

'Nothing to do with religion'

From Our Legal Correspondent

NEW DELHI, Nov. 8.

A Constitution Bench of the Supreme Court today unanimously upheld the validity of the Auroville (Emergency Provisions) Act, providing for the takeover by the Central Government of the management of Auroville for a limited period (two years).

The Bench, by two separate judgments delivered by Mr. Justice R. B. Misra and Mr. Justice O. Chinnappa Reddy, was dismissing a batch of writ petitions filed by the Sri Aurobindo Society and some residents of Auroville questioning the constitutional validity of the Act as also an ordinance which preceded it.

Their Lordships said the management of the international cultural township of Auroville was "not a matter of religion" and that Auroville, though the child of the mother and though nurtured by the devotees of Sri Aurobindo had "an individuality, distinctly secular, of its own".

The main judgment was delivered by Mr. Justice Misra, speaking for himself, the Chief Justice, Mr. Y. V. Chandrachud, Mr. Justice Bhagwati and Mr. Justice Balakrishna Eady. A separate judgment, agreeing with most of the conclusions but differing in one respect was delivered by Mr. Justice O. Chinnappa Reddy.

Religious denomination or not: The main judgment did not view the philosophy of Sri Aurobindo as a distinct, identifiable "religion" within the meaning of Article 26 of the Constitution. It did not go into the question whether the followers of Sri Aurobindo could be said to belong to a religious denomination. The separate judgment concluded that Aurobindo followers constituted a distinct and identifiable "religious denomination".

Adverting to the well known case law on the interpretation of Articles 25 and 26 of the Constitution, the Bench held that questions merely relating to "administration of properties belonging to a religious group or institution" were not matters of religion within the meaning of Article 26.

Excluded from Article 25: Their Lordships said that laws regulating or restricting any

economic, financial, political or other secular activity which might be associated with religious practice were "excluded from Article 25 guaranteeing freedom of conscience and the right to freely profess, practise and propagate religion".

The right to administer the property of a religious denomination was different from the right of the religious denomination to manage its own affairs in matters of religion, and therefore laws might be made regulating the former.

The Bench also ruled that the impugned Act was within the legislative competence of Parliament because in "pith and substance" it did not encroach upon Entry 32 in the State list (dealing with "incorporation, regulation and winding up of corporations other than those specified in List 1 and universities, unincorporated trading, literacy, scientific religious and other societies and associations" etc).

No mala fides: The court noted that because of Auroville's unique nature and national and international importance, and having regard to various audit and inquiry reports, the Act in question, though it dealt with a single institution, did not violate Article 14 of the Constitution (equality before the law).

Their Lordships also said that the Act was not bad in law on the ground of mala fides.

Our Pondicherry Staff Reporter writes:

Mr. C. S. Nair, Secretary of the Auroville Committee (attached to the Sri Aurobindo Society) said: "We read the news with shock and regret, but we believe in the future of Auroville and will cooperate with those administering the project".