HARBHAJAN SINGH

v.

PRESS COUNCIL OF INDIA AND ORS.

MARCH 11, 2002

[R.C. LAHOTI AND K.G. BALAKRISHNAN, JJ.]

Press Council Act, 1978—Section 6(7)—Member of Press Council—Eligibility for nomination—Member holding office for two terms in the past—Whether the provision debars such person from being nominated again—Held, no—Since the provision debars a 'retiring' member from 'renomination' and not a 'retired' member from 'nomination'.

Interpretation of statutes—While interpreting a provision ordinary, grammatical and full meaning is to be assigned to the words used.

The question for consideration in the present appeal is whether Section 6(7) of Press Council Act, 1978 debars a person who had been a member of the Council for two terms in the past from being nominated.

Allowing the appeal, the Court

HELD: 1.1. Section 6(7) of the Press Council Act, 1978 must be assigned its ordinary, grammatical and natural meaning as the language is plain and simple. There is no evidence available, either intrinsic or external, to read the word 'retiring' as 'retired'. Nor can the word 're-nomination' be read as nomination for an independent term detached from the previous term of membership or otherwise than in succession. The provision on its plain reading does not disqualify or make ineligible a person from holding the office of a member of the Council for more than two terms in his life. The use of the words 'retiring' as qualifying 'member' coupled with the use of word 're-nomination' clearly suggests that a member is disqualified for being a member for the third terms in continuation in view of his having held the office of membership for more than two terms just preceding, one of which terms, the later one, was held on re-nomination. Such an interpretation does not lead to any hardship, inconvenience, injustice, absurdity or anomaly and, therefore, the rule of ordinary and natural meaning being followed cannot be departed from. [378-F; 379-B]

A **1.2. A retiring member is ineligible for re-nomination. 'Not more than one term' qualifies 're-nomination'. The words 'retiring', used in present tense, and 're-nomination', speak aloud of the intention of the Legislature. If the word 'retiring' was capable of being read as 'retired' (sometime in past) then there would have been no occasion to use 're-nomination' in the**
B **construction of the sentence. If the intention of law framers would have been not to permit a person to be a member of council for more than two terms in his lifetime then a different, better and stronger framing of the provision was expected. It could have been said-'no member shall be eligible for nomination for more than two terms', or it could have been said—'a retired member shall not be eligible for nomination for more than two terms'. [373-D-G]**

C *Nagendra Nath Dey and Anr.* **v.** *Suresh Chandra Dey and Ors.,* **AIR (1932) P.C. 165;** *General Accident Fire Life Assurance Corporation Ltd.* **v.** *Janmahomed Abdul Rahim,* **AIR (1941) P.C. 6;** *Siraj-il-Haq Khan and Ors.* **v.** *The Sunni Central Board of Waqf U.P. and Ors.,* **[1959] SCR 1287;** *F.S. Gandhi (Dead) by Lrs.* **v.** *Commissioner of Wealth Tax,* **[1990] 3 SCC 624 and** *D.R. Venkatachalam*
D **v.** *Dy. Transport Commissioner and Ors. etc.,* **[1977] 2 SCC 273, referred to.**

Suthendran **v.** *Immigration Appeal Tribunal.,* **(1976) 3 All ER 611;** *Maradana Mosque (Board of Trustees)* **v.** *Badi-ud-Din Mahmud and Anr.,* **(1966) 1 All ER 545 and** *Salomon* **v.** *Saloman and Co.,* **(1897) AC 22 38, referred to.**

E *Statutory Interpretation by Cross (Third Edition 1995); Principle of Statutory Interpretation by justice G.P. Singh,* **(Eighth Edition, 2001), referred to.**

2. Ordinary, grammatical and full meaning is to be assigned to the words used while interpreting a provision to honour the golden rule of interpretation Legislature chooses appropriate words to express what it intends, and,
F **therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material-intrinsic or external-is available to permit a departure from the rule. [373-C-D]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2035 of
G 2002.

From the Judgment and Order dated 21.3.2001 of the Delhi High Court in L.P.A. No. 416 of 2000.

K. Ramamurthy, S.K. Bandyopadhyay, Ms. Hema Sahu and C.L. Sahu
H for the Appellant.

H.N. Salve, Solicitor General, P.H. Parekh, E.R. Kumar, Rohit Alex and Ms. Ruchi Khurana for the Respondents. A

The Judgment of the Court was delivered by

R.C. LAHOTI, J. The controversy centres around the interpretation of sub-section (7) of Section 6 of the Press Council Act, 1978 (hereinafter 'the Act', for short), *viz.*, for how many terms of the Council a member can be nominated? B

The facts are jejune. Harbhajan Singh, the appellant, is an editor of Indian Observer. All India Small and Medium Newspapers Federation, the respondent no. 2 is an 'association of persons' within the meaning of clause (b) of sub-section (4) of Section 5 of the Act. The appellant had been a member of the Council for two terms of three years each, namely, 1982-1985 and 1985-1988. Steps were taken for the constitution of the Seventh Council commencing from the year 1998. A notification in that regard was issued on 21.11.1997. On 5.5.1997 and 9.8.1997 the Federation—respondent No. 2 had sought for a clarification-cum-opinion from the Chairman of the Press Council of India as to whether a person who had already been a member of the Council for two terms earlier is eligible for being nominated though such nomination did not amount to re-nomination, that is to say, at the time of being nominated he was not a retiring member. In response, the Council circulated an opinion of the President dated 30.9.1997, the substance whereof is, that Section 6(7) debars the same person from holding the office as a member of the Council for more than two terms in his life. The appellant and the Federation, respondent no. 2 herein, filed a writ petition before the High Court of Delhi seeking quashing of the opinion of the Chairman of the Press Council. A learned Single Judge of the High Court directed rule nisi to issue and on 9.12.1997 issued an interim direction that the decision of the Press Council would be subject to the decision in the writ petition. The Federation —respondent No.2 nominated the appellant and also his son as a cover candidate. The appellant's nomination was not accepted by the Council on the ground that he having remained a member of the Council for two terms, was ineligible for nomination as per sub-section (7) of Section 6 of the Act. C D E F G

After hearing the petitioners and the Press Council, as also the Union of India, the learned Single Judge vide order dated August 18, 2000 allowed the writ petition and quashed the decision of the Press *Council of India* rejecting the nomination of the appellant. The learned Single Judge formed an opinion that the language of the statute was plain, admitting of no ambiguity, H

A and therefore, deserves to be assigned the plain meaning which naturally flows from a reading thereof. In the opinion of the learned Single Judge the disqualification spelled out by sub-section (7) of Section 6 attaches to a member 'retiring' in presenti and was sought to be 're-nominated' but did not apply to a person who had 'retired' some time in the past though having held two consecutive terms as member of the Council and was now being only B 'nominated' and 'not re-nominated'. The Press Council of India preferred an intra-court appeal before a Division Bench which allowed the appeal and set aside the judgment of the learned Single Judge. Tracing out the legislative history of the enactment and giving a liberal interpretation to sub-section (7) of Section 6 in its desire to spell out and read the objective sought to be C achieved by the Act, the Division Bench formed an opinion that the Legislature intended not to allow a member to hold office for more than two terms in his life-time, and therefore, the appellant was not eligible for nomination to membership of the Council for the term commencing 1998 in view of his having held membership of the Council for two terms - 1982-1985 and 1985-1988. The appellant has filed this appeal by special leave.

D

Leave granted.

The Act, as its preamble shows, proposed to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India. E Section 4 provides for incorporation, and Section 5 provides for composition, of the Council. The details are irrelevant for our purpose. Section 6, in so far as relevant for our purpose, provides that the Chairman and other members of the council shall hold office for a period of three years. Sub-section (7) reads as under:-

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(7) A retiring member shall be eligible for re-nomination for not more than one term."

According to the appellant, all that the provision bars is a member holding two terms of office successively. According to the respondent Council the total number of terms for which a member can hold office, whether in G succession or otherwise, is two, as the provision makes it permissible for any member to seek re-nomination for one term only. This is the narrow controversy.

Clearly the language of Sub-Section (7) of Section 6 abovesaid, is plain and simple. There are two manners of reading the provision. Read H positively, it confers a right on a retiring member to seek re-nomination.

Read in a negative manner, the provision speaks of a retiring member not being eligible for re-nomination for more than one term. The spell of ineligibility is cast on 're-nomination' of a member who is 'retiring'. The event determinative of eligibility or ineligibility is 're-nomination', and the person, by reference to whom it is to be read, is 'a retiring member'. 'Retiring member' is to be read in contra-distinction with a member/person retired some time in past, and so, would be called a retired or former member. 're' means again, and is freely used as prefix. It gives colour of 'again' to the verb with which it is placed. 'Re-nomination' is an act or process of being nominated again. Any person who had held office of member some time in past, if being nominated now, cannot be described as being 'again nominated'. It is only a member just retiring who can be called 'being again nominated' or 're-nominated'. No other meaning can be assigned except by doing violence to the language employed. Legislature does not waste its words. Ordinary, grammatical and full meaning is to be assigned to the words used while interpreting a provision to honour the rule - Legislature chooses appropriate words to express what it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material - intrinsic or external - is available to permit a departure from the rule.

The provision is cast in present tense. A retiring member is ineligible for re-nomination. 'Not more than one term' qualifies 're-nomination'. The words 'retiring', used in present tense, and 're-nomination' speak aloud of the intention of the Legislature. If the word 'retiring' was capable of being read as 'retired' (sometime in past) then there would have been no occasion to use 're-nomination' in the construction of the sentence. If the intention of law framers would have been not to permit a person to be a member of council for more than two terms in his lifetime then a different, better and stronger framing of the provision was expected. It could have been said — 'no member shall be eligible for nomination for more than two terms', or it could have been said—'a retired member shall not be eligible for nomination for more than two terms'.

Cross in Statutory Interpretation (Third Edition, 1995) states :

> "The governing idea here is that if a statutory provision is intelligible in the context of ordinary language, it ought, without more, to be interpreted in accordance with the meaning an ordinary speaker of the language would ascribe to it as its obvious meaning, unless there is sufficient reason for a different interpretation. . . . .Thus, an 'ordinary

meaning' or 'grammatical meaning' does not imply that the judge attributes a meaning to the words of a statute independently of their context or of the purpose of the statute, but rather that he adopts a meaning which is appropriate in relation to the immediately obvious and unresearched context and purpose in and for which they are used. By enabling citizens (and their advisers) to rely on ordinary meanings unless notice is given to the contrary, the legislature contributes to legal certainty and predictability for citizens and to greater transparency in its own decisions, both of which are important values in a democratic society" (p. 32 ibid). The learned author cites three quotations from speeches of Lord Reid in House of Lords cases, the gist whereof is: (i) in determining the meaning of any word or phrase in a statute ask for the natural or ordinary meaning of that word or phrase in its context in the statute and follow the same unless that meaning leads to some result which cannot reasonably be supposed to have been the legislative intent; (ii) rules of construction are our servants and not masters; and (iii) a statutory provision cannot be assigned a meaning which it cannot reasonably bear; if more than one meaning are capable you can choose one but beyond that you must not go (p.40, ibid). Justice G.P. Singh in his celebrated work—Principles of Statutory Interpretation (Eighth Edition, 2001) states (at page 54)—"The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence a construction which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided." The learned author states at another place (at page 74, ibid) that the rule of literal construction whereby the words have to be assigned their natural and grammatical meaning can be departed from but subject to caution. The golden rule is that the words of statute must prima facie be given their ordinary meaning. A departure is permissible if it can be shown that the legal context in which the words are used or the object of the statute in which they occur requires a different meaning. To quote, "Such a meaning cannot be departed from by the judges 'in the light of their own views as to policy' although they can 'adopt a purposive interpretation if they can find in the statute read as a whole or in material to which they are permitted by law to refer as aids to interpretation an expression of Parliament's purpose or policy'. A modern statement of the rule is to be found in the speech of Lord Simon of Glaisdale in *Suthendran* v. *Immigration*

Appeal Tribunal, (1976) 3 All ER 611, 616 to the effect — 'Parliament is prima facie to be credited with meaning what is said in an Act of Parliament. The drafting of statutes, so important to a people who hope to live under the rule of law, will never be satisfactory unless courts seek whenever possible to apply 'the golden rule' of construction, that is to read the statutory language, grammatically and terminologically, in the ordinary and primary sense which it bears in its context, without omission or addition. Of course, Parliament is to be credited with good sense; so that when such an approach produces injustice, absurdity, contradiction or stultification or statutory objective the language may be modified sufficiently to avoid such disadvantage, though no further'."

Sir Dinshah Mulla, while interpreting Article 182 of the Limitation Act, 1908 emphasised the need of testing the question of interpretation upon the plain words of the Article and opined that there is no warrant for reading into the words quoted any qualification and the strict grammatical meaning of the words is the only safe guide. (see *Nagendra Nath Dey and Anr.* v. *Suresh Chandra Dey and Ors.*, AIR (1932) P.C. 165). *Viscount Maugham in General Accident Fire & Life Assurance Corporation Ltd.* v. *Janmahomed Abdul Rahim*, AIR (1941) P.C. 6 approved the principle that it may be desirable for an act to receive such construction as the language in its plain meaning imports. The same principle has been followed by the Supreme Court of India in several decisions. Suffice it to refer to *Siraj-il-Haq Khan and Ors.* v. *The Sunni Central Board of Waqf U.P. and Ors.*, [1959] SCR 1287, wherein P.B. Gajendragadkar, J. (as His Lordship then was) said that effect must be given to the strict grammatical meaning of the words used. Without multiplying the authorities we would still like to refer to two more decisions which we think are apposite. In *F.S. Gandhi (Dead) by Lrs.* v. *Commissioner of Wealth Tax,* [1990] 3 SCC 624, the expression "where the interest is available to an assessee for a period not exceeding six years from the date the interest vests in the assessee" contained in Section 2(e)(2)(iii) of the Wealth Tax Act, 1957 came up for consideration and the emphasis was on the significance of "is" on the import of the provision. This Court held that the word "is", normally refers to the present and often a future meaning. It may also have a past signification as in the sense of "has been". However, in the setting in which "is" was used followed by the word "available", it was held - "the word 'is' must be construed as referring to the present and the future. In that sense it would mean that the interest is presently available and is to be available in future for a period not exceeding six years". The High Court had construed

A the word "is" to mean "has been" which construction was discarded by this Court. The tense of the sentence played a pre-dominant role in the interpretation placed on the relevant provision by this Court in F.S. Gandhi's case. In *Maradana Mosque (Board of Trustees)* v. *Badi-ud-Din Mahmud and Anr.*, (1966) 1 All ER 545, under the relevant Statute the Minister was empowered to declare that the school should cease to be an unaided school and that the B Director should be the Manager of it, if the Minister was satisfied that an unaided school "is being administered" in contravention of any provisions of the Act. Their Lordships opined, "Before the Minister had jurisdiction to make the order he must be satisfied that 'any school....is being so administered in contravention of any of the provisions of this Act'. The present tense is C clear. It would have been easy to say 'has been administered' or 'in the administration of the school any breach of any of the provisions of this Act has been committed', if such was the intention of the legislature; but for reasons which common sense may easily supply, it was enacted that the Minister should concern himself with the present conduct of the school, not the past, when making the order. This does not mean, of course, that a school D may habitually misconduct itself and yet repeatedly save itself from any order of the Minister by correcting its faults as soon as they are called to its attention. Such behaviour might well bring it within the words 'is being administered' but in the present case no such situation arose. There was, therefore, no ground on which the Minister could be 'satisfied' at the time E of making the order. As appears from the passages of his broadcast statement which are cited above, he failed to consider the right question. He considered only whether a breach had been committed, and not whether the school was at the time of his order being carried on in contravention of any of the provisions of the Act. Thus he had no jurisdiction to make the order at the F date on which he made it".

The Division Bench, in its impugned judgment, entered into tracing the legislative history and tried to find out the object of enactment and intention of the Legislature. The effort made by the Division Bench can be appreciated but regrettably the deductions drawn by the Bench are based on no material. G In fact, the learned Judges of the Division Bench fell into the same error as has been pointed out above, that is, of attributing such intention to Legislature as suited their own view of the policy behind enactment. M.H. Beg, J. warned against beginning with a theory as to what the real purpose or need is or could be, for the danger is that we may be injecting a subjective notion or purpose of our own into what is, after all a legal question of construction or H interpretation. His Lordship emphasized the need of avoiding the danger of

a priori determination of the meaning of a provision based on our own preconceived notions of an ideological structure or scheme into which the provision to be interpretated is somehow fitted. (See, concurring judgment of *M.H. Beg, J. in D.R. Venkatachalam etc.* v. *Dy. Transport Commissioner and Ors. etc.*, [1977] 2 SCC 273. The Division Bench has not culled out and placed material on record, either available intrinsically in the Act or from any external aid to interpretation, so as to lead to the inference drawn by the Division Bench and sustain departure from the golden rule of interpretation.

The learned single Judge followed the correct track on the path of interpretation of statutes by reading what has been said and comparing with what has not been said. The learned single Judge gave at least three illustrations of what could have been said but has not been said so as to find out how the Legislature would have constructed the provision in question if the intention would have been not to permit a person to be a member of the council for more than two terms. It would be advantageous to restate briefly the three illustrations from the judgment of the learned single Judge which are as under:

(i) In the Schedule appended to the Delhi University Act, 1922 called 'The Schedule—The Statutes of the University', para 5(1) provides for composition of the Executive Council as comprising the various members as specified. Clause (2) provides—"No person shall be a member under item (ix) or (x) of Clause (1) for more than two consecutive terms".

(ii) Section (1) of the Twenty-second Amendment of the US Constitution provides—"No person shall be elected to the office of the President for more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. . . . . ."

(iii) In Section 31(5) of the Delhi Cooperative Societies Act, 1972 it is provided—"Notwithstanding anything contained in the Act, a person shall be disqualified for election as, or for being, the president, vice-president, chairman, vice-chairman, managing director, secretary, joint secretary or treasurer of a committee: (a) if he has held any such office on that committee during two consecutive terms whether full or part; . . . . . ."

In all the three illustrations of drafting, the intended bar against holding the given office for more than two terms (as provided) is clearly and

A categorically spelled out.

Having given the three illustrations, the learned single Judge held that if the construction suggested by the Council was to be accepted, one would be required to read 'retiring member' as 'a retired member'. Yet another reason assigned by the learned single Judge, and rightly so, is that the right B to be appointed as a member having been conferred by the law, ineligibility entailing prohibition or bar on being appointed to an office should be clearly stated or positively spelled out, in absence whereof the same cannot be read into the provision on the basis of the assumed intention of fulfilling the object of the statute. The learned single Judge quoted very apt and appropriate C observations of Lord Watson in *Salomon* v. *Saloman and Co.,* (1897) AC 22, 38 to the effect :-

> "Intention of the Legislature' is a common but very slippery phrase, which, popularly understood, may signify anything from intention embodied in positive enactment to speculative opinion as to what the D Legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication."

E The Division Bench has, during the course of the judgment, noted that Press Council was intended to be an independent body and if any person was permitted to remain a member of the Council for more than two terms, it will erode independence of the body as the elements of vested interest would creep in and this would also defeat the object of Sub-Section (7) of Section 6 of the Act. We fail to find any justification for such an observation much F less any basis for forming such an opinion. Simply because the Press Council has taken a particular view of the relevant provision it can hardly be a ground for the Court to lean in favour of such a construction.

We are clearly of the opinion that Sub-Section (7) of Section 6 of the G Press Council Act must be assigned its ordinary, grammatical and natural meaning as the language is plain and simple. There is no evidence available, either intrinsic or external, to read the word 'retiring' as 'retired'. Nor can the word 're-nomination' be read as nomination for an independent term detached from the previous term of membership or otherwise than in succession. The provision on its plain reading does not disqualify or make ineligible a person H from holding the office of a member of the Council for more than two terms

in his life. The use of the words 'retiring' as qualifying 'member' coupled with the use of word 're-nomination' clearly suggests that a member is disqualified for being a member for the third term in continuation in view of his having held the office of membership for more than two terms just preceding, one of which terms, the later one, was held on re-nomination. Such an interpretation does not lead to any hardship, inconvenience, injustice, absurdity or anomaly and, therefore, the rule of ordinary and natural meaning being followed cannot be departed from.

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For the foregoing reasons, the appeal is allowed. The judgment of the Division Bench is set aside and that of the learned single Judge is restored. No order as to the costs.

C

K.K.T. Appeal allowed.