

## PART XIX

## MISCELLANEOUS

361. Protection of President and Governors and Rajpramukhs.â\200\224(1)

The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor or Rajpramukh of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor or Rajpramukh of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor or Rajpramukh of a State, shall be instituted during his term of office in any

court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor or Rajpramukh of such State, until the expiration of two months next after notice in

writing has been delivered to the President or the Governor or the Rajpramukh, as the case may be,

or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

362. Rights and privileges of Rulers of Indian States.-

In the exercise of the power of Parliament or of the Legislature of a State to make laws

or in the exercise of the executive power of the Union or of a State, due regard

shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1)

of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.

191

## THE CONSTITUTION OF INDIA

363. Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.â\200\224(1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, sanad or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or any liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, sanad or other similar instrument.

(2) In this articleâ\200\224

(a) â\200\234Indian Stateâ\200\235 means any territory recognised before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(b) â\200\234Rulerâ\200\235 includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

192

## THE CONSTITUTION OF INDIA

364. Special provisions as to major ports and aerodromes.â\200\224(1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notificationâ\200\224

(a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this articleâ\200\224

(a) â\200\234major portâ\200\235 means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(b) â\200\234aerodromeâ\200\235 means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

365. Effect of failure to comply with, or to give effect to, directions given by the Union.â\200\224Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution.

366. Definitions.â\200\224In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to sayâ\200\224

(1) â\200\234agricultural incomeâ\200\235 means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) â\200\234an Anglo-Indianâ\200\235 means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

193

THE CONSTITUTION OF INDIA

(3) â\200\234articleâ\200\235 means an article of this Constitution;

(4) â\200\234borrowâ\200\235 includes the raising of money by the grant of annuities, and â\200\234loanâ\200\235 shall be construed accordingly;

(5) â\200\234clauseâ\200\235 means a clause of the article in which the expression occurs;

(6) â\200\234corporation taxâ\200\235 means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:â\200\224

(a) that it is not chargeable in respect of agricultural income;

(b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(7) â\200\234corresponding Provinceâ\200\235, â\200\234corresponding Indian Stateâ\200\235 or

â\200\234corresponding Stateâ\200\235 means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

(8) â\200\234debtâ\200\235 includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and â\200\234debt chargesâ\200\235 shall be construed accordingly;

(9) â\200\234estate dutyâ\200\235 means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

194

## THE CONSTITUTION OF INDIA

(10) â\200\234existing lawâ\200\235 means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) â\200\234Federal Courtâ\200\235 means the Federal Court constituted under the Government of India Act, 1935;

(12) â\200\234goodsâ\200\235 includes all materials, commodities, and articles;

(13) â\200\234guaranteeâ\200\235 includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(14) â\200\234High Courtâ\200\235 means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includesâ\200\224

(a) any Court in the territory of India constituted or reconstituted under this Constitution as a High Court, and

(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) â\200\234Indian Stateâ\200\235 means any territory which the Government of the Dominion of India recognised as such a State;

(16) â\200\234Partâ\200\235 means a Part of this Constitution;

(17) â\200\234pensionâ\200\235 means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) â\200\234Proclamation of Emergencyâ\200\235 means a Proclamation issued under clause (1) of article 352;

(19) â\200\234public notificationâ\200\235 means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;

195

THE CONSTITUTION OF INDIA

(20) "railway" does not include

- (a) a tramway wholly within a municipal area, or
- (b) any other line of communication wholly situated in one State and declared by Parliament by law not to be a railway;

(21) "Rajpramukh" means

(a) in relation to the State of Hyderabad, the person who for the time being is recognised by the President as the Nizam of Hyderabad ;

(b) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognised by the President as the Maharaja of that State ; and

(c) in relation to any other State specified in Part B of the First Schedule, the person who for the time being is recognised by the President as the Rajpramukh of that State,

and includes in relation to any of the said States any person for the time being recognised by the President as competent to exercise the powers of the Rajpramukh in relation to that State ;

(22) "Ruler" in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler ;

(23) "Schedule" means a Schedule to this Constitution;

(24) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

(26) "securities" includes stock;

(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

(30) "Uparajpramukh" in relation to any State specified in Part B of the First Schedule means the person who for the time being is recognised by the President as the Uparajpramukh of that State.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by, the Legislature of a State specified in Part A or Part B of the First Schedule, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor or Rajpramukh, as the case may be.

197

THE CONSTITUTION OF INDIA

(3) For the purposes of this Constitution â\200\234foreign Stateâ\200\235 means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.