Gurudevdatta Vksss Maryadit & Ors vs State Of Maharashtra & Ors on 22 March, 2001

Equivalent citations: AIR 2001 SUPREME COURT 1980, 2001 AIR SCW 1380, 2001 (2) LRI 648, 2001 (2) SCALE 670, 2001 (4) SCC 534, (2001) 4 JT 11 (SC), 2001 (4) SRJ 355, 2001 (2) BLJR 1573, (2001) 3 SUPREME 28, (2001) 2 SCALE 670, (2001) 2 CURLJ(CCR) 104, (2001) 3 BOM CR 61, 2001 (2) BOM LR 787, 2001 BOM LR 2 787

Bench: Umesh C Banerjee, B.N. Agrawal

CASE NO.:
Appeal (civil) 2298 of 2001

PETITIONER:
GURUDEVDATTA VKSSS MARYADIT & ORS.

Vs.

RESPONDENT:
STATE OF MAHARASHTRA & ORS.

DATE OF JUDGMENT: 22/03/2001

BENCH:
G.B. Pattanaik, Umesh C Banerjee & B.N. Agrawal.

JUDGMENT:

BANERJEE,J.

Leave granted.

L...I...T.....T.....T.....T.....T.....T.....T..J Urgency of the situation has prompted this Court to dispose of the present Special Leave Petition under Article 136 of the Constitution even at the stage of admission:

> Urgency being initiation of election process of Kolhapur District Central Co-operative Bank in the State of Maharashtra. Incidentally, Bombay High Court has negatived the petitioners contention of restrictive list of voters in terms of the proviso to Section 27 (3) as added by the amendment to the Maharashtra Co-operative Societies Act, 1960

the primary reason being - the entire election programme, including the list of voters stands finalised on June 30, 2000 and the amendment by way of addition to the proviso was effected on 23rd August, 2000: The introduction of the amended proviso being effected subsequent to the finalisation of the voters list, the High Court concluded that basically, the inclusion of the Societies which were eligible on 30th June, 2000 could not be faulted on the basis of the amendment which was brought into force subsequently and they cannot be denied the right to vote and hence the Appeal before this Court.

Before adverting to the submissions advanced on the score as above, one factual element ought to be noticed at this juncture to wit: promulgation of an Ordinance being Maharashtra Ordinance No. X of 2001 by the Governor of the State on 27.02.2001 during the short pendency of this appeal.

We shall be adverting to the same shortly in detail but before so doing relevant provisions of the Maharashtra Co-operative Societies Act, 1960 [Section 27(3)] together with the amendment to the proviso as effected on 23rd August, 2000 ought to be noticed immediately herein below:-

Section 27(3):

A society which has invested any part of its funds in the shares of any federal society, may appoint one of its members to vote on its behalf in the affairs of that federal society and accordingly such member shall have the right to vote on behalf of the society Proviso to the Section however reads as below:-

Provided that, any new member society of a federal society shall be eligible to vote in the affairs of that federal society only after the completion of the period of three years from the date of its investing any part of its fund in the shares of such federal society;

provided further that, where the election is to a reserved seat under Section 73-B, no person shall have more than one vote.

The Ordinance as promulgated by the Co-operation and Textile Department of the Government of Maharashtra and as published in the Government Gazette in terms of Clause III of Article 348 of the Constitution being Maharashtra Ordinance X of 2001 may also be noticed at this juncture only as the issue centres round the Ordinance as well and the relevant extract of the same, however, is set out as below:-

1. Short title and Commencement (1) This Ordinance may be called the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2001.

(2) It shall be deemed to have come into force on the 23rd August, 2000

2. Amendment of Section 27 of Mah.XXIV of 1961 In Section 27 of the Maharashtra Co-operative Societies Act, 1960-

(a) in sub-section (3)-

(i) after the first proviso, the following proviso shall be inserted as the second proviso, namely:-

> Provided further that nothing in the first proviso shall apply to the member society, which has invested any part of its fund in the shares of the federal society, before the commencement of the Maharashtra Co- operative Societies (Amendment) Act, 2000.
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> (ii) In the existing second proviso, for the words provided further that the words provided also that shall be substituted:
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> (b) to sub-section (3A), the following proviso shall be added, namely, Provided that, nothing in sub-section (3A) shall apply to an individual member of a society, who has been enrolled as a member of that society, before the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2000.

Mr. V.A. Bobde, the learned Senior Counsel in support of the appeal with his usual eloquence introduced the concept of legislative malice in the matter of promulgation of the Ordinance. Malice in common acceptation, admittedly, means and implies spite or ill will and it is having regard to the common English parlance of the word malice that Mr. Bobde contended that promulgation of the Ordinance is an abuse of the legislative power and process amounting to a fraudulent user thereof and thus the malice.

It is in this context Mr. Bobde placed very strong reliance on the statement of objects and reasons for promulgation of the same. In the normal course of events we would not have delved into the same in detail as is being done herein below, but for its significance in the matter under consideration and elaborate submissions thereon, the statement of objects and reasons for promulgation of the Ordinance is noticed herein below:-

> By inserting proviso to sub-section (3) of section 27 of the Maharashtra Co-operative Societies Act, 1960, by Maharashtra Act No.XL of 2000, provision has been made to give voting rights only to such member societies, which have completed three years from the date of their admission as members, in the election of Federal Society. Similarly, provision has also been made in sub-section (3A) of Section 27, to give voting rights to only such individual members who have completed two years from the date of admission as members, in the election of a society. After these provisions came into effect, election programmes of some societies in the State were declared and while preparing the voters lists, there was some confusion amongst the co-operative as to whether names of the societies and individuals who were already admitted as members before coming into force of the said Act, that is, before the 23rd August, 2000, could be included in the voters list. Some societies have even filed Writ

> Petitions in the matter in the Honble High Court and matters have reached to the Supreme Court. In these cases, the Government has taken a stand before the Supreme Court that the amended provisions would not affect the voting rights of member societies or members who had already become members prior to the said amendment. Therefore, with a view to leave no room for doubt the Government considers it necessary to clarify, by making a specific clarificatory provision in the Act that the societies and the members who have already obtained the membership before the 23rd August, 2000, that is, the date of coming into force of the said amendment Act.
>
> 2. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that the circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), for the purpose of aforesaid, this Ordinance is promulgated.

On an analysis of the statement as noticed in the preceding paragraph Mr. Bobde contended that the whole purpose of promulgation of the Ordinance has been purposive and to scruttle a free and fair election. It has been contended that legislation cannot be a tool to satisfy a political end and the conclusion is irresistible in the contextual facts on this count only if English words are given ordinary common English parlance. The factum of having a confusion while preparing the voters list as stated in the statement of objects and reasons, negates the basis of the High Court judgment to wit: the voter list stands prepared and concluded by 30th June, 2000. Mr. Bobde contended that by reason of so-called confusion (as noticed above), the Ordinance stands promulgated as the legislature was not in session by way of a clarificatory order. The submissions apparently, apart from being attractive seems to be of some consequence rendering it an obligation for the Court to delve into the issue in slightly more greater detail. The tenability of the submissions as above, however, would be discussed later in this judgment, but before so doing, we need to recapitulate the law as regards the jurisdiction of the court to assess the question of justiciability of the legislation by one of the wings of the Constitution. Doctrine of separation of powers have been the basic tenet of our constitutional framework since in terms therewith each of the three organs of the State viz., the judiciary, executive and the legislature would be operating on its own spheres and fields. It is to be noted that there has been a catena of cases wherein this judicial reluctance have been noticed and it is now well-settled both in this country and United States of America as well as in United Kingdom that certainty and finality about the status of a statute, contribute to judicial reluctance to inquire whether it complied with all requisite formalities, but the decisions are not very uncommon which have laid down in no uncertain terms that there is no blanket rule of such a judicial reluctance neither the judiciary would stand impotent before an obvious instance of exercise of a manifestly unauthorised power: The concept of political question doctrine, being basically of American origin, cannot possibly be confidently reached until the matter is considered with special care, upon bestowing proper attention and in the event of a conclusion which lends credence to the question raised viz., as to whether the question is a political question or not, Judicial inclination to interfere cannot be faulted though however not otherwise. See in this context Charles W. Baker et al:

v. Joe C. Caar : 369 US 186: 7 L.ed.:2d.663). This however, needs to be emphasised that the same stands subject to the facts of each case and it is almost a well-neigh impossibility to even adumbrate as to what will and what will not constitute judicial reluctance to interfere, except however, the field which can be described to be as ad hominem nor even any attempt to draw the line since each case is to be decided on the given facts. In this context the decision of the Privy Council in the case of Liyanage and others v. Reginam (1966 1 All ER 650) ought also to be noticed wherein, Their Lordships of the Privy Council introduced the concept of legislation ad hominem and struck down a legislation by reason therefor. Lord Pearce in his inimitable style observed as below:

Do the Acts of 1962, however, otherwise than in respect of the Ministers nomination, usurp or infringe that power? It goes without saying that the legislature may legislature, for the generality of its subjects, by the creation of crimes and penalties or by enacting rules relating to evidence. But the Acts of 1962 had no such general intention. They were clearly aimed at particular known individuals who had been named in a White Paper and were in prison awaiting their fate. The fact that the learned judges declined to convict some of the prisoners is not to the point. That the alterations in the law were not intended for the generality of the citizens or designed as any improvement of the general law, is shown by the fact that the effect of those alterations was to be limited to the participants in the January coup and that after these had been dealt with by the judges, the law should revert to its normal state.

Such a lack of generality, however, in criminal legislation need not, of itself, involve the judicial function, and their lordships are not prepared to hold that every enactment in this field which can be described as ad hominem and ex post facto must inevitably usurp or infringe the judicial power. Nor do they find it necessary to attempt the almost impossible task of tracing where the line is to be drawn between what will and what will not constitute such an interference. Each case must be decided in the light of its own facts and circumstances, including the true purpose of the legislation, the situation to which it was directed, the existence (where several enactments are impugned) of a common design, and the extent to which the legislation affects,by way of direction or restriction, the discretion or judgment of the judiciary in specific proceedings. It is therefore necessary to consider more closely the nature of the legislation challenged in this appeal.

The observations of Lord Pearce finds approval of this Court in the case of Indira Nehru Gandhi v. Raj Narain (1975 Suppl SCC 1).

Mr. Bobde contended that the Ordinance in question is clearly a legislation ad-hominem being directed solely to the control of voting right in respect of the affairs of the most cash- riched Federal Cooperative Bank in Maharashtra. Mr. Bobde contended that Kolhapur Bank is most cash-riched Co-operative Bank in the State of Maharashtra with an annual turnover of Rs.1500 crores: Its financing is around 1200

crores including 600 crores of sugar co-operative society and because of the sugar factories, Kolhapur District has maximum concentration on Co-operative societies amongst all the districts of the State of Maharashtra.

It is at this juncture some decisions of this Court ought also tobe noticed and elucidation of law as propounded with the passage of time the decisions being:

(i) A.K. Roy v. Union of India (1982 (1) SCC 271) wherein this Court in paragraphs 28 and 29 of the Report observed as below:

28. There are however, two reasons why we do not propose to discuss at greater length the question as regards the justiciability of the Presidents satisfaction under Article 123 (1) of the Constitution. In the first place, the ordinance has been replaced by an Act. It is true, as contended by Shri Tarkunde, that if the question as regards the justiciability of the Presidents satisfaction is not to be considered for the reason that the ordinance has become an Act, the occasion will hardly ever arise for considering that question because, by the time the challenge made to an ordinance comes up for consideration before the court, the ordinance almost invariably shall have been replaced by an Act. All the same, the position is firmly established in the field of constitutional adjudication that the court will decide no more than needs to be decided in any particular case. Abstract questions present interesting challenges, but it is for scholar and textbook writers to unravel their mystique. It is not for the courts to decide questions which are but of academic importance.

29. The other reason why we are not inclined to go into the question as regards the justiciability of the Presidents satisfaction under Article 123 (1) is that on the material which is placed before us, it is impossible for us to arrive at a conclusion one way or the other. We are not sure whether a question like the one before us would be governed by the rule of burden of proof contained in Section 106 of the Evidence Act, though we are prepared to proceed on the basis that the existence of circumstances which led to the passing of the Ordinance is especially within the knowledge of the executive. But before casting the burden on the executive to establish those circumstances, at least a prima facie case must be made out by the challenger to show that there could not have existed any circumstances necessitating the issuance of the Ordinance. Every casual or passing challenge to the existence of circumstances, which rendered it necessary for the President to take immediate action by issuing an ordinance, will not be enough to shift the burden of proof to the executive to establish those circumstances. Since the petitioners have not laid any acceptable foundation for us to hold that no circumstances existed or could have existed which rendered it necessary for the President to take immediate action by promulgating the impugned Ordinance, we are unable to entertain the contention that the Ordinance is unconstitutional for the reason that the pre-conditions to the exercise of the power conferred by Article 123 are not fulfilled. That is why we do not feel called upon to examine the correctness of the submission made by the learned Attorney-General

> that in the very nature of things, the satisfaction of the President which is the basis on which he promulgates an ordinance is founded upon materials which may not be available to others and which may not be disclosed without detriment to public interest and that, the circumstances justifying the issuance of the ordinance as well as the necessity to issue it lie solely within the Presidents judgment and are, therefore, not justiciable.

(ii) The second in the line of citations from the Bar is the decision in State of Gujarat & Anr. v. Raman Lal Keshav Lal Soni & Ors. (1983 (2) SCC 33): since this particular decision does not lend any particular assistance or so to say, advance the issue to the contentions raised in the matter further, we refrain ourselves from dealing with the same, as such we need not dilate on that score any further.

(iii) The third decision being the locus classicus to the issue, (D.C. Wadhwa v. State of Bihar: 1987 (1) SCC

378) wherein this Court in no uncertain terms observed that since the primary law making authority under the Constitution is the Legislature and not the Executive and it is possible that circumstances may arise which render it necessary to take immediate action when the Legislature is not in session, in such a case and in order that public interest may not suffer by reason of the failure of the legislature to deal with the emergent situation, the Governor is vested with the power to promulgate the Ordinance. This Court further observed that the power to promulgate Ordinance is essentially a power to be used to meet an extra- ordinary situation though it cannot be allowed to be perverse to serve political ends. It is on this count of judicial ad-negation Mr. Bobde found fault with the judgment under appeal since the instant Ordinance, as appears from the Statement of objects and reasons, cannot but be so declared. The law thus remains clarified that judicial reluctance cannot be faulted in any way unless of course an element of constitutionality of the legislation comes up for consideration The issue of political question as argued before this Court in the matter and noticed above, pertains however to the judicial review of legislation. A large number of decisions have been cited though not noticed above, since the same do not stand to any further assistance at the bar but judicial ad-negation has been the resultant conclusion in all these cases unless of course, there is any violation of any fundamental right and the constitutionality is the issue between the parties as noted above. The political question doctrine has however, to be treated to be a tool for maintenance of governmental order but as noticed above, there is no blanket rule of judicial reluctance since the question arises as to whether the case presents the political question and for this purpose, facts of each case shall have to be considered in its proper perspective so as to assess the situation. This however, opens up a wider debate on to the different issue of Article 123 and 213 and the action is legislative in character. It is not an administrative or executive action but being legislative in nature, it is subject only to constitutional limitations applicable to an ordinary statute. The Ordinance, if, does not infringe the constitutional safeguards, cannot be examined nor the motive for such a promulgation can be in question. Mr. Desai appearing for Intervenor Respondent very strongly urged that the Court cannot examine the satisfaction of the Governor in promulgating an ordinance and the law is well settled on this count by this Court in the Nagarajs case (K. Nagaraj and others v. State of Andhra Pradesh and Another : 1985 (1) SCC 523) wherein this court held that it is

impossible to accept the submission that the ordinance can be invalidated on the ground of non-application of mind. It is a power of the Executive to legislate and this power is plenary within its field like the power of the State Legislature to pass the laws. The Constitution Benchs judgment in T. Venkata Reddys case (T. Venkata Reddy and Others v. State of Andhra Pradesh :

> 1985 (3) SCC 198) wherein the earlier judgment of the Federal Court in Laxmi Narain Das v. Province of Bihar (1949 FLR 693) have been followed, re- affirmed the observations in Nagarajas case, the Constitution Bench observed that the motive of Legislature in passing a statute is beyond the scrutiny of the courts. It is not only the propriety to follow the Constitutional Bench judgment but we are definitely of the opinion and view that by no stretch, the courts can interfere a legislative malice in passing a statute. Interference is restrictive in nature and that too on the constitutionality aspect and not beyond the same.
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> We may thus note here that though a definite motive has been ascribed, we are not in a position to lend concurrence to Mr. Bobdes submission that there is any legislative malice. Legislative malice is beyond the pale of jurisdiction of the law courts and since there is no constitutional invalidity neither the same has been contended before us, question of interference with the matter pertaining to the first proviso or even the ordinance does not and cannot arise. In any event, the Ordinance, strictly speaking, may be ascribed to be totally irrelevant in the present context, but if the executive in its wisdom thought it fit to promulgate such an ordinance, it is no part of our duty to describe it as otherwise not required even as and by way of a clarification since the administrative expediency permitted the legislative function on to the executive.
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> Needless to repeat the factual score that the High Court hadnt had the opportunity to consider the Ordinance which stands promulgated only after the disposal of the appeal and during the pendency of the matter before this court: The Ordinance, however, has a retrospective operation and coincides with the date of introduction of the amended proviso to Section 27(3) of the Act of 1960.
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> On the wake of the aforesaid, we cannot proceed with the matter any further without however having a close look at the Ordinance as promulgated and in the event of experiencing any difficulty, the Statement of objects can be considered but if it is otherwise, Mr. Bobdes submission would pale into insignificance and thus have to be stamped as wholly untenable.
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> It is on this score however, that Article 213 becomes relevant being the source of power of the Executive to use legislative functions. Article 213 in so far as is material reads as below:
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> 213. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the governor is satisfied that circumstances exist which

render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require:

* * * * (2) An ordinance promulgated under this article shall have the same force and effect as an Act of legislature of the State assented to by the governor, but every such ordinance

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by Council; and

(b) may be withdrawn at any time by the Governor.

Explanation Where the Houses of the legislature of a State having a Legislative Council are summoned to re- assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

Article 213 however is to be read along with Article 174 which enjoins that the legislature shall meet at least twice in a year but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. Thus maintaining the democratic favour of the Constitution with three separate organs of the State functioning within its restrictive sphere. There is existing sufficient constitutional safeguard and rigour and a plain reading of the language used therein depicts the same.

Article 213 authorises promulgation of an Ordinance and confers a power of legislation on to the Governor only in the event of recording a satisfaction that the circumstances exist which render it necessary for him to take immediate action and he may thus promulgate such an Ordinance as the circumstances appear to him to require and the Ordinance so promulgated can be laid before the Legislative Assembly of the State at the expiry of six weeks from the re-assembly of the Legislature. It is in this perspective it be noted that the power of the Executive is only an emergent power to meet the emergency. Mr. Bobde posed a question as a part of his submission as regards the nature of the emergency since the statement of objects records the Ordinance to be a mere clarificatory Ordinance, there seems to be some substance since what was implicit has been stated to be made explicit by way of clarification according to the plain English meaning of the words used in the statement. This is however on assumption that we need to delve into the matter in such detail. The emergency admittedly cannot thus be said to have occurred in order to have an emergent legislation by exercise of an emergent power of legislation by the Executive. The decision in Wadhwas case (supra) has been rather categorical that the Executive cannot by taking resort to an emergency power takeover the law making function of the legislature and in the event, the executive assume such power, the same would be clearly subverting the democratic process which lies at the core of our constitutional scheme, for this, the people would be governed not by the laws made by the

Legislature as provided in the Constitution but by laws made by the Executive. We do appreciate such an exposition of law and lend our concurrence thereto in its entirety. The exception however, to the above has also been pointed out in Wadhwas case (supra) that in the event of there being too many legislative businesses in a particular session or the time at the disposal of the Legislature is rather short, in which event, the Governor may legitimately find it necessary to re- promulgate the ordinance and where such is the case, admittedly, the Ordinance cannot possibly be under any criticism. While it is true, that the submission remains very attractive but the fact remains, is it necessary for us to lay such an emphasis on the statement of objects and reasons in the matter under consideration, the answer however cannot but be in the negative. The objects and reasons cannot but seem to note the reasons for introduction of the promulgation of such an Ordinance. It has no correlation by itself with the objective when the same was promulgated. The observations of this Court in Ashwini Kumars case (Aswini Kumar Ghose and Another v. Arabinda Bose and Another: AIR 1952 SC 369) lends credence to such an observation as noticed herein before wherein, Patanjali Sastri, C.J. (as His Lordship then was) stated very succinctly in paragraph 32 of the Report as below:

> 32. As regards the propriety of the reference of the Statement of objects and reasons, it must be remembered that it seeks only to explain what reasons induced the mover to introduce the Bill in the House and what objects he sought to achieve. But those objects and reasons may or may not correspond to the objective which the majority of members had in view when they passed it into law. The Bill may have undergone radical changes during its passage through the House or Houses, and there is no guarantee that the reasons which led to its introduction and the objects thereby sought to be achieved have remained the same throughout till the Bill emerges from the House as an Act of the Legislature, for they do not form part of the Bill and are not voted upon by the members. We, therefore, consider that the Statement of objects and reasons appended to the Bill should be ruled out as an aid to the construction of a statute.

Further, after introduction of the Bill and during the debates thereon before the Parliament, if a particular provision is inserted by reason of such a debate, question of indication of any object in the objects and reasons of the Bill does not and cannot arise. The statements of objects and reasons need to looked into though not by itself a necessary aid as an aid to construction only if necessary. To assess the intent of the Legislature in the event of there being any confusion, statement of objects and reasons may be looked into and no exception can be taken therefor this is not an indispensable requirement but when faced with an imperative need to appreciate the proper intent of the Legislature, statement may be looked into but not otherwise. The submission of Mr. Bobde thus can only be given credence only in the event of there being any necessity of such a requirement in the facts of the matter under consideration, to wit : some confusion somewhere for assessment of the intent of the Legislature.

The proviso for which the clarificatory Ordinance has been promulgated, it appears that the Legislature advisedly used the expression new members. Members have been defined under the State Co-operative Societies Act (Section 2(19) of the Act of 1960) meaning - a person joining in an application for registration of a co-operative society which is subsequently registered or a person

duly admitted to membership of his society after registration and includes a nominal associate or sympathizer member. Section 27 (3) proviso as noticed above adds an appendage any new before the member society: whereas Mr. Bobde contended that the appendage any new cannot but mean though existing but not voted since Section 27 on which the proviso as noticed above was added by Maharashtra Co-operative Societies (Second Amendment) Act, 2000 which came into force on and from 23rd August, 2000 and deal with the parties voting rights in terms of Section 27 of the Act of 1960, any other interpretation would be in violent departure from the statutory intent and it is on this score Mr. Bobde did put very strong reliance as to the understanding of the Government as is laid down in the Statement of objects and reasons. Statement of objects as noticed above can only be looked into in the event of there being any requirement therefor and not otherwise: The meaning of the expressions used in the legislation, if is of doubtful nature, may be a guide or an aid but not otherwise. The legislature has used the expression new obviously with an intent to ascribe something other than existing members and this additional requirement by reason of an additional appendage by way of a statutory amendment, must be stated to be that indicative of the intent and to convey a definite meaning. The word new in common English parlance cannot but mean something which was not existing and thus a society becoming a member on or after 23rd August, 2000 and not prior thereto: it cannot possibly apply to existing members but only new members after the amendment.

While the statements of objects and reasons in the normal course of event cannot be termed to be the main or principal aid to construction but in the event it is required to discern the reasonableness of the classification as in the case of Shashikant Laxman Kale and Anr. v. Union of India & Anr. [AIR 1990 SC 2114] statement of objects and reasons can be usefully looked into for appreciating the background of legislatures classification. This Court in para 16 of the judgment last noticed had the following to state:

> For determining the purpose or object of the legislation, it is permissible to look into the circumstances which prevailed at the time when the law was passed and which necessitated the passing of that law. For the limited purpose of appreciating the background and the antecedent factual matrix leading to the legislation, it is permissible to look into the Statement of Objects and Reasons of the Bill which actuated the step to provide a remedy for the then existing malady. In a. Thangal Kunju Musaliar v. M. Venkitachalam Potti, [1955 (2) SCR 1196 :
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> AIR 1956 SC 246], the Statement of Objects and Reasons was used for judging the reasonableness of a classification made in an enactment to see if it infringed or was contrary to the Constitution. In that decision for determining the question, even affidavit on behalf of the State of the circumstances which prevailed at the time when the law there under consideration had been passed and which necessitated the passing of that law was relied on. It was reiterated in State of West Bengal v. Union of India, [1964 (1) SCR 371 : (AIR 1963 SC 1241) that the Statement and Objects and Reasons accompanying a Bill, when introduced in Parliament, can be used for the limited purpose of understanding the background and the antecedent state of affairs leading up to the legislation. Similarly, in Pannalal Binjraj v. Union of India, [1957

> SCR 233 : AIR 1957 SC 397] a challenge to the validity of classification was repelled placing reliance on an affidavit filed on behalf of the Central Board of Revenue disclosing the true object of enacting the impugned provision in the Income-tax Act.

The High Court of Australia also without any departure therefrom permits reference to the explanatory memorandum to the Bill in order to ascertain the mischief which the statute was intending to remedy: See in this context CIC Insurance Limited v. Bankstown Football Club Ltd. [1997 (187) CLR p. 384] wherein it has been stated It is well settled that at common law, apart from any reliance upon s 15 AB of the Acts Interpretation Act 1901 (Cth), the court may have regard to reports of law reform bodies to ascertain the mischief which a statute is intended to cure (Black-Clawson International Ltd. v. Papierwerke Waldhof-Aschaffenburg : 1975 AC 591 at 614, 629, 638). Moreover, the modern approach to statutory interpretation

(a) insists that the context be considered in the first instance, not merely at some later stage when ambiguity might be thought to arise, and (b) uses context in its widest sense to include such things as the existing state of the law and the mischief which, by legitimate means such as those just mentioned, one may discern the statute was intended to remedy (Attorney General v. Prince Ernest Augustus of Hanover : 1957 AC 436 at 461). Instances of general words in a statute being so constrained by their context are numerous. In particular as Mc Hugh JA pointed out in Isherwood v. Butler Pollnow Pty Ltd. (1986 6 NSWLR 363 at 388), if the apparently plain words of a provision are read in the light of the mischief which the statute was designed to overcome and of the objects of the legislation, they may wear a very different appearance. Further, inconvenience or improbability of result may assist the court in preferring to the literal meaning an alternative construction which, by the steps identified above, is reasonably open and more closely conforms to the legislative intent (Cooper Brookes (Wollomgong) Pty Ltd. v. Federal Commissioner of Taxation.: 1981 (147) CLR 297 at 320-321).

Another decision of the Australian High Court in the case of Newcastle City Council v. GIO General Limited [1998 (72) ALJR 97 (Aust.) may also be noticed at this juncture wherein the observations and elucidation of cannons of construction and interpretation by Brennan, CJ seem to be very apposite and we do record our unhesitant concurrence therewith.

The observations however runs as below:

> Moreover, as the extrinsic material reveals, s.40(3) was intended to be remedial. As far as practicable, s.40(1) and (3) should be construed to promote the objects of the Act. Nevertheless, as I pointed out in Kingston v. Keprose Pty Ltd. [1987 (11) NSWLR 404 at 423], in applying a purposive construction, the function of the court remains one of construction and not legislation. When the express words of a legislative provision are reasonably capable of only one construction and neither the purpose of the provision nor any other provision in the legislation throws doubt on that construction, a court cannot ignore it and substitute a different construction because it furthers the objects of the legislation.

> The circumstances in which recourse can legitimately be had to the extrinsic material Mr. Sackar relied on s 15Ab of the Acts Interpretation Act to urge this Court to examine and take into account the extrinsic material. Section 15AB is entitled Use of extrinsic material in the interpretation of an Act and relevantly provides:
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> (1) Subject to sub-section (3), in the interpretation of a provision of an Act, if any material not forming part of the Act is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material:
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> (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; or
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> (b) to determine the meaning of the provision when:
>
> (i) the provision is ambiguous or obscure; or
>
> (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.
>
> (2) Without limiting the generality of sub-section (1), the material that may be considered in accordance with that sub-section in the interpretation of a provision of an Act includes;
>
> (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of the Parliament before the time when the provision was enacted; ..
>
> (e) any explanatory memorandum relating to the Bill containing the provision..

On a perusal of the aforesaid, be it noted that in the event the language is clear, categorical and unequivocal, no outside aid is required or is permissible for interpreting the proviso to the Section by the Amending Act of 2000. In the contextual facts and in the view we have taken above, we regret our inability to accede to or record our concurrence with the submissions of Mr. Bobde.

Further we wish to clarify that it is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law giver. The Courts have adhered to the principle that

efforts should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses, if they can have a proper application in circumstances conceivable within the contemplation of the statute. Bearing in mind, the aforesaid principle of construction, if the expression any new member society occurring in the proviso to sub- section (3) of Section 27 is construed, it conveys the only meaning that it refers to the societies to be formed hereafter and not of those societies which have already become member societies of the federal society. Therefore, the requirement of the completion of the period of three years from the date of its investing any part of its fund in the shares of such federal society would apply only to those societies which became member society of the federal society after 20th August, 2000. In this view of the matter, the impugned judgment of the High Court does not suffer from any infirmity. Even if there remained any doubt in the matter of interpreting the proviso, the Ordinance that has been promulgated on 27th February, 2001, called the Maharashtra Ordinance No. X of 2001, after the first proviso to sub-section (3), a second proviso had been inserted, has removed any doubt or controversy in as much as it has been indicated therein that the first proviso will not apply to the member society which has invested any part of its fund in the share of the federal society before the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2000 dated 20th August, 2000. The aforesaid Ordinance also has been given a retrospective effect, to be effective from 23rd August, 2000. The Ordinance having been held to be valid by us as stated above, the so-called prohibition contained in the first proviso to sub-section (3) of Section 27 will not apply to all those societies which have already become members of the federal society prior to 23rd August, 2000.

On the wake of the aforesaid the Appeal thus fails:

Each party, however, to pay and bear its own costs.