

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal Nos.665 and 666 of 2017

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

These two appeals are preferred by the A.P. State Financial Corporation ("APSFC" for short) against the interlocutory orders passed in W.P.M.P.No.21024 of 2017 in W.P.No.17175 of 2017 dated 18.05.2017, and in W.P.No.17376 of 2017 dated 26.05.2017, directing them to continue the respondent-writ petitioners in service beyond the age of superannuation of 58 years.

Before both the Learned Single Judges, the respondent-writ petitioners had placed reliance on the order of the Supreme Court in S.L.P(C).No. 13623 of 2017 dated 27.04.2017 and S.L.P(C).Nos.14033-14034 of 2017 dated 05.05.2017 to contend that since the Supreme Court had, in the appeal preferred against the order of the Division Bench of this Court in ***G.Rama Mohan Rao vs. The Government of Andhra Pradesh***¹, directed the petitioners therein to be continued in service, they should also be granted a similar benefit, and be continued in service till they attain the age of 60 years, notwithstanding the order of the Division Bench in ***G.Rama Mohan Rao***¹. This submission, urged on behalf of the respondent-writ petitioners, found favour with the Learned Single Judges, and interim orders were passed directing the appellant herein to continue them in service beyond the age of 58 years.

Sri A.K.Jayaprakash Rao, learned counsel for the appellant, would submit that reliance placed by the respondent-writ petitioners on the aforesaid orders of the Supreme Court is misplaced; the petitioners in the S.L.Ps before the Supreme Court were all employees of the A.P.State Tribal Welfare Residential Educational Institutions Society (APSTWREIS)

¹ 2017(1) ALT 1

(Gurukulam); the interim order passed by the Supreme Court was restricted only to employees of the said Society; such an interim order does not enure to the benefit of employees of any of the other IX and X Schedule institutions; even otherwise, the APSFC stands on a different footing from that of all other IX and X Schedule institutions, in as much as Section 70 of the A.P. Reorganisation Act, 2014 (hereinafter called the “2014 Central Act”) makes special provisions for the APSFC; the appellant-Corporation is governed by statutory regulations which stipulate the age of superannuation, for all employees of the APSFC, as 58 years; as the process of re-organisation of the APSFC has not yet been approved by the Central Government, the APSFC continues to remain a single entity wherein employees working in both the States are employed; increase in the age of superannuation, prescribed by the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2014 (“the 2014 State Act” for short), has no application to the APSFC more so as its employees, working within the territorial limits of the State of Telangana, are required to retire on attaining the age of superannuation of 58 years; the subject matter of these writ petitions are squarely covered by the Division Bench Judgment of this Court in **G.Rama Mohan Rao**¹; and, in the absence of the said order being suspended by the Supreme Court, the Learned Single Judges had erred in granting the respondent-writ petitioners the interim relief sought for by them.

On the other hand Sri L.Ravi Chander, learned Senior Counsel appearing on behalf of the respondent-writ petitioners, would submit that the word “*respondent-institutions*”, in the interlocutory order of the Supreme Court dated 05.05.2017, can only mean all IX and X Schedule institutions; the said order of the Supreme Court precludes the respondent-writ petitioners from approaching the Supreme Court; in the light of the interim order passed by the Supreme Court, the Learned

Single Judges were justified in granting a similar interim relief to the respondent-writ petitioners; and while a writ appeal may lie against an ad-interim order, the present cases are not such where this Court should interfere; the appellant should be relegated to the remedy of filing a petition to vacate the interim orders passed by the Learned Single Judges; and, in view of Sections 39(1)&(2) and Section 45 of the State Financial Corporations Act, 1951 (the “1951 Act” for short), the directions given by the State Government are binding on the APSFC. Learned Senior Counsel would also place reliance on Section 48-A of the 1951 Act.

Both Sri A.K.Jayaprakash Rao, learned counsel for the appellant, and Sri L.Ravi Chandar, learned Senior Counsel appearing on behalf of the respondent-writ petitioners, would agree that the petitioners before the Supreme Court, in whose favour certain interlocutory orders were passed, were all employees of the A.P. State Tribal Welfare Residential Educational Institutions Society (APSTWREIS) (Gurukulam) which is a X Schedule institution. As reliance was placed by the respondent-writ petitioners, before the Learned Single Judges, on the interlocutory orders passed by the Supreme Court, it is necessary to refer, in brief, to the said orders.

On its jurisdiction being invoked by employees of Gurukulam, the Supreme Court, in its order in S.L.P(C).No.13623 of 2017 dated 27.04.2017, noted the submission, urged on behalf of the petitioners by the learned Senior Counsel, that, in Government and Government Aided Private Institutions, the retirement age was 60 years; the A.P. State Tribal Welfare Residential Educational Institutions Society (Gurukulam) was a wholly owned Government Society; the teachers in the said Society cannot be discriminated; the High Court had given a period of four weeks to the Government for taking a decision in the case of those institutions where the retirement age has not yet been enhanced to 60 years;

whereas, in the case of Gurukulam, a decision had already been taken, and what was required was only the formal expression of the decision; and in the above circumstances, until further orders, the superannuation in the case of those teachers, on attaining the age of 58 years, in the Gurukulam shall be deferred.

Later some other employees invoked the jurisdiction of the Supreme Court in S.L.P (C).Nos.14033-14034 of 2017 dated 05.05.2017. The Supreme Court took note of the submission of the learned counsel, appearing on behalf of the petitioner-employees therein, that they were similarly situated persons as those in S.L.P(C). No.13623 of 2017, and they were also working under the institutions promoted by the State Government. In the light of these submissions, the Supreme Court directed that, until further orders, the superannuation, in the case of employees on attaining the age of 58 years in the respondent-institutions, shall be deferred. The Supreme Court observed that it was needless to state that, in case any employee had retired only on the ground of attaining the age of 58 years, such employees shall be re-instated and continued in service until further orders but, in no case, beyond 60 years; this order would apply to all similarly situated employees under the respondent-institutions whether they were the petitioners before the Supreme Court or not; and, therefore, those similarly situated persons need not travel to the Supreme Court. S.L.P(c).Nos.14033-14034 of 2017 were directed to be tagged along with S.L.P(C).No.13623 of 2017.

It is necessary to note that in **G.Rama Mohan Rao¹**, aggrieved by which employees of Gurukulam had filed SLP (C) No.13623 of 2017 and SLP(C) Nos.14033 & 14034 of 2017 before the Supreme Court, a Division Bench of this Court observed:

“.....It is contended, on behalf of the petitioners, that the new societies i.e. the A.P. Residential Educational Institutions Society

(A.P.R.E.I.S) and the A.P. Social Welfare Residential Educational Institutions Society (A.P.S.W.R.E.I.S) for the State of Andhra Pradesh, and new societies i.e the Telangana Residential Educational Institutional Society and the Telangana Social Welfare Residential Educational Institutions Society for the State of Telangana, were brought into existence after registration under the Societies Registration Act; once new societies are formed, with the area of operations restricted to the territorial limits of the Successor State of Andhra Pradesh which are, presently, fully funded by the Successor State of Andhra Pradesh, the Government of Andhra Pradesh is estopped from contending that it has no legislative competence in respect of these Societies; even without taking into consideration the spirit of Section 78A of the AP Education Act, 1982 and without considering any of the special circumstances which led to extension of the benefit of the enhanced age of superannuation to employees of APREIS, APSWREIS and APTWREIS, G.O.Ms.No.112 was issued by the Government purporting to cover even these societies; the schools run by the APREIS and the APSWREIS are spread across the entire erstwhile composite State of Andhra Pradesh unlike other Institutions/ Centres mentioned in Schedule-X that are exclusively located in either one of the successor States of Andhra Pradesh or Telangana; though the 2014 Central Act does not provide for formation of new Societies for the respective successor States, the division of the then existing Societies was proposed and approved by the erstwhile Government of Andhra Pradesh, vide respective Government Orders issued in this regard prior to the 'Appointed Day' itself, taking recourse to the provisions of the Societies Registration Act; APREIS, APSWREIS and APTWREIS are provided 100% grant-in-aid by the State Government; employees working in private educational institutions have been extended the benefit of the enhanced age of superannuation under Section 78(A) i.e., 60 years; denying similar treatment to institutions belonging to the above societies, which answer the definition of Section 18 of the A.P. Education Act, results in discrimination, and is in violation of Article 14 of the Constitution of India; the Andhra Pradesh Education Act, 1982 contemplates taking over all schools run by these Societies, if necessary in public interest, through respective Government Orders; and the benefit of the enhanced age of superannuation should be extended to employees of the Societies, more particularly in the light of the provisions of the Andhra Pradesh Education Act.

Section 78-A of the Andhra Pradesh Education Act, 1982 was amended by the Andhra Pradesh Education (Amendment) Act, 2014 (Act No.1 of 2015) which was published in the A.P. Gazette on 03.01.2015 and Section 78-A (1) was substituted. The amended Section 78-A(1) and its proviso stipulate that every teacher or member of the non-teaching staff, employed in any aided private educational institution, shall retire from service on the afternoon of the last day of

the month in which he attains the age of sixty years. Under the proviso thereto, every teacher or member of the non-teaching staff employed in any aided private educational institution, who retired from service on attaining the age of fifty eight years on and from 02.06.2014, till the date of publication of the Andhra Pradesh Education (Amendment) Act, 2014, shall be re-inducted into the service/post as such with effect from the date of publication of the said Act. Under the second proviso thereto, the said interregnum period, from 02.06.2014 till the date of publication of the Andhra Pradesh Education (Amendment) Act, 2014, shall be treated in such manner as may be prescribed. In the explanation to Section 78-A the words “fifty eight years or sixty years as the case may be” were substituted by the words “sixty years”.

While employees working in Government educational institutions, and employees in aided private educational institutions, have been extended the benefit of the age of retirement as 60 years, employees of societies, wholly owned by the Government and which run these educational institutions, continue to retire from service on their attaining the age of 58 years. As employees of these Societies are not government employees, the provisions of the 1984 Act, as amended by the 2014 State Act, are not applicable to them. As employees working in aided private educational institutions have now been extended the benefit of the enhanced age of superannuation of 60 years, in terms of the amended Section 78-A of the A.P. Education Act, the State Government is obligated to consider whether or not a similar benefit should be extended to the employees of its wholly owned Societies which also administer educational institutions in the State of Andhra Pradesh. That does not, however, justify a mandamus being issued to the State Government to enhance the age of superannuation of employees in all these societies to 60 years as these are matters for the State Government to decide taking various factors into consideration. In the exercise of its jurisdiction under Article 226 of the Constitution of India, this Court would not undertake the exercise of determining the age of superannuation of employees of these societies on a comparative evaluation of their functions vis-à-vis employees of Government educational institutions or employees of aided private educational institutions. Suffice it to hold that, as employees working in Government educational institutions and employees working in aided private educational institutions in the present State of A.P have been extended the benefit of the age of superannuation of 60 years, the State Government shall consider the claim of employees, of its wholly owned Societies running educational institutions, for being extended the similar benefit of the enhanced age of superannuation of 60 years.....”

(emphasis supplied.

After noting that employees of Government educational institutions and employees of aided private educational institutions were continued till 60 years, and employees of the aforesaid educational societies were not, the Division Bench, in **G. Ramamohan Rao**¹, had directed the State Government to consider the claim of employees, of its wholly owned societies running educational institutions, for being extended a similar benefit of the enhanced age of superannuation of 60 years, holding that it would not issue a mandamus under Article 226 of the Constitution of India in this regard.

The Supreme Court in its order dated 05.05.2007, after noting that similarly placed employees in Government educational institutions and in Government aided private educational institutions were continued till 60 years, extended the benefit, of continuing in service till the age of 60 years, to teachers of the aforementioned societies also. Thereafter, the Supreme Court extended the interim order to all employees of the aforesaid educational societies irrespective of whether or not they had approached the Supreme Court.

The petitioners in the S.L.Ps before the Supreme Court are all, admittedly, employees of the A.P. State Tribal Welfare Residential Educational Institutions Society (APSTWREIS) (Gurukulam). As noted hereinabove, employees of the A.P. Residential Educational Institutions Society (APREIS) and the A.P. Social Welfare Residential Educational Institutions Society (APSWREIS) and the A.P. State Tribal Welfare Residential Educational Institutions Society (APSTWREIS) had invoked the jurisdiction of this Court, basing their claim mainly on Section 78A of the A.P. Education Act, 1982, which extended the age of superannuation of 60 years even to the employees working in private aided educational institutions. The cases of the employees of all these three societies was considered together by the Division Bench, in **G.Rama Mohan Rao**¹, and

the aforesaid observations were made in the context of all the three societies.

Observations of Courts are neither to be read as Euclid's theorems nor as provisions of a Statute, and that too taken out of their context. (**Amar Nath Om Prakash v. State of Punjab**²; **CCE v. Alnoori Tobacco Products**³; **London Graving Dock Co. Ltd. v. Horton**⁴; **Home Office v. Dorset Yacht Co.**⁵; **Shepherd Homes Ltd. v. Sandham (No.2)**⁶; **British Railways Board v. Herrington**⁷). The observations must be read in the context in which they appear to have been stated. Judges interpret the words of statutes. Their words are not to be interpreted as statutes. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. (**Bharat Petroleum Corporation Ltd v. N.R. Vairamani**⁸; **The State of A.P. v. M/s Seven Hills Constructions**⁹). The words "**respondent-institutions**", in the interim order of the Supreme Court, can only be understood as the respondents in Special Leave Petitions. Even if the institutions are held to have been referred therein in the plurality, they would only mean the APREIS and APSWREIS, besides APTWREIS, and not employees of other public sector undertakings who were, admittedly, not the petitioners in the SLPs filed before the Supreme Court. The interim relief granted by the Supreme Court to employees of the aforesaid educational societies cannot, therefore, be extended to employees of other ninth and tenth schedule institutions.

Even otherwise, the APSFC stands on a different footing as compared to the others institutions listed in Schedules-IX and X to the 2014 Central Act. Section 70 of the 2014 Central Act is a special

² (1985) 1 SCC 345

³ (2004) 6 SCC 186

⁴ 1951 AC 737

⁵ (1970) 2 ALL.E.R 294

⁶ 1971 (1) WLR 1062

⁷ 1972 (2) WLR 537

⁸ (2004) 8 SCC 579

⁹ Full Bench Judgment in TRC Nos.274 of 2001 and batch dated 25.11.2011

provision relating to the APSFC. Section 70(1) requires APSFC, on and from the appointed day, to continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of Section 70 and to such directions as may be issued by the Central Government. Section 70(3) provides that, notwithstanding anything contained in Section 70(1) and (2), the Board of Directors of the APSFC may, with the previous approval of the Central Government, and shall, if so required by the Central Government, convene at any time, after the appointed day, a meeting for the consideration of a scheme for the reconstitution or re-organization or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation. Section 70(3) further provides that if such a scheme is approved at the general meeting, by a resolution passed by a majority of the shareholders, the scheme shall be submitted to the Central Government for its sanction. Section 70(4) stipulates that, if the scheme is sanctioned by the Central Government either with or without modifications, the Central Government shall certify the scheme and, upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the Corporations affected by the scheme as well as the shareholders and creditors. Section 70(6) stipulates that nothing in Sections 70(1) & (2) shall be construed as preventing the Governments of Andhra Pradesh and Telangana from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

As is evident from Section 70(3), the Board of Directors of the APSFC are empowered to formulate a scheme, among others, for the dissolution of the APSFC, for formation of a new corporation, and the transfer of the assets, rights and liabilities of the existing Corporation to

the newly formed Corporations. Section 70 contains various safeguards and requires such a scheme not only to be approved by a majority of the shareholders of the Corporation, but also for its approval by the Central Government. It is only after the Central Government sanctions the scheme, approved by the Board of Directors of the APSFC, can the APSFC be said to have been reconstituted or reorganised. It is only thereafter would two separate State Financial Corporations come into existence - one for each of the States of Telangana and Andhra Pradesh, and it is only then can the employees of the APSFC be finally allotted between the State Financial Corporations of both the States. It is not in dispute that the Central Government has not sanctioned the scheme presented to it by the APSFC; and, consequently, the said Corporation cannot be said to have been reconstituted or re-organised in accordance with the provisions of Section 70 of the 2014 Central Act.

Section 3 of the 1951 Act relates to establishment of State Financial Corporations and, under Sub-section (1) thereof, the State Government may, by notification in the Official Gazette, establish a Financial Corporation for the State under such name as may be specified in the notification. Section 3(2) of the 1951 Act stipulates that the Financial Corporation shall be a body corporate by the name notified under sub-section (1), having perpetual succession and a common seal, with power, subject to the provisions of the Act, to acquire, hold and dispose of property and shall by the said name sue and be sued. Section 48 of the 1951 Act confers power on the Board of Directors of the State Financial Corporation to make Regulations and, under sub-section (1) thereof, the Board, after consultation with the Small Industries Bank and with the previous sanction of the State Government, may make regulations, not inconsistent with the 1951 Act and the rules made thereunder, to provide for all matters which are necessary or expedient for the purpose of giving effect to the provisions of the 1951 Act.

In the exercise of the powers conferred under Section 48 of the Act, the Board of Directors of the APSFC framed the A.P. State Financial Corporation Staff Regulations, 1960. Regulation 20 thereof relates to superannuation and retirement and, thereunder, every employee shall retire on attaining the age of 58 years provided that the Board may, where it appears desirable in the interests of the Corporation, extend the period of service of such an employee for such a period as it may determine so, however, that, in no case, shall an employee serve beyond the age of 60 years. These Staff Regulations, which are statutory in character, continue to remain in force as on date, and every employee of the APSFC is bound, in accordance with Regulation 20 thereof, to retire on attaining the age of superannuation of 58 years. The discretion conferred on the Board, to extend the period of service of employees, is in specific cases and where it appears desirable to the Board in the interest of the Corporation. The statutory regulations prescribe the age of superannuation, for all employees of the APSFC, as 58 years and, in terms thereof, the respondent-writ petitioners were retired from service on attaining the age of superannuation of 58 years.

Section 39(1) of the 1951 Act requires the Board of the APSFC, in the discharge of its functions, to be guided by such instructions on questions of policy as may be given to it by the State Government in consultation with, and after obtaining the advice of, the Small Industries Bank. It is not shown to us that instructions, if any, issued by the Government of A.P. to the Board of Directors of APSFC were after consultation with, and after obtaining the advice of, the Small Industries Bank. Under Section 39(2) of the 1951 Act, if any dispute arises between the State Government and the Board as to whether a question is or is not a question of policy, the decision of the State Government shall be final. Even if it is presumed that the instructions issued by the Government of A.P. to the APSFC is on a question of policy, the Board of

Directors of APSFC are bound by such instructions only if they were issued by the State Government after consultation with, and after obtaining the advice of, the Small Industries Bank. Reliance placed on Sections 39(1) and (2) of the 1951 Act is, therefore, of no avail.

Section 45 of the 1951 Act relates to liquidation of Financial Corporations and, thereunder, no provision of law relating to the winding up of companies or corporations shall apply to the Financial Corporation, and the Financial Corporation shall not be placed in liquidation, save by order of the State Government and in such manner as it may direct. The APSFC, existing as on the appointed date ie. 02.06.2014, was formed by the erstwhile State of Andhra Pradesh, and its bifurcation between both the States of Telangana and Andhra Pradesh is governed by the provisions of the 2014 Central Act which, as noted hereinabove, prescribes in Section 70 thereof a detailed process for the reconstitution or reorganisation of the APSFC. It is nobody's case that the APSFC is sought to be wound up, in which event alone would Section 45 of the 1951 Act obligate the State Government to pass an order in this regard. Section 48A of the Act requires every Regulation made under Section 48 to be laid before the State Legislature. No plea that the 1960 Regulations were not placed before the State Legislature has even been taken in the affidavits filed in support of the writ petitions.

The only other contention, which necessitates examination, is that this Court should not entertain an appeal against an ad-interim order, and the appellant should be relegated to the remedy of filing a petition to vacate stay. On the question of maintainability of an appeal, under Clause 15 of the Letters Patent, it is relevant to note that, in **Bharat Cooking Coal Limited v. Dev PL(JV), Dhanbad**¹⁰, the challenge before the Division Bench of the Jharkhand High Court was to an interim order passed by the Learned Single Judge granting status quo. On an

¹⁰ 2014 Indlaw JHKD 294

objection being raised to the maintainability of the appeal, the Division Bench of the Jharkhand High Court, relying on the judgment of the Supreme Court in **Midnapore Peoples Co-op. Bank Limited v. Chunilal Nanda**¹¹, held that it is only against routine order or orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties, that a Letters Patent Appeal is not maintainable; and the interlocutory order under appeal, which caused gross injustice to a party and which deprived him of a valuable right, should be treated as a judgment within the meaning of the Letters Patent.

In **Union of India v. Government of Tamilnadu**¹², the question which arose for consideration before the Division bench of the Madras High Court was whether an appeal, under Clause 15 of the Letters Patent, would lie against an interim order of injunction passed by the learned Single Judge. Relying on the judgment of the Supreme Court in **Shah Babulal Khimji v. Jayaben D.Kania**¹³, the Division bench of the Madras High Court observed:

“.....In reply, the learned Advocate General submitted that the policy decision taken by the Central Government can be challenged if it is in violation of the provisions of the Constitution, statutory enactment and against public interest or does not sub-serve the public interest. He further submitted that under the dual pricing policy, there is no restriction imposed on any of the bulk consumers to get high speed diesel from the retail outlets operated by the petro dealers, and the effect of the impugned order passed by the learned single Judge is only to provide a single place for the supply of high speed diesel required for operating the buses. According to the learned Advocate General, if the impugned order had not been passed, the buses of the State Transport Undertakings would have to go to the retail outlets for getting their tanks filled up, for which the State would have paid only concessional rate payable to high speed diesel, as there is no such prohibition in the policy. Thus, neither the Union of India nor the oil marketing companies are suffering any losses on account of the interim injunction granted by the learned single Judge. **He further submitted that the interim injunction was granted only till 12th April, 2013, and before the learned single Judge, learned standing counsel appearing for the Union of India did not raise any such plea, as has been raised in the present appeal. It is always open to the Union of India to move an application for vacating the exparte order of interim injunction passed by the learned single Judge, and all the pleas raised herein by the appellant shall be considered by the learned single Judge at the time of passing final orders on the application filed for grant of interim relief or finally deciding the main writ petition.** He further

¹¹ (2006) 5 SCC 399

¹² 2013 Indlaw MAD 832

¹³ AIR 1981 SC 1786

submitted that it is the usual practice of this Court not to assign any reasons while granting interim relief by passing an order of interim injunction at the initial stage, which practice has been followed by the learned single Judge in this case also. According to him, after exchange of affidavits, this Court considers all the pleas raised by the respective parties while passing order on the miscellaneous application, and therefore, the impugned order passed by the learned single Judge does not call for any interference.

Mr.M.Ravindran, learned senior counsel appearing for the Oil Marketing Companies, submitted that the learned single Judge ought not to have granted an order of temporary injunction where a policy decision is under challenge. The effect of grant of temporary injunction has a cascading effect and the oil marketing companies are put to loss of approximately Rs.424 crores daily, as other bulk consumers have also approached the other High Courts for grant of interim injunction. He has relied upon a decision of the Hon'ble Supreme Court in *Bhavesh D.Parish vs. Union of India* reported in 2000 (5) SCC 471.

In the present case, the interim order passed by the learned single Judge, though does not finally decide a issue, but materially and directly affects the appellant, as the Oil Marketing Companies, which supply diesel to the first respondent herein, would be required to supply diesel at the rate at which they are supplying to the retail consumers thereby causing daily loss to the Oil Marketing Companies running into several crores of rupees, and thus burdening the appellant in grant of subsidy. The view, which we are taking, is in lines with the principles laid down by the Hon'ble Supreme Court in *Shah Babulal Khimji vs. Jayaben D.Kania and another* (supra) (which has been followed by the Hon'ble Supreme Court in the case of *Midnapore Peoples! Coop.Bank Ltd.,* (supra), wherein the Hon'ble Supreme Court, while considering the scope of Clause 15 of the Letters Patent had held that every interlocutory order cannot be regarded as a judgment, but only those orders would be judgments, which decide matters of moment or affect vital and valuable rights of the parties and which work serious injustice to the party concerned.

Thus, the appeal preferred under Clause 15 of the Letters Patent by the appellant is maintainable.....” (emphasis supplied)

In W.A.No.1080 of 2016 and W.P.No.27840 of 2016 dated 27.10.2016, and in W.A.Nos.231 and 232 of 2017 dated 01.03.2017, Division Benches of this Court, following the judgments of the Supreme Court in *Shah Babulal Khimji*¹³, and *Midnapore Peoples Co-op. Bank Limited*¹¹, the judgment of the Division Bench of the Madras High Court in *Union of India v. Government of Tamilnadu*¹², and the judgment of the Division bench of the Jharkhand High Court in *Bharat Cooking Coal Limited*¹⁰, held that interlocutory orders, which cause grave injustice to a party and deprive him of a valuable right, should be treated as a judgment within the meaning of Clause 15 of the Letters Patent; even if an order does not finally decide an issue, but materially and directly affects the appellant, it can be regarded as a judgment under Clause 15 of the Letters Patent; and a decision on matters of moment, which affect vital and valuable rights of the parties and which work

serious injustice to the party concerned, can always be questioned in proceedings under Clause 15 of the Letters Patent.

The law laid down, in the aforesaid judgments, is that, even where the interim order passed by the learned Single Judge does not finally decide an issue, but materially and directly affects the appellant, it can be regarded as a judgment under Clause 15 of the Letters Patent as it affects the vital and valuable rights of the parties and causes serious injustice to them. The order under appeal, whereby the appellants have been directed to continue the respondent-writ petitioners beyond the statutorily prescribed age of superannuation of 58 years, would undoubtedly cause substantial prejudice to the appellant as they are required to continue, in the services of the Corporation, even those employees who have retired from service. We see no reason, therefore, to non-suit the appellant on this ground.

Viewed from any angle, the Learned Single Judges have erred in granting the *ad interim* orders under appeal relying on an interim order of the Supreme Court which has no application to Corporations/Companies/Societies, in the Ninth and Tenth Schedules of the 2014 Central Act, other than APREIS, APSWREIS and APSTWREIS. The orders under appeal are, accordingly, set aside and the Writ Appeals are allowed. Miscellaneous Petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

07th June, 2017

Note: L.R. copy to be marked.

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