of Public Information Officer have been discussed at great length. Procedure for obtaining information has been explained taking notice of intricacies involved with the aid of not only decisions rendered by various High Courts dealing with provisions of the Act but also important and selected decisions of the Central Information Commission. Remedy of appeal before Central/State Information Commission and scope of judicial review of decisions given by Commission has been discussed with necessary elaboration. The discussion is based on the judicial interpretations, which the subject matter has received even prior to enactment of Act 2005 from the Supreme Court as also the High Courts and decisions rendered by various High Courts dealing with provisions of the 2005 Act since enacted. Imported and selected decisions of the Central Information Commission have been separately discussed to explain procedural intricacies and to illustrate the point in issue wherever found necessary. Guide for Public Authorities and Public Information Officers, *etc.*, as issued by the Central Information Commission, have been annexed to this part of the book for ready reference.

PART III of the book contains Rules and Regulations made by the Central Government and State Governments as also other Competent Authorities. Important statutes, which have close relevance to the subject matter of the book find place in PART IV of the book. This part also includes complete text of United Kingdom Freedom of Information Act 2000.

In addition to providing detailed index to contents of the book and parallel mapping of discussion under Part I of the book and under various sections of the Act in Part II, a 'Fact Finder', in the form of an intensive and extensive, but precise index-cum-ready referencer, designed to facilitate easy and quick location of desired information contained in the book and various provisions of the Act, has also been given.

The book, written in a simple layman language, it is hoped, shall not only serve as guide for the information seekers but also meet the requirements of the Bench and the Bar and cater to the needs of the Public Authorities and Public Information Officers entrusted with the job of giving effect to the benign provisions of the Act in their true spirit.

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CENTRE STATE LEGISLATIVE RELATIONS IN REGARD TO THE DOCTRINE OF REPUGNANCE

By

—SRINIVAS BORRA*

Introduction

According to *B.N. Shukla* "The distribution of Legislative powers between the centre and the units is an essential feature of a Constitution based on the federal Model. Every Federal Constitution, thus established a dual polity that is the central polity and the subsidiary sovereign polities. The present Constitution of India in making the distribution of legislative powers between the Union and the States. The Constitution has gone into great details regarding the distribution of powers and functions between the Union and the States in all aspects of their administrative and other activities.

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Objective of the Article :

The objective of this Article is to explain the distribution of legislative powers between Centre and States in general and its main object is deals with the Doctrine of Repugnance under Article 254 of the Indian Constitution.

The Three Wings of the Government:

The three wings of any Government are, The Legislature, the Executive and the Judiciary.

i. ***Legislature :—***The Legislature of the Union makes laws for the whole country and its part of the country and its territories and the Legislature of each State makes laws for the whole State or its part of the States.

ii. ***Executive :—***The Executive enforces these laws and administers the country.

iii. ***Judiciary :—***The Law Courts punish the Lawbreakers and act as the guardian angel of the Constitution. The Judiciary guarantees fairness and justice, and protets the individual from the despotism of the Government.

Article 246 :

From Article 246 and the 7th Schedule it is clear that the subjects have been divided into three categories – Union List, State List and Concurrent List. The Union Parliament has exclusive power to make laws with respect to any matters or subjects enumerated in the Union List and the Legislature of any State has power to make laws for such State or any part thereof with respect to any of the matters or subjects enumerated in the State List. Parliament and State Legislatures both have power to make laws with respect to any of the matter or subjects enumerated in the Concurrent Lists, but in the case of conflict Parliament and a law made by the State Legislature with respect to such matter or subject the law made by Parliament shall prevail and the laws made by the State Legislature shall to the extent of the repugnancy, be void unless the law made by the State Legislature has received the assent of the President[1].

Repugnancy between Union Law and State Law :

Article 254(1) provides if any provision of a Law made by the Legislature of a State is repugnant to any provision of a law made by Parliament to which Parliament is competent to enact or to any provision of any existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2) of Article 254, the Law made by Parliament whether passed before or after the law made by the Legislature of such State, or as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy be void.

Article 254(2) provides where a Law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier laws made by Parliament or an law with respect to that matter then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State. Providing that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a Law adding to amending varying or repealing the law so made by the Legislature of the State.

The question of repugnancy arises only in the context of Legislation on subjects enumerated in the Concurrent List. A State Legislature is not barred from the Concurrent

1. Article 254, Constitution of India.

List simply because the Union Legislature has previously legislated on a particular topic therein and has occupied the field. If is only its State Legislation conflicts with it and it repugnant to it that the State Legislation will fall to the ground to the extent of the repugnancy.

Both the clauses of Article 254 use the expression, repugnant, such partition of a State Law as are repugnant to a Central Law in the concurrent sphere become invalid. But the question is when we can say that there is repugnancy or inconsistency between the two provisions. Following are some of the cases in which repugnancy has been explained by the Courts and from which the technique of resolving the question of repugnancy also may be noticed.

In *National Engineering Industries Ltd. v. Shri Kishan* the Supreme Court observed[2] :

In order that a question of repugnancy may arise, two conditions must be fulfilled, namely that the State Law and the Laws of the Union must operate the name field and one must be repugnant or inconsistent with the other.

That the question of repugnancy can arise only with reference to a Legislation falling under the Concurrent List is now well settled. In *A.S. Krishna v. State of Madras,* after referring Section to 107 of the Government of India. Act 1935 which is in term similar to clause (1) of Article 254, the Supreme Court observed :

For this section to apply two conditions must be fulfilled (1) the provisions of the provincial law and those of the Central Legislation must both be in respect of a matter which is enumerated in the Concurrent List and (2) they must be repugnant to each other. It is only when both these requirements are satisfied that the provincial law will to the extent of the repugnancy, become void. To the similar effect is the decision in *P.N. Kauly v. State of Jammu and Kashmir*[3].

In *Zaverbhai v. State of Bombay*,[4] the State Legislation had provided Seven Years punishment for a certain offence. The subsequent Central Legislation fixed three years as punishment for the same offence. It was held that there was repugnancy, and the State Laws was therefore inoperative. In such a case it would be no defense to argue that it is possible to obey both the laws. Justice *Venkatarama Iyer* said "to establish repugnancy under Section 107(2) of the Government of India Act, it was not necessary that one legislation should say "do" what the other legislation says don't repugnancy may result when both the legislations cover the same field.

In *M. Karuna Nidhi v. Union of India*,[5] *Fazal Ali* J., summarized the tests of repugnancy in the form of the following propositions :

1. In order to decode the question of repugnancy it must be shown that the two enactments contain inconsistent and irreconcilable provisions. So that they cannot stand together or operate in the same field.

2. There can be no repeat by implications unless the inconstancy appears on the face of the two statute.

3. Where the two statutes occupy a particular field but there is room or possibility of both the statutes operating in the same field without coming into collision with each other no repugnancy result.

4. Where there is no inconsistency but a statute occupying the same field seeks to create distinct and separate offence,

2. AIR 1958 SC 329

3. AIR 1959 SC 749

4. AIR 1954 SC 752

5. AIR 1979 SC 898

no question of repugnancy arises and both the statutes continue to operate in the same field.

Conclusion :

In Article 245, they laid down that Parliament might make laws for the whole or any part of the territory of India, and the Legislature of the State might make laws for the whole or any part of the State. Article 246 provided that Parliament had exclusive power to legislate with respect to matters included in the Union List, that State Legislatures had exclusive power to make laws with respect to subjects in the State List, and that Parliament and State Legislatures made laws with respect to matters in the Concurrent List.

Article 254 provided that the law made by Parliament, whether passed before or after the law made by the Legislature of a State, shall prevail, and the law made by the Legislature of the State shall to the extent of repugnancy be void.

GLOBALISATION AND CHALLENGES BEFORE THE LEGAL PROFESSION IN INDIA

By

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The United Nations Organization declares that globalization "is a widely-used term that can be defined in a number of different ways. When used in an economic context, it refers to the reduction and removal of barriers between national borders in order to facilitate the flow of goods, capital, services and labour. Globalization is not a new phenomenon. It began in the late nineteenth century, but its spreadness had been slowed during the period the First World War until the third quarter of the twentieth century. This slowdown can be attributed to the inward looking policies pursued by a number of countries in order to protect their respective industries. The pace of globalization picked up rapidly during the fourth quarter of the twentieth century.[2]

The world famous columnist *Thomas L. Friedman* opines that "examine the impact of the 'flattening' of the globe", and argues that globalized trade, outsourcing, supply chaining, and political forces have changed the world permanently, for both better and worse. He also argues that the pace of globalization is quickening and will continue to have a growing impact on business organization and practices.[3]

The legal profession is considered as the one of the oldest and noblest profession in the world without any exception to India. It is proud to state that India has accommodating second largest legal professional around the world having capacity of about 6,00,000 lawyers serving every breadth of country from lowest Munsiff Courts to the apex Court of the land. The professional practice is regulated by the Advocates Act of 1961 and monitored by

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2. Summary of the Annual Review of Developments in Globalization and Regional Integration in the Countries of the ESCWA Region by the United Nations Economic and Social Commission for Western A

3. *Friedman, Thomas L.* "The Dell Theory of Conflict Prevention. "Emerging: A Reader. Ed. Barclay Barrios. Boston: Bedford, St. Martins. 2008.49