

ITEM NO.1501 Court 2 (Video Conferencing) SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 9108-9109/2014

UNION OF INDIA

Appellant(s)

VERSUS

RAJENDRA N SHAH & ANR.

Respondent(s)

(IA No. 65182/2014 - Application for intervention)

(IA No. 65182/2014 - Application for intervention)

(IA No. 92639/2013 - Application for intervention)

(IA No. 5/2014 - INTERVENTION APPLICATION)

(IA No. 3/2014 - INTERVENTION APPLICATION)

WITH

SLP(C) No. 13329/2018 (III)

(IA No. 74129/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

IA No. 74130/2018 - EXEMPTION FROM FILING O.T.

IA No. 171934/2018 - MODIFICATION OF COURT ORDER

IA No. 74131/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 13215/2018 (III)

IA No. 73609/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 73610/2018 - EXEMPTION FROM FILING O.T.

IA No. 74011/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 282/2020 (III)

(FOR ADMISSION and I.R. and IA No.42321/2019-CONDONATION OF DELAY IN FILING and IA No.42323/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.42320/2019-PERMISSION TO FILE PETITION (SLP/TP/WP/..) and IA No.42322/2019-CONDONATION OF DELAY IN REFILEING and IA No.42324/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 281/2020 (III)

(FOR ADMISSION and I.R. and IA No.42312/2019-CONDONATION OF DELAY IN FILING and IA No.42314/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.42311/2019-PERMISSION TO FILE PETITION (SLP/TP/WP/..) and IA No.42313/2019-CONDONATION OF DELAY IN REFILEING and IA No.42315/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 14227/2020 (III)
 (FOR ADMISSION and I.R. and IA No.121597/2020-EXEMPTION FROM FILING
 C/C OF THE IMPUGNED JUDGMENT and IA No.121598/2020-EXEMPTION FROM
 FILING O.T. and IA No.121599/2020-EXEMPTION FROM FILING AFFIDAVIT
 and IA No.121595/2020-PERMISSION TO FILE LENGTHY LIST OF DATES and
 IA No.121594/2020-PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 124459/2020 - EARLY HEARING APPLICATION
 IA No. 121599/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 124865/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 121597/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
 JUDGMENT
 IA No. 121598/2020 - EXEMPTION FROM FILING O.T.
 IA No. 121594/2020 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 124864/2020 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 121595/2020 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 20-07-2021 These matters were called on for pronouncement of
 Judgment today.

For Appellant(s)	Mr. K.K. Venugopal, Attorney General Mr. Tushar Mehta, SG Mr. Kanu Agrawal, Adv. Mr. Zoheb Hussain, Adv. Ms. Meenakshi Grover, Adv. Mr. S.K. Gupta, Adv. Ms. Shraddha Deshmukh, Adv. Mr. Chinmayee Chandra, Adv. Mr. Amrish Kumar, Adv. Mr. Raj Bahadur Yadav, AOR Mr. P.K. Jani, Sr. Adv. Mr. Mohit Paul, AOR Ms. Shikha Sarin, Adv. Ms. Sunaina Phul, Adv. Mr. Sahil M. Shah, Adv. Mr. Shivang Jani, Adv.
For Respondent(s)	Mr. Masoom K. Shah, Adv. Mr. Vishwas K. Shah, Adv. Mrs. Neha Shah, Adv. Mr. Dhruvad Patel, Adv. Mr. Anup Jain, AOR Mr. Udit Gupta, Adv. Mr. Abhishek Baid, Adv. Mr. Pulkit Tare, Adv. Ms. Ritika Sinha, Adv. Mr. V. K. Monga, AOR Mr. K. Maruthi Rao, Adv.

Mrs. K. Radha, Adv.
Mrs. Anjani Aiyagari, AOR
Ms. Hemantika Wahi, AOR

Mr. Tushar Mehta, Solicitor General
Ms. Manisha Lavkumar, Sr. Adv.
Mr. Aniruddha P. Mayee, AOR

Hon'ble Mr. Justice Rohinton Fali Nariman pronounced the reportable Judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice B. R. Gavai.

Leave granted in the Special Leave Petitions.

The operative portion of the Judgment is extracted as follows :-

"80. The judgment of the High Court is upheld except to the extent that it strikes down the entirety of Part IXB of the Constitution of India. As held by us above, it is declared that Part IXB of the Constitution of India is operative only insofar as it concerns multi-State co-operative societies both within the various States and in the Union territories of India. The appeals are accordingly disposed of."

Pending interlocutory application(s), if any, is/are disposed of.

Thereafter, Hon'ble Sh. Justice K. M. Joseph pronounced the reportable dissenting Judgment. The operative portion of the Judgment is extracted as follows :-

"30. More importantly, once the Court has painted the relevant provisions, which are the substantial provisions (Article 243ZI to 243ZQ), with the brush of unconstitutionality,

rendering those provisions, still born, it would appear that the provisions contained in Article 243ZR and Article 243ZS would not have the crutches without which these provisions cease to be workable and are impossible to sustain. The unconstitutional part, which is to be an integral part of Article 243ZR and Article 243ZS, must continue to exist, if the provisions', in question, are to bear life. In other words, to sustain these provisions the court would have to resurrect the dead provisions contained in Article 243ZI to 243ZQ and Article 243ZT. The Doctrine of Severability must apply on surer foundations. It is my view that unless the provisions, which have been found unconstitutional, are kept alive, Articles 243R and 243ZQ are plainly unworkable.

31. In this view of the matter, I respectfully disagree with the view taken by my learned and esteemed Brother in regard to the application of the Doctrine of Severability.

32. In this view of the matter, the Appeals are dismissed."

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(NISHA TRIPATHI)
BRANCH OFFICER

(Two signed reportable Judgments are placed on the file)