of the Mandala Praja Parishads. Similarly it has also been decided to amend Section 57 so as to enable the Chairman to exercise administrative control over the District Development Officer for the purposes of implementation of the resolutions of the Zilla Praja Parishad and the Standing Committees thereof. These amendments are contemplated for the smooth functioning of the Panchayat Raj bodies."

The stated purpose of smooth functioning of the Panchayat Raj bodies was sought to be achieved by conferring power on the heads of local bodies to

exercise administrative control over the chief executives only to the limited extent of implementation of the resolutions. Although with reference to the Statement of Objects and Reasons the plain words of a section cannot be interpreted, nonetheless, the Statement can be looked into for the purpose of ascertaining what actuated the sponsor of the Bill to introduce the same.

27. The matters mentioned in the Statement furnish relevant extrinsic aid for the construction of a statute., See *State of West Bengal v. Subodh Gopal Bose*, 1954 SCR 587. The Court can look into the Statement for ascertaining the mischief which the law was designed to prevent. *Jagdish Pandey Vs. The Chancellor University of Bihar and Another*, ; *Jullunder Rubber Goods Manufacturers' Association Vs. The Union of India (UOI) and Another*, ; *The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others*, . There is no intrinsic evidence as to why the amendment was introduced. Clause (d) of sub- section (4) of Section 46 as it stands now obligates the District Development Officer to be responsible for implementing the resolutions of the Zilla Praja Parishad and of the Standing Committees thereof. Likewise Sub-section (1) of Section 28 enjoins the Mandal Development Officer to be responsible for implementing the resolutions of the Mandala Praja Parishads. When the responsibility for implementation of the resolutions of the Zilla Praja Parishads and Mandala Praja Parishads has already been statutorily enjoined on the chief executives and when the statute already contained provisions empowering the elected heads to exercise administrative control over the chief executives "for the purposes of this Act" (Sections 57(1)(a) and 26(1) (a)) which expression comprehends control in regard to implementation of resolutions also, we find it impossible to agree with the learned Advocate-General that the impugned provisions are not without rationality. The only legitimate and rational inference, in our opinion, is that they are irrational.

28. What is meant by rational? William C. Burton in his "Legal Thesaurus" 1981 edition at page 427 has this to say:

"Rational, adjective;

Agreeable to reason, analytical, balanced, cerebral, clearheaded, cognitive, consentaneous, discerning;; discriminating, endowed with reason, enlightened, exercising reason,intelligent, judicious, justifiable, knowing, legitimate, levelheaded, logical, lucid, objective, plausible, ratiocinative, ratione praeditus, reasonable, reasoning, reflective, sagacious, sage, sane, sensible, sober, sound, stable, thinking, thoughtful, understanding, well-grounded, wise,

Associated Concepts: rational basis."

The word "rational" has different meanings. According to the Oxford English Dictionary, 1933 Edition, one of the meanings of the word "rational" is,

"exercising one's reason in a proper manner; having sound judgment; agreeable to reason; reasonable, sensible."

In John B. Saunder's "Words and Phrases Legally Defined", 1969 Edition Vol. 4, a reference is made to a decision of the Supreme Court of Tasmania in Australia, which while interpreting the expression "rational" occurring in the criminal code observed:

"If you like, it implies an ability to proceed from premises to conclusions by methods, of course, which are within the normal range of acceptance and experience." (page 254)

Ramanatha Iyer in the Law Lexicon, 1987 Edition at page 1078 says that "rational" means "endowed with reason".

29. We are conscious of the great responsibility resting upon us in adjudicating the constitutionality of a provision on the touch-stone of "rationality". In the English public law, the term irrationality" applies to,

".... a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it Whether a decision falls within this category is a question that judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system." Per Lord Diplock: Council of Civil Service Unions and Ors. v. Minister for the Civil Service (1985) AC 374 .

The British Constitution which is traceable to several enactments and Conventions is founded upon Parliamentary Sovereignty. The doctrine of ultra vires is confined only to subordinate legislation, actions of public officials and public bodies. What constitutes an act of irrationality under English Public law, in our opinion, approximates to an independent ground falling within the inhibition of Article 14 of the Constitution to enjoin a legislation. Put differently the incubus of irrationality afflicts both legislative and executive actions. Rationality, we hold, is a condition for valid exercise of power by the State.

30. We fail to discern any rational object the impugned provisions seek to achieve. Absence of rationality is transparent. No legitimate governmental interests can be said to be advanced or achieved by the impugned provisions. In a case of the present nature, the stated purposes in the Objects and Reasons inevitably trigger strict judicial scrutiny. A law becomes irrational if its efficacy is dubious and its goals are in-substantial, is an accepted principle of American Constitutional law. See Plyler v. Doe (1982) 457 U.S. 202.

31. The object sought to be achieved in the instant case is total devoid of reason and balance since it was already enacted in the existing provisions. The stated purpose, therefore, not being rationally related to the object sought to be achieved, the impugned legislation must fail on that ground. See. U.S. Department of Agriculture v. Moreno (1973) 413 U.S. 528.

32. So far as the constitutionality of sub-section (ii) of Section 3 and sub-section (ii) of Section 6 of the amendment Act 5 of 1991 is concerned, we find

little merit in the contentions advanced by Shri Ramana Reddy, learned counsel for the petitioners. His submission is that the Chairman of Zilla Praja Parishad and the President of Mandala Praja Parishad will incur disqualification if meetings of the local bodies are not convened within a certain period-once in every sixty days in the case of Mandala Praja Parishad under Sub-section (7) of Section 26 and once in every ninety days in the case of Zilla Praja Parishad under Sub-section (6) of Section 57. If the session of Legislative Assembly or either House of Parliament lasts for more than two to three months, according to the learned counsel, the heads of local bodies will incur disqualification. This assumption is totally unfounded. The second proviso to sub-Section (ii) of Section 3 and likewise the second proviso to sub-section (ii) of Section 6 clearly exclude from computation the period during which the Assembly or either House of Parliament, as the case may be, is in session. We accordingly hold that the two provisions do not suffer from any constitutional infirmity.

33. For the foregoing reasons, we uphold the legality of (i) G.O.Ms. No. 159, dated 23-3-92 by which the District Selection Committees have been reconstituted with retrospective effect from 17-4-1990; and (ii) G.O.Ms. No. 164, Pachayati Raj and Rural Development (Mandal-I) Department dated 8-3-90 by which the District Development Officer was empowered to effect postings and transfers to Mandal Development Officers in the district. We declare sub-section (i) of Section 3 and sub-section (i) of Section 6 of A.P. Act 5 of 1991 unconstitutional and accordingly they are struck down. The result of our declaration will be that hence forth the President of the Mandala Praja Parishad and the Chairman of the Zilla Praja Parishad will exercise administrative control over the chief executive officer only for the purposes of the Act but not for any other purposes. In other words, such control shall not extend to matters not comprehended by the Act.

34. The writ petitions are partly allowed as indicated above. There shall be no order as to costs.