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SMT. GEETA

v.

STATE OF U. P. & ORS.

(Civil Appeal No. 10607 of 2010)

B

DECEMBER 14, 2010

[G.S. SINGHVI AND ASOK KUMAR GANGULY, JJ.]

Uttar Pradesh Kshettra Panchayat and Zila Panchayat Act, 1961 – U.P. Panchayat Laws (Amendment) Act, 2007 – C *ss.7(3), 9(2) and 9A – The 1961 Act provided for offices of Pramukh, Up-Pramukh (Senior Up-Pramukh and Junior Up-Pramukh) in every Kshettra Panchayat – Amendment made to the 1961 Act – Non-obstante clause in s.7(3) of the Amendment Act – Interpretation of – Whether after the* D *Amendment to the 1961 Act, the right and authority of the senior Up-Pramukh to discharge the duties of the Pramukh survived or whether the District Magistrate could nominate an elected member to be the Pramukh when the post of Pramukh fell vacant and till a new Pramukh was elected or* E *resumed office – Held: The Amendment Act abolished the said post of Up-Pramukh from the Kshettra Panchayats and provided that in cases where the post of Pramukh fell vacant, the District Magistrate was to make such arrangements as he thought fit – Though, as per s.7(3), the Up-Pramukhs would* F *still continue to hold office as such till the end of their term, but the operation of the non-obstante clause in s.7(3) shall be subject to the intent of the legislature, and must be interpreted in line with the scheme of the Act and the purpose for which it was enacted – Term 'continue to hold office as such' in the* G *provision would mean that despite the abolition of the post of Up-Pramukh in the amending Act, those who were elected as Up-Pramukh prior to such amendment will just continue as such i.e. as Up-Pramukh till his term expires – Expression 'as such' has been added by way of caution and to emphasize*

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that the continuance of Up-Pramukh is limited to just holding the office of Up-Pramukh – Expressions 'as if the said Act were not enacted' in s.7(3) of the amending Act apply only where by way of general amendment of the 1961 Act, the words Up-Pramukh have been omitted – Contrary argument of the respondent that Up-Pramukhs will continue to exercise all the powers and functions under ss.82 and 83 of the pre-existing provisions of the Act despite the express deletion of those provisions by the Amendment Act, cannot be accepted – If that argument is accepted, pre-existing provisions of ss.82 and 83, will be revived and ss.9(2) and 9A, brought in by way of amendment and thereby empowering the District Magistrate to make arrangements when the office of the Pramukh is vacant or when the Pramukh is unable to discharge functions will be unworkable – Interpretation of Statutes – Harmonious interpretation.

Interpretation of Statutes – Non-obstante clause – Purport and meaning of – Discussed.

The Uttar Pradesh Kshettra Panchayat and Zila Panchayat Act, 1961 provided for the offices of Pramukh, Up-Pramukh (Senior Up-Pramukh and Junior Up-Pramukh) in every Kshettra Panchayat and Adhyaksha and Up-Adhyaksha in every Zila Panchayat. The Act was amended vide the U.P. Panchayat Laws (Amendment) Act, 2007. Consequently common questions of law arose relating to interpretation of section 7(3) vis-à-vis sections 9(2) and 9A of the said Amendment Act.

Dispute arose as to whether after the Amendment to the 1961 Act, the right and authority of the senior Up-Pramukh to discharge the duties of the Pramukh survived or whether the District Magistrate could nominate an elected member to be the Pramukh when the post of Pramukh fell vacant and till a new Pramukh was elected or resumed office.

A The appellants put forward their case under sections 9(2) and 9A of the Amendment Act. They claimed that as per the abovementioned provisions, it was for the District Magistrate to appoint a Pramukh when the post of the Pramukh fell vacant, and the Up-Pramukh could not B automatically discharge the functions as Pramukh when the post of Pramukh fell vacant, after the enforcement of the Amendment Act.

Per contra, the respondent contended that the Up-Pramukh would automatically become the Pramukh C when the post of Pramukh falls vacant, as was the position before the Amendment Act was enforced; and also that the same is justified under the non-obstante clause in section 7(3) as amended. The respondents contended that prior to the amendment, the rights of D Senior Up-Pramukh included the right to function and discharge the duties of Pramukh when the office of Pramukh fell vacant; and that the words "continue to hold office as such" in the said section 7(3) entitled the Up-Pramukh to discharge all the functions and duties of E senior Up-Pramukh as were prevalent before the Amendment Act was introduced.

Allowing the appeals, the Court

HELD:1.1. The Amendment Act was introduced in F 2007 to make the State laws regulating the Panchayats compatible with the provisions of Part IX of the Constitution. Before the Amendment Act was introduced, the 1961 Act provided that in case the post of Pramukh fell vacant, the Up-Pramukh would discharge the G functions of the Pramukh till a new Pramukh was appointed. The Amendment Act abolished the said post of Up-Pramukh from the Kshettra Panchayats and provided that in cases where the post of Pramukh fell vacant, the District Magistrate was to make such H arrangements as he thought fit. However, as per section

7(3), the Up-Pramukh would still *continue to hold office as such* till the end of their term. [Paras 29, 31] [1139-B; G-H; 1140-A] A

1.2. Section 7(3) begins with a non-obstante clause, i.e. "*notwithstanding anything to the contrary contained in any other provision of this Act.*" The said provision raises two questions which need to be answered: a) whether the non-obstante clause would prevail over the rest of the provisions of the Amendment Act, and to what extent and b) how is the expression "shall continue to hold office as such" in the provision to be construed. Interpretation of non-obstante clauses has come up for consideration before this Court in a large number of decisions. In view of the consistent opinion expressed by this Court on the purport and meaning of non-obstante clause, it is clear that the operation of the non-obstante clause in Section 7(3) of the amended Act shall be subject to the intent of the legislature, and must be interpreted in line with the scheme of the Act and the purpose for which it was enacted. [Paras 32, 33 and 40] [1140-B-D; 1142-F] B C D E

1.3. Unfortunately, the High Court in the impugned judgment held that the non-obstante clause in section 7(3) has to be read as totally obliterating other provisions of the Amendment Act and that the Up-Pramukh who were elected prior to the Amendment Act would continue to hold office as if the Amendment Act in its entirety had not been enacted. However, in view of several decisions of this Court, it is held that the non-obstante cause in section 7(3) will have a limited operation to the extent of allowing the Up-Pramukh to "continue to hold office as such... as if the said Act were not enacted." The term 'continue to hold office as such' would mean that despite the abolition of the post of Up-Pramukh in the amending Act, those who were elected as Up-Pramukh prior to F G H

A such amendment will just continue as such i.e. as Up-Pramukh till his term expires. The expression 'as such' has been added by way of caution and to emphasize that the continuance of Up-Pramukh is limited to just holding the office of Up-Pramukh. [Paras 42, 43, 44] [1143-A-E]

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1.4. The contrary argument of the respondent and which weighed with the High Court was that Up-Pramukhs will continue to exercise all the powers and functions under Sections 82 and 83 of the pre-existing provisions of the Act despite the express deletion of C those provisions by the Amendment Act. This cannot be accepted. If that argument is accepted, in that case, the provisions which have been expressly deleted by way of amendment, like pre-existing provisions of Sections 82 and 83, will be revived. Sections 9(2) and 9A, brought in D by way of amendment and thereby empowering the District Magistrate to make arrangements when the office of the Pramukh is vacant [Section 9(2)] or when the Pramukh is unable to discharge functions [Section 9A] will be unworkable. Therefore, for a harmonious E interpretation of the different provisions of the amending Act, the non-obstante clause in Section 7(3) must be given a restricted meaning so as not be in conflict with other provisions of the amending Act. [Paras 45 and 46] [1143-F-H]

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1.5. The expressions 'as if the said Act were not enacted' in Section 7(3) of the amending Act apply only where by way of general amendment of the Uttar Pradesh Kshetra Panchayat and Zilla Adhiniyam 1961, the words G Up-Pramukh have been omitted. The orders passed by the District Magistrates in the instant case, in exercise of their power under Section 9(2) and 9A are therefore affirmed. [Paras 47, 48] [1144-B-D]

Aswini Kumar Ghose & Anr. v. Arabinda Bose & Anr. AIR

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1952 SC 369; *The Dominion of India & Anr. v. Shrinbai A. Irani and another* **AIR 1954 SC 596 – followed.**

A.G. Varadarajulu and another v. State of Tamil Nadu and others **(1998) 4 SCC 231;** *ICICI Bank Ltd. v. SIDCO Leathers Ltd. & Ors.* **(2006) 10 SCC 452;** *Central Bank of India v. State of Kerala & Ors.* **(2009) 4 SCC 94 – relied on.**

Bhanumati etc. etc. v. State of Uttar Pradesh, through its Principal Secretary and Ors. **(2010) 7 SCALE 398;** *Madhav Rao Scindia v. Union of India and another* **(1971) 1 SCC 85;** *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram* **(1986) 4 SCC 447;** *Union of India & another v. G.M. Kokil and others* **1984 (Supp) SCC 196 – referred to.**

Case Law Reference:

(2010) 7 SCALE 398	**referred to**	**Para 5, 19, 30**
AIR 1952 SC 369	**followed**	**Para 34**
AIR 1954 SC 596	**followed**	**Para 35**
(1986) 4 SCC 447	**referred to**	**Para 36**
(1998) 4 SCC 231	**relied on**	**Para 37**
(1971) 1 SCC 85	**referred to**	**Para 37**
(2006) 10 SCC 452	**relied on**	**Para 38**
(2009) 4 SCC 94	**relied on**	**Para 39**
(1986) 4 SCC 447	**referred to**	**Para 41**
1984 (Supp) SCC 196	**referred to**	**Para 41**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 10607 of 2010.

From the Judgment & Order dated 26.08.2010 of the High

A Court of Judicature at Allahabad in Writ Petition No. 40262 (M/B) of 2010.

WITH

C.A. Nos. 10608, 10609, 10610, 10611, 10612 & 10613 of
B 2010.

H.L. Aggarwal, Shobha Dikshit, P.N. Misra, Dinesh Kr. Tiwary, Rajat Sharma, Chandan Kr. Ashok Kumar Singh, Shalini Kumar, Prerna Singh, Yatish Mohan, S. Mishra,
C Khwairakpam Nobin Singh, Devvrat, Manglesh Chaubey, Harish Pandey for the appearing parties.

The Judgment of the Court was delivered by

GANGULY, J. 1. Leave is granted in all these matters.
D This batch of seven appeals raises common questions of law which have been dealt with in this judgment.

2. Facts in each case are separately noted:

C.A.No. 10607 of 2010 @ (SLP No. 26113/2010)

E

3. In February 2006, Smt. Shanta Devi was elected Pramukh in the election of the Kshettra Panchayat of Jahanaganj, district Azamgarh.

F 4. In 2007, an amendment was made to the Uttar Pradesh Kshettra Panchayat and Zila Panchayat Act, 1961 (hereinafter called the 1961 Act) through Amendment Act no. 44 of 2007 (hereinafter called the Amendment Act) to make the State Act compatible with Part IX of which contains constitutional provisions relating to Panchayats.

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5. In view of some serious allegations against Smt. Shanta Devi, a no confidence motion was passed against her. Smt. Shanta Devi challenged before the High Court the constitutional validity of the U.P. Panchayat Laws (Amendment) Ordinance,

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2007 dated 20.08.2007 (which later on became the U.P. Panchayat Laws (Amendment) Act, 2007, i.e. the Amendment Act), by filing a writ petition which was dismissed on 6.02.2009. Against which she filed a special leave petition before this Court. The special leave petition was also dismissed by judgment dated 4.05.2010 in the case titled *Bhanumati etc. etc. v. State of Uttar Pradesh, through its Principal Secretary & Ors.*, 2010 (7) SCALE 398, upholding the constitutional validity of the Amendment Act.

6. Accordingly, the District Magistrate restrained Smt. Shanta Devi from functioning as Pramukh in light of the no-confidence motion passed against her and the order of the High Court dated 6.02.2009. Hence, the post of Pramukh fell vacant. The District Magistrate, in exercise of the power conferred on him under section 9(2) of the Amendment Act and the Rules thereunder, nominated the appellant for the post by order dated 2.07.2010. The sixth respondent, holding the post of Up-Pramukh, aggrieved by the aforesaid order of the District Magistrate, filed a writ petition in the High Court of Allahabad (CMWP No. 40262/2010).

7. The High Court quashed the order of the District Magistrate by way of the impugned common judgment dated 26.08.2010 (for CMWP Nos. 40262/2010 with 44538/2010), and allowed the Up-Pramukh to continue as Pramukh. Aggrieved by the same, the appellant moved this Court under Article 136 of the Constitution.

C.A.No. 10608 of 2010 @ SLP No. 26447/2010

8. On 22.10.2005, the appellant was elected as a member of the Block Development Committee from Kshettra Panchayat Majhwan, Mirzapur from a general seat. The seventh respondent was elected as the Senior Up-Pramukh. A no-confidence motion was passed against the Pramukh as a result of which the post of Pramukh fell vacant. The District Magistrate

A appointed the seventh respondent to discharge the functions of Pramukh.

9. The appellant filed a writ petition (CMWP No. 44538/2010) challenging the appointment of the seventh respondent to the post of Pramukh. It was dismissed by the High Court by way of impugned common judgment dated 26.08.2010 (for CMWP Nos. 40262/2010 with 44538/2010), holding that under the provisions of law, the senior Up-Pramukh was the only authorized person to act as Pramukh in absence of the duly elected Pramukh. Challenging that judgment, the present special leave petition was filed before this Court under Article 136 of the Constitution.

Civil Appeal No. 10609 of 2010 @(SLP No. 26201/2010)

10. On 27.02.2006, Smt. Pushpa was appointed as Pramukh of the Kshettra Panchayat, Motigarpur, district Sultanpur. The fourth respondent was appointed as Up-Pramukh. A no-confidence motion was brought against Smt. Pushpa on 4.01.2008. Smt. Pushpa challenged the Ordinance dated 20.08.2007 by filing a writ petition in the Allahabad High Court, which was dismissed on 6.02.2009. Smt. Pushpa filed an SLP before this court, which was dismissed by a judgment dated 4.05.2010 titled - *Bhanumati case* (supra).

11. Hence, the District Magistrate dismissed Smt. Pushpa from the post of Pramukh on 20.07.2010 and under the provisions of section 9(2) of the Amendment Act, nominated the appellant for the post, by order dated 21.07.2010.

12. Aggrieved, the fourth respondent filed a writ petition (No. 7272(MB)/2010) in the Allahabad High Court. The High Court, by way of impugned order dated 26.08.2010, quashed the order of the District Magistrate and restrained the appellant from interfering with the functioning of the respondent. Hence, the present appeal before this court.

Civil Appeal No. 10610 of 2010 @SLP No. 27470/2010

13. Smt. Sonu Devi was elected as Pramukh in the election of Kshettra Panchayat, Akhand Nagar, Sultanpur district on 27.02.2006. The sixth respondent was appointed as Up-Pramukh. A no-confidence motion was brought against Smt. Sonu Devi on 17.12.2007. Smt. Sonu Devi challenged the Ordinance dated 20.08.2007 by filing a writ petition in the Allahabad High Court, which was dismissed on 6.02.2009. Smt. Sonu Devi then filed an SLP before this Court, which was dismissed by a judgment dated 4.05.2010 rendered in *Bhanumati case* (supra).

14. Thereafter, the District Magistrate dismissed Smt. Sonu Devi from the post of Pramukh on 19.07.2010 and nominated the appellant for the said post. Aggrieved, the sixth respondent filed a writ petition (No. 7626(M/B)/2010) in the Allahabad High Court. The High Court passed an interim order relying on the judgment of the Allahabad High Court dated 26.08.2010 in writ petition No. 7272/2010. The High Court stayed the operation of the order of the District Magistrate dated 19.07.2010 and restrained the appellant from looking after the work of Pramukh and directed the sixth respondent to discharge the functions of Pramukh till further orders of the court or till the Pramukh was elected. Hence, the present appeal before this court.

Civil Appeal No. 10611 of 2010 @SLP No. 27491/2010

15. In February 2006, Smt. Sushila Devi (third respondent) was appointed Pramukh in the election of Kshettra Panchayat, Sidhauli, district Sitapur. The fourth respondent was appointed as Up-Pramukh. A no confidence motion was brought against Smt. Sushila Devi in 2008. She challenged the Amendment Ordinance dated 20.08.2007 by filing a writ petition before the High Court which was dismissed on 6.02.2009. She filed an SLP before this Court and the same was dismissed by judgment dated 4.05.2010 in *Bhanumati case* (supra).

A 16. Consequently, the District Magistrate dismissed Smt. Sushila Devi from the post of Pramukh on 29.07.2010 and nominated the appellant for the post on 30.07.2010. Aggrieved, the fourth respondent filed a writ petition (No. 7604 (M/B)/2010) before the Allahabad High Court. The High Court passed the B impugned interim order dated 26.08.2010 relying on the judgment in CMWP No. 7272/2010 and directed the fourth respondent to function as Pramukh and restrained the appellant from interfering in the functioning of the fourth respondent. Hence, present appeal.

C **Civil Appeal No. 10613 of 2010 @ SLP No. 35231/2010 (CC No.17260 of 2010)**

17. The appellant was elected a member of the Kshettra Panchayat, Bhaluani district- Deoria. A no confidence motion D was passed against the Pramukh of Kshettra Panchayat, Bhaluani district- Deoria on 6.8.2010 as a result of which the said post fell vacant. On 11.8.2010, the District Magistrate nominated the seventh respondent to the vacant post of Block Pramukh.

E 18. The eighth respondent challenged the said order by filing a writ petition (No. 50547/2010) in the High Court. The High Court followed the order passed in CMWP No. 40262/ 2010 and passed the impugned interim order staying the judgment dated 11.8.2010. Hence, the appellant (who was not F a party before the High Court) filed the present appeal before this court.

Civil Appeal No. 10612 of 2010 @ SLP 27404/2010

19. Smt. Bindu Devi was elected Pramukh of Kshettra G Panchayat- Freedabad, district Jaunpur in February 2006. A no confidence motion was passed against her. She challenged the amending Ordinance dated 20.8.2010 by filing a writ petition before the High Court, and the same was dismissed on 6.2.2009. She further challenged it by way of an SLP before this H Court, which was also dismissed by judgment dated 4.05.2010

rendered in the *Bhanumati case* (supra). A

20. Thereafter, the District Magistrate dismissed Smt. Bindu Devi from the post of Pramukh on 19.7.2010 and nominated the appellant for the said post. Aggrieved, the seventh respondent filed a writ petition (No. 44066/2010) in the Allahabad High Court. The High Court, vide the impugned judgment dated 28.8.2010, quashed the order of the District Magistrate after relying on the judgment of the Allahabad High Court in CMWP No. 40262/2010. B

21. Hence the present appeal. C

22. The common questions of law arising in these appeals relate to an interpretation of section 7(3) vis-à-vis sections 9(2) and 9A of the Amendment Act.

23. The precise question is whether after the Amendment to the 1961 Act, the right and authority of the senior Up-Pramukh to discharge the duties of the Pramukh would survive or whether the District Magistrate can nominate an elected member to be the Pramukh when the post of Pramukh falls vacant and till the new Pramukh is elected or resumes office. D E

24. One argument raised by the respondent is that the Up-Pramukh would automatically become the Pramukh when the post of Pramukh falls vacant, as was the position before the Amendment Act was enforced. It was also urged that the same is justified under section 7(3) as amended. Section 7(3) reads as follows: F

"7. Pramukh and Up Pramukh-

(1) XXX G

(2) XXX

(3) "Notwithstanding anything to the contrary contained in any other provision of this Act, the persons who have been H

A elected to the office of the Up-Pramukh before the commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 2007 shall continue to hold the office as such till the expiry of their term as if the said Act were not enacted".

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25. The respondents argued that the words "continue to hold office as such" entitled the Up-Pramukh to discharge all the functions and duties of senior Up-Pramukh as were prevalent before the Amendment Act was introduced. Prior to amendment, rights of Senior Up-Pramukh included the right to
C function and discharge the duties of Pramukh when the office of Pramukh was vacant. This contention of the respondents was accepted by the High Court, which is why the appellants filed the present batch of appeals before this Court.

D 26. The appellants however put forward their case under sections 9(2) and 9A of the Amendment Act. The relevant provisions of 9(2) and 9A read as follows:

"9. Term of Pramukh and Up-Pramukh-

E (1) XXX

(2) Where the office of the Pramukh is vacant, the District Magistrate may, by order, make such arrangement as he thinks fit for the discharge of the functions of the Pramukh,
F till the Pramukh is elected.

9A. Temporary arrangement in certain cases- When the Pramukh is unable to discharge his functions owing to absence, illness or any other cause, the District Magistrate may, by order, make such arrangement, as he thinks fit,
G for the discharge of the functions of the Pramukh until the date on which the Pramukh resumes his duties.

27. The appellants claimed that as per the abovementioned provisions, it was for the District Magistrate

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to appoint a Pramukh when the post of the Pramukh fell vacant, and the Up-Pramukh could not automatically discharge the functions as Pramukh when the post of Pramukh fell vacant, after the enforcement of the Amendment Act.

28. These are the rival contentions of the parties.

29. This Court finds that the Amendment Act was introduced in 2007 to make the State laws regulating the Panchayats compatible with the provisions of Part IX of the Constitution. The relevant portion of the statement of Objects and Reasons in the amending Act of 2007 reads:

"Statement of Objects and Reasons

The United Provinces Panchayat Raj Act, 1947 (U.P. Act No. 26 of 1947) provided for the offices of Pradhan and Up-Pradhan in every Gram Panchayat and the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U.P. Act No. 33 of 1961) provided for the offices of Pramukh, Up-Pramukh (Senior Up-Pramukh and Junior Up-Pramukh) in every Kshettra Panchayat and Adhyaksha and Up-Adhyaksha in every Zila Panchayat. It was decided to amend the said Acts to omit the provisions of the offices in respect of which there is no provision in the Constitution namely the offices of Up-Pradhan, Up-Pramukh (Senior Up-Pramukh and Junior Up-Pramukh) and Up-dhyaksha."

30. It is relevant to mention here that the constitutional validity of the Amendment Act has been upheld by this court in the *Bhanumati case* (supra).

31. Before the Amendment Act was introduced, the 1961 Act provided that in case the post of Pramukh fell vacant, the Up-Pramukh would discharge the functions of the Pramukh till a new Pramukh was appointed. However, the Amendment Act abolished the said post of Up-Pramukh from the Kshettra Panchayats and provided that in cases where the post of

A Pramukh fell vacant, the District Magistrate was to make such arrangements as he thought fit. However, as per section 7(3), the Up-Pramukh would still *continue to hold office as such* till the end of their term.

B 32. Section 7(3) begins with a non-obstante clause, i.e. "*notwithstanding anything to the contrary contained in any other provision of this Act.*" The said provision raises two questions which need to be answered:

a. Whether the non-obstante clause would prevail over
C the rest of the provisions of the Amendment Act, and to what extent?

b. How is the expression "shall continue to hold office as such" to be construed?

D 33. Interpretation of non-obstante clauses has come up for consideration before this Court in a large number of decisions.

34. In *Aswini Kumar Ghose & Anr. v. Arabinda Bose & Anr,* reported in AIR 1952 SC 369, a Constitution Bench of this
E Court speaking through Chief Justice Patanjali Sastri observed that the non-obstante clause can reasonably be read as overriding "anything contained" in any relevant existing law which is inconsistent with the new enactment. But His Lordship made it clear that the enacting part of a statute must, where it
F is clear, be taken to control the non-obstante clause where both cannot be read harmoniously (See page 377).

35. Again in another Constitution Bench judgment of this Court in *The Dominion of India & Anr. v. Shrinbai A. Irani and another,* reported in AIR 1954 SC 596, Bhagwati J. observed
G at para 10 as follows:

"...Although ordinarily there should be a close approximation between the non-obstante clause and the operative part of the section, *the non-obstante clause*
H *need not necessarily and always be co-extensive with the*

operative part, so as to have the effect of cutting down the clear terms of an enactment. If the words of the enactment are clear and are capable of only one interpretation on a plain and grammatical construction of the words thereof a non-obstante clause cannot cut down the construction and restrict the scope of its operation. In such cases the non-obstante clause has to be read as clarifying the whole position and must be understood to have been incorporated in the enactment by the legislature by way of abundant caution and not by way of limiting the ambit and scope of the operative part of the enactment." (See p. 599-600)

(Emphasis added)

36. In *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram* reported in (1986) 4 SCC 447, this Court stated that "the expression 'notwithstanding anything contained in this Act ... is more often than not appended to a section in the beginning with a view to give the enacting part of the section, in case of conflict, an overriding effect over the provision of the Act or the contract mentioned in the non-obstante clause. *It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the non-obstante clause... the enactment following it will have its full operation...*" (See pages 477-478).

(Emphasis added)

37. Further, this Court in *A.G. Varadarajulu and another v. State of Tamil Nadu and others,* reported in (1998) 4 SCC 231, observed that it is well-settled that while dealing with a non-obstante clause under which the legislature wants to give overriding effect to a section, the court must try to find out the extent to which the legislature had intended to give one provision overriding effect over another provision. The Bench referred to the principle in the Constitution Bench decision in *Madhav Rao Scindia v. Union of India and another,* [(1971) 1 SCC 85] wherein this court held that the non-obstante clause

A was a very potent clause intended to exclude every consideration arising from other provisions of the same statute or other statute but "for that reason alone we must determine the scope" of that provision strictly. When the section containing the said clause does not refer to any particular provisions, which
B it intends to override, but refers to the provisions of the statute generally, *it is not permissible to hold that it excludes the whole Act and stands alone by itself* (See p. 236).

(underlined for emphasis)

C 38. This Court also held in the case of *ICICI Bank Ltd. v. SIDCO Leathers Ltd. & Ors,* reported in (2006) 10 SCC 452, that the wide amplitude of a non-obstante clause must be kept confined to the legislative policy and it can be given effect to, to the extent the Parliament intended and not beyond the same
D and that in construing the provisions of a non-obstante clause, it was necessary to determine the purpose and object for which it was enacted (See page 465-6).

39. In *Central Bank of India v. State of Kerala & Ors,*
E reported in (2009) 4 SCC 94, this Court reiterated that while interpreting a non-obstante clause the court is required to find out the extent to which the legislature intended to give it an overriding effect.

40. In view of such consistent opinion expressed by this
F Court on the purport and meaning of non-obstante clause we are of the view that the operation of a non-obstante clause in Section 7(3) of the amended Act shall be subject to the intent of the legislature, and must be interpreted in line with the scheme of the Act and the purpose for which it was enacted.

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41. The learned counsel for the respondent referred to two decisions of this Court in order to contend that non-obstante clause in Section 7(3) completely overrides all the other provisions of the Act. Those decisions are: (a) *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram,* (1986) 4 SCC 447, (b)
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Union of India & another v. G.M. Kokil and others, 1984 (Supp) SCC 196. However, none of these decisions supports the contention of the respondents. A

42. Unfortunately, the High Court in the impugned judgment held that the non-obstante clause in section 7(3) has to be read as totally obliterating other provisions of the Amendment Act and that the Up-Pramukh who were elected prior to the Amendment Act would continue to hold office as if the Amendment Act in its entirety had not been enacted. B

43. However, in view of several decisions of this Court discussed above, we hold that the non-obstante cause in section 7(3) will have a limited operation to the extent of allowing the Up-Pramukh to "continue to hold office as such... as if the said Act were not enacted." C

44. In our view, the term 'continue to hold office as such' would mean that despite the abolition of the post of Up-Pramukh in the amending Act, those who were elected as Up-Pramukh prior to such amendment will just continue as such i.e. as Up-Pramukh till his term expires. The expression 'as such' has been added by way of caution and to emphasize that the continuance of Up-Pramukh is limited to just holding the office of Up-Pramukh. D E

45. The contrary argument of the respondent and which weighed with the High Court is that Up-Pramukhs will continue to exercise all the powers and functions under Sections 82 and 83 of the pre-existing provisions of the Act despite the express deletion of those provisions by the Amendment Act. This cannot be accepted. F

46. If that argument is accepted, in that case, the provisions which have been expressly deleted by way of amendment, like pre-existing provisions of Sections 82 and 83, will be revived. Sections 9(2) and 9A, brought in by way of amendment and thereby empowering the District Magistrate to make arrangements when the office of the Pramukh is vacant [Section G H

A 9(2)] or when the Pramukh is unable to discharge functions [Section 9A] will be unworkable. Therefore, for a harmonious interpretation of the different provisions of the amending Act, the non-obstante clause in Section 7(3) must be given a restricted meaning so as not be in conflict with other provisions
B of the amending Act.

47. The expressions 'as if the said Act were not enacted' in Section 7(3) of the amending Act apply only where by way of general amendment of the Uttar Pradesh Kshetra Panchayat and Zilla Adhiniyam 1961, the words Up-Pramukh have been
C omitted.

48. We, therefore, affirm the orders passed by the District Magistrates in exercise of their power under Section 9(2) and 9A. We cannot agree with the reasoning to the contrary given
D in the High Court judgment.

49. In light of the above reasoning, the appeals are allowed, the judgments of the High Court in all these cases are set aside.

50. There will be, however, no order as to costs.

B.B.B. Appeals allowed.