REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.245 OF 2014

COMMON CAUSE : A REGISTERED SOCIETY ...PETITIONER

VERSUS

UNION OF INDIA ...RESPONDENT

WITH

TRANSFERRED CASE(C) OF 2017
(Arising out of TRANSFER PETITION (C) NO.1264/2014

WRIT PETITION(C) NO.673 OF 2015
TRANSFERRED CASE(C) NO.109 OF 2015

J U D G M E N T

RANJAN GOGOI, J.

1. Writ Petition (Civil) No.245 of 2014 has been filed seeking a declaration that Rule 10(1) and Rule 10(4)(i) of the Search Committee (Constitution, Terms and Conditions of Appointment of Members and the Manner of Selection of Panel of Names for Appointment of Chairperson and Members of Lokpal)

Rules, 2014 (hereinafter referred to as the "Search Committee Rules") framed under the provisions of the Lokpal and Lokayuktas Act, 2013 (hereinafter referred to as "the Act") are *ultra vires* and for a further direction to restrain the initiation of any process of selection for appointment of Chairperson and Members of the Lokpal under the provisions of the aforesaid Search Committee Rules.

2. There is no manner of doubt that the aforesaid grievance of the writ petitioner has been taken care of by the Search Committee (Amendment) Rules, 2014 which has deleted the following words in sub-rule (1) of Rule 10:

> "from amongst the list of persons provided by the Central Government in the Department of Personnel and Training"

Sub-rule (4) of Rule 10 of the Search Committee Rules has also been since deleted.

3. Notwithstanding the above, it is urged on behalf of the writ petitioner that the provisions

of the Act are yet to be implemented and the Selection Committee/Search Committee under the Act are yet to be constituted so as to further the appointment of the Chairperson and Members of the Lokpal.

4. As in the connected case i.e. Writ Petition No.673 of 2015 filed by Youth for Equality the prayers made are precisely to the above effect, we have permitted the learned counsel for the writ petitioner in Writ Petition (Civil) No.245 of 2014 to address the Court on the aforesaid issue also.

5. The reliefs sought in Transferred Case No.109 of 2015 and in Transferred Case arising out of Transfer Petition (Civil) No.1264 of 2014 are same and similar to those made in Writ Petition (Civil) No.245 of 2014.

6. Shri Shanti Bhushan, learned Senior Counsel, who has advanced the lead arguments, has submitted that the Act had been brought into force

on 16th January, 2014 by a notification issued in the Official Gazette by the Government of India. Despite efflux of a long period of time the provisions of the Act have not been implemented. It is argued that though the version of the official respondents is that certain provisions of the Act need to be altered to make the provisions thereof workable in a meaningful manner, the very fact that the Amendment Bill [Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014] has been gathering dust from the date of its introduction in the Parliament (18th December, 2014) would sufficiently demonstrate the lack of executive/legislative will to give effect to a salutary enactment en-grafting a vital requirement of democratic functioning of the Government, namely, accountability of the political executive and those in high echelons of public office, to an independent body i.e. Lokpal. Shri Shanti Bhushan has also urged that incongruities, inconsistencies and inadequacies in the Act as perceived by the

respondents are primarily with regard to the absence of a Leader of Opposition in the present House of People/Lok Sabha (hereinafter referred to as "LOP") who is also to act as a Member of the Selection Committee under Section 4 of the Act. This, according to Shri Bhushan, is a pretence and/or sham inasmuch as by Section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 (hereinafter referred to as "the 1977 Act") the term 'Leader of the Opposition" is defined to mean as under:

> "2. Definition.- In this Act, "Leader of the Opposition", in relation to either House of Parliament, means that member of the Council of States or the House of the People, as the case may be, who is, for the time being, the Leader in that House of the Party in opposition to the Government having the greatest numerical strength and recognised as such by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.
>
> Explanation.-- Where there are two or more parties in opposition to the Government, in the Council of States or in the House of the People having the same numerical strength, the

> **Chairman of the Council of States or the Speaker of the House of the People, as the case may be, shall, having regard to the status of the parties, recognise any one of the Leaders of such parties as the Leader of the Opposition for the purposes of this section and such recognition shall be final and conclusive.**

Shri Bhushan submits that the aforesaid provision could have been easily adopted by the Government of India to clarify the situation in the event any ambiguity is felt. Shri Bhushan has specifically pointed out to the Court the provisions of Section 62 of the Act which enables the Government of India to so act. As such an exercise was not undertaken within a period of two years as required, the time frame therefor, is now over. Shri Bhushan has pointed out that for reasons which are not known, the respondents are not interested in implementing the provisions of the Act. Therefore, necessary directions should be issued by the Court and appropriate orders need to be passed.

7. Supporting the arguments made by Shri Shanti Bhushan, Shri Gopal Sankaranarayana, learned counsel for the writ petitioners in Writ Petition (Civil) No.673 of 2015 has drawn the attention of the Court to the relevant provisions of the other statutes, namely, Right to Information Act, 2005, Central Vigilance Commission Act, 2003, etc. to point out that in all the aforesaid statutes it has been provided that in case there is no LOP available, it is the Leader of the Party in Opposition to the Government, which has the greatest strength of Members, who is deemed to be the Leader of the Opposition. It is also pointed out by the learned counsel that under Section 4(2) of the Act the appointment of the Chairperson or a Member of the Lokpal shall not be invalid merely on account of any vacancy in the Selection Committee. It is, therefore, urged that even in the absence of the LOP it is open for the Selection Committee to proceed with the constitution of the Search Committee. Same would be the position with regard

to the appointment of the eminent jurist who is required to be appointed as a Member of the Selection Committee by the other Members of the Selection Committee enumerated under Section 4(1) (a) to (d) of the Act. The absence of the LOP, therefore, need not detain the constitution of the Selection Committee and the discharge of functions by the Committee.

9. It is further argued by the learned counsel that as legislative action is not forthcoming to give effect to the provisions of the Amending Bill, this Court should read down the provisions of Section 4(1)(c) of the Act to understand that the LOP mentioned in the said provisions of the Act means the leader of the single largest opposition party in either House of Parliament. Reading down of the provisions of the statute, in the above manner, would be justified to give effect to the statute. In this regard, reliance has been placed on the following observations contained in

paragraph 26 and 46 of the decision of this Court in *Vipulbhai M. Choudhary* vs. *Gujarat Coop. Milk Mktg. Federation Ltd.*[1] which are extracted below:

> **"26. Where the Constitution has conceived a particular structure on certain institutions, the legislative bodies are bound to mould the statutes accordingly. Despite the constitutional mandate, if the legislative body concerned does not carry out the required structural changes in the statutes, then, it is the duty of the court to provide the statute with the meaning as per the Constitution. "The job of the Supreme Court is not to expound the meaning of the constitution but to provide it with meaning"[Walter Berns, 'Government by lawyers and judges', Commentary, June,1987, 18.] The reference obviously is to United States Supreme Court. As a general rule of interpretation, no doubt, nothing is to be added to or taken from a statute. However, when there are adequate grounds to justify an inference, it is the bounden duty of the court to do so.**
>
> > **"…It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statue unless there are adequate grounds to justify the inference that the legislature intended something which it omitted to express"[Maxwell on The**

[1] **(2015) 8 SCC 1**

> **Interpretation of Statues (12th Edn.) 33.].**

According to Lord Mersey in Thompson (Pauper) v. Goold and Co.[[1910] A.C. 409. (HL]: (AC p.420)

> **"...It is a strong thing to read into an Act or Parliament words, which are not there, and in the absence of clear necessity, it is wrong to do".**

In the case of cooperative societies, after the Ninety Seventh Amendment, it has become a clear or strong necessity to do the strong thing of reading into the legislation, the constitutional mandate of the cooperative societies to be governed as democratic institutions.

> **45...The constitutional provisions have to be construed broadly and liberally having regard to the changed circumstances and the needs of time and polity"[The Constitutional Bench decision in State of W.B. v.Committee for Protection of Democratic Rights, (2010) 3 SCC 571, p.591, para 45: (2010) 2 SCC (Cri) 401]**

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46. In the background of the constitutional mandate, the question is not what the statute does say but what the statute must say. If the Act

> **or the Rules or the Bye-laws do not say what they should say in terms of the Constitution, it is the duty of the court to read the constitutional spirit and concept into the Acts. … "In so far as in its Act Parliament does not convey its intention clearly, expressly and completely, it is taken to require the enforcement agencies who are charged with the duty of applying legislation to spell out the detail of its legal meaning. This may be done either- (a) by finding and declaring implications in the words used by the legislator, or (b) by regarding the breadth or other obscurity of the express language as conferring a delegated legislative power to elaborate its meaning in accordance with public policy (including legal policy) and the purpose of the legislation"[Bennion on Statutory Interpretation by Francis Bennion, (6th Edn.)136]."**

10. In reply, Shri Mukul Rohatgi, learned Attorney General has submitted that in the present case the Congress Party had claimed the post of LOP in the present Lok Sabha. However, the said claim was rejected by the Hon'ble Speaker on the ground that as per parameters of parliamentary convention and practice, the Congress Party does not have the requisite 10% strength of the total membership of

the House of the People i.e. Lok Sabha to be entitled to have its leader in the Lok Sabha to be recognized as the Leader of the Opposition. Shri Rohatgi in this regard has relied upon a publication of the Lok Sabha Secretariat which is to the following effect:

> **"At present, there is no recognized Leader of Opposition in Lok Sabha."**

11. Shri Rohatgi has submitted that the provisions of the 1977 Act cannot, by itself, constitute to be a part of the Act in question. It is submitted that the implementation of the provisions of the Act was attempted but certain difficulties arising from some inadequate and inconsistent provisions thereof came to the fore which necessitated the Amendment Bill. Referring to the Bill, the learned Attorney General has submitted that the Bill seeks to comprehensively amend different provisions of the Act to facilitate the smooth working of the institution brought into

force under the Act.

12. It will be necessary at this stage to take note of the salient features of the Amendment Bill along with a very brief description of the other amendments of the different provisions of the Act which is presently pending legislative consideration. The principal amendments which will require a specific notice are those contained in Section 2 of the Amendment Bill seeking to amend Section 4 [clause (c) and clause (e) of sub-section (1); sub-section (2) and sub-section (3)] of the Act in the manner stated below:

> **"2. In the Lokpal and Lokayuktas Act, 2013 (hereinafter referred to as the principal Act) in section 4,-**
>
> **(a) in sub-section(1),-**
>
> **(i) for clause (c), the following clause shall be substituted, namely:-**
>
> **'(c) the Leader of Opposition recognised as such in the House of the People or where there is no such Leader of Opposition, then, the Leader of the single largest Opposition Party in that House –**

Member.';

(ii)after clause (e), the following proviso shall be inserted, namely:-

'Provided that the eminent jurist shall be nominated for a period of three years and shall not be eligible for re-nomination.';

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

'(2) No appointment of a Chairperson or a Member or the nomination of an eminent jurist shall be invalid merely by reason of any vacancy or absence of a Member in the Selection Committee.';

(c) in sub-section (3), after the second proviso, the following proviso shall be inserted, namely:-

'Provided also that no appointment of a person in the Search Committee or the proceedings of the Search Committee shall be invalid merely by reason of any vacancy or absence of a Member in the Selection Committee or absence of a person in the Search Committee, as the case may be.'

13. The Amendment Bill was referred to the Parliamentary Standing Committee on 25th December, 2014 after it was introduced in the Lok Sabha on 18th December, 2014. Thereafter, on 3rd December, 2015, the report of the Parliamentary Standing Committee was submitted. The following extract from the report would indicate the relevant Sections in respect of which amendments have been proposed and the extent thereof.

S.No.	Area of concern	Provision in the Lokpal and Lokayuktas Act, 2013 & Delhi Special Police Establishment Act, 1946	Relevant Section	Provisions in the Bill	Relevant Clause	Extent of Amendment proposed
1.	Composition of Selection Committee	Prime Minister, Chief Justice of India or Judge of Supreme Court, Speaker, Lok Sabha, Leader of Opposition, Lok Sabha and eminent jurist	4(1) of Lokpal and Lokayuktas Act, 2013	Prime Minister, Chief Justice of India or Judge of Supreme Court, Speaker, Lok Sabha, Leader of largest Opposition Party, Lok Sabha and eminent jurist	2(a)(i)	Inclusion of Leader of largest Opposition Party in Lok Sabha in lieu of Leader of Opposition in Lok Sabha in Selection Committee.
2.	Tenure of eminent jurist in Selection Committee	No mention of tenure	4(1)(e) of Lokpal and Lokayuktas Act, 2013	Fixed tenure of three years with no renomination	2(b) -	Limiting tenure of eminent jurist to single term in the Selection Committee
3.	Proceedings of Search and Selection	Proceedings not to be invalidated	4(2) of Lokpal and Lokayuktas	No invalidation of proceedings	2(b) & 2(c)	To validate the proceedings of Search and

	Committee	due to vacancy in the Selection Search Commitee	Act, 2013	of Search and Selection Committee due to vacancy or absence therein.		Selection Committee in the event of absence or vacancy of any member arising therein in future.
4.	Rank of Secretary to Lokpal	Secretary to Government of India	10(1) of Lokpal and Lokayuktas Act, 2013	Additional Secretary to Government of India	3(a)	Rank reduced.
5.	Rank of Director of Inquiry and Director of Prosecution of Lokpal	Additional Secretary to Government of India	10(1) of Lokpal and Lokayuktas Act, 2013	Joint Secretary to Government of India	3(b)	Rank reduced by one level
6.	Disclosure of assets and liabilities by public servants	All Public servants to declare assets and liabilities of self, spouse and dependent children in the manner provided under the Act within 30 days of the Act coming into force to their Competent Authority and to file Annual Return of movable and immovable assets and liabilities of self, spouse and dependent children as on 31st March by 31st July of that year to the Competent Authority which is to be put in public domain by 31st August of that year.	44(1) & 44(2) of Lokpal and Lokayuktas Act, 2013	Public servants to declare the (i) immovable assets owned/ acquired/ inherited by the public servant in his/her name, in the name of any member of his/her family or in the name of any other person; (ii) movable property owned/ acquired/ inherited by him/her and; (iii) Debts and other liabilities incurred by him/her directly or indirectly. Such declaration to be made to Competent Authority under Act/ Rules/ Regulations governing their appointment/ election. The Competent	6(a)	Immovable assets acquired by the public servant whether in his/her name or in the name of any family member or any other person to be declared. Movable assets of only public servant to be declared.

				Authority to publish the declaration filed by public servant in prescribed manner by 31st August of that year.		
7.	Seat of Lokpal	New Delhi	16(f) of Lokpal and Lokayuktas Act, 2013	NCR of Delhi	4	To facilitate setting up of Headquarters in the NCR of Delhi.
8.	Eligibility Criteria of Director of Prosecution (DoP) of CBI	Rank of Director of Prosecution is Joint Secretary to Government of India	4BA OF DSPE Act, 1946	Indian Legal Service Officer eligible to be appointed as Special Public Prosecutor. In absence of such officer, an advocate having at least 15 years of practice, and experience in handling Government cases relating to offences related to economic offences and corruption.	9(a)	Makes the eligibility criteria more stringent. Allows only officers with legal background to head the prosecution wing of the Central Bureau of Investigation
9.	Difference of opinion between Director, and Director of prosecution of CBI	No provision	4BA of DSPE Act, 1946	To be settled by Attorney General for India whose decision would be binding	9(b)	New provision.

14. From the above, it is clear that Amendment Bill seeks the inclusion of Leader of the largest Opposition Party in Lok Sabha in the Selection Committee, in lieu of LOP. The proposed amendments also seek to limit the tenure of the eminent

jurist, as a Member of the Selection Committee. There is also an explicit recital of the fact that the absence of any Member of the Selection Committee (or a vacancy in the post of any Member) will not invalidate the recommendations of the Selection Committee for appointment of the Chairperson or Member of the Lokpal or the appointment of the eminent jurist. Similarly, appointment of a Member of the Search Committee or the proceedings of the said Committee will not be invalid by reason of either the absence of a Member of the Search Committee or a vacancy in the Selection Committee. The other provisions of the Act relate to certain incidental matters under the Act, like, rank of Secretary to the Lokpal; rank of Director of Inquiry and Director of Prosecution of Lokpal; disclosure of assets and liabilities by public servants; seat of Lokpal; eligibility criteria for appointment of Director of Prosecution; and the provisions relating to resolution of difference(s) of opinion between the

Director and the Director of Prosecution of CBI.

15. While the Parliamentary Standing Committee had made various recommendations in respect of the proposed amendments, so far as the amendment relating to substitution of the LOP by the Leader of the single largest opposition party in the Lok Sabha is concerned, the Parliamentary Standing Committee had approved the proposed amendment. Insofar as the discharge of functions by the Search/Selection Committee in a situation where there exits a vacancy, the Parliamentary Standing Committee is of the view that the Search/Selection Committee should not take any decision unless the vacancy in the Search/Selection Committee is filled up. Rather, it is suggested that provisions should be made in the Amendment Bill for filling up such vacancy/vacancies at the earliest. The rest of the recommendations of the Committee would not be very material to decide the question arising in view of the very nature of the subjects to which the same

relate, which would be evident from a cursory glance of the subjects delineated above in the Chart extracted from the report of the Parliamentary Standing Committee.

16. As noticed, the report of the Parliamentary Standing Committee is dated 3rd December, 2015. In the hearing of the cases that took place on 28th March, 2017, Shri Mukul Rohatgi, learned Attorney General for India has submitted that at present the report of the Parliamentary Standing Committee is under scrutiny of the Government and it is possible that the same may be taken up for consideration by Parliament in the Monsoon Session of the current year. Relying on several pronouncements of this Court, Shri Rohatgi has submitted that there can be no direction to the Legislature to frame any law or to amend the existing law or to complete a legislative exercise within any time frame. As there can be no serious dispute on the above proposition(s) of law it will not be necessary to

burden this order with a detailed reference to the judgments relied on except to refer, illustratively, to the judgment of this Court in *Common Cause* vs. *Union of India & Ors.*[2].

17. There can be no manner of doubt that the Parliamentary wisdom of seeking changes in an existing law by means of an amendment lies within the exclusive domain of the legislature and it is not the province of the Court to express any opinion on the exercise of the legislative prerogative in this regard. The framing of the Amendment Bill; reference of the same to the Parliamentary Standing Committee; the consideration thereof by the said Committee; the report prepared alongwith further steps that are required to be taken and the time frame thereof are essential legislative functions which should not be ordinarily subjected to interference or intervention of the Court. The constitutional doctrine of separation of powers and the

[2] (2003) 8 SCC 250

demarcation of the respective jurisdiction of the Executive, the Legislature and the Judiciary under the constitutional framework would lead the Court to the conclusion that the exercise of the amendment of the Act, which is presently underway, must be allowed to be completed without any intervention of the Court. Any other view and any interference, at this juncture, would negate the basic constitutional principle that the Legislature is supreme in the sphere of law making. Reading down a statute to make it workable in a situation where an exercise of amendment of the law is pending will not be justified either. A perception, however, strong of the imminent need of the law en-grafted in the Act and its beneficial effects on the citizenry of a democratic country, by itself, will not permit the Court to overstep its jurisdiction. Judicial discipline must caution the Court against such an approach.

18. But that is not all; there is a further question that would require an answer. The question is whether the Act, as it exists, sans the amendment proposed, is so unworkable that the Court should refuse enforcement thereof notwithstanding that the Act has come into force by Notification dated 16th January, 2014 issued under Section 1(4) of the Act. If the Act, as it exists, is otherwise workable and the amendment sought to be introduced by the Legislature is aimed at a more efficient working of some of the provisions of the Act, the wholesome principle that a law duly enacted and enforced must be given effect to will have to prevail and appropriate directions will have to be issued by the Court to the said effect. Herein, we are reminded of the observations of this Court in *Utkal Contractors and Joinery Pvt. Ltd. and Others* vs. *State of Orissa and Others*[3] which we find appropriate to quote hereinbelow.

> **"Just as Parliament is not expected to use unnecessary expressions, Parlia-**

[3] **AIR 1987 SC 1454 : (1987) 3 SCC 279**

> ment is also not expected to express itself unnecessarily. Even as Parliament does not use any word without meaning something, Parliament does not legislate where no legislation is called for. Parliament cannot be assumed to legislate for the sake of legislation; nor can it be assumed to make pointless legislation. Parliament does not indulge in legislation merely to state what it is unnecessary to state or to do what is already validly done. Parliament may not be assumed to legislate unnecessarily. Again, while the words of an enactment are important, the context is no less important."

19. To answer the question posed above, the provisions of the Act, as it exists, may now be noted. Under Section 4 of the Act, the Chairperson and Members of the Lokpal are required to be appointed by the President on the recommendations of a Selection Committee consisting of-

(a) the Prime Minister – Chairperson;

(b) the Speaker of the House of the People – Member;

(c) the Leader of Opposition in the House of the People – Member;

(d) the Chief Justice of India or a Judge of the Supreme Court

nominated by him – Member;

(e) one eminent jurist, as recommended by the Chairperson and members referred to in clauses (a) to (d) above, to be nominated by the President – Member.

Sub-section (2) of Section 4 makes it clear that the appointment of Chairperson or a Member of the Lokpal will not become invalid merely because of the reason of any vacancy in the Selection Committee. If, at present, the LOP is not available, surely, the Chairperson and the other two Members of the Selection Committee, namely, the Speaker of the Lok Sabha and the Chief Justice of India or his nominee may proceed to appoint an eminent jurist as a Member of the Selection Committee under Section 4(1)(e) of the Act. We also do not see any legal disability in a truncated Selection Committee to constitute a Search Committee for preparing a panel of persons for consideration for appointment as the Chairperson and Members of the Lokpal and also for such a truncated Selection Committee to make

recommendations to the President of India for appointment of the Chairperson and Members of the Lokpal. True, there is no specific provision akin to sub-section (2) of Section 4 of the Act insofar as the constitution of the Search Committee by a truncated Selection Committee is concerned. But the absence of such a provision, by itself, will not invalidate the constitution of the Search Committee by the truncated Selection Committee when the Act specifically "empowers" a truncated Selection Committee to make recommendations for appointment of the Chairperson or Members of the Lokpal. To hold otherwise would be self contradictory. The amendment to Section 4(3), as proposed, would, therefore, be clarificatory and will not amount to an attempt to cure a shortcoming in the Act which is proving to be an inhibition in law to the appointment of the Chairperson/ Members of the Lokpal. The view of the Parliamentary Standing Committee with regard to the expediency of the Search/Selection Committee taking decisions when

vacancy/vacancies exists/exist is merely an opinion with which the Executive, in the first instance, has to consider and, thereafter, the legislature has to approve. The said opinion of the Parliamentary Standing Committee would therefore not be sacrosanct. The same, in any case, does not have any material bearing on the validity of the existing provisions of the Act.

20. A consideration of the other provisions of the Act in respect of which amendments have been proposed, as indicated in the Chart extracted above, and the views of the Parliamentary Standing Committee in this regard which are available in its report, in our considered view, are attempts at streamlining the working of the Act and in no way constitute legal hindrances or bars to the enforcement of the provisions of the Act as it stands today. In this regard, all that the Court would like to say and observe is that such attempts at achieving better results in the working of any

statute is a perpetual and ongoing exercise dictated by the experiences gained on the working of the act. Such attempts cannot halt the operation and execution of the law which the Executive in its wisdom has already given effect to and has brought into force by resorting to the provisions of Section 1(4) of the Act.

21. At this stage it may not be out of context to notice the stated objects and reasons for the Legislation which highlights its unique character and importance in the contemporary world.

> **"The need to have a legislation for Lokpal has been felt for the quite some time. In its interim report on the 'Problems of Redressal of Citizen's Grievances', submitted in 1966, the Administrative Reforms Commission, *inter alia*, recommended the setting up of an institution of Lokpal at the Centre. To give effect to this recommendation of the Administrative Reforms Commission, eight Bills on Lokpal were introduced in the *Loka Sabha* in the past. However, these Bills had lapsed consequent upon the dissolution of the respective *Loka Sabha;* except in the**

case of 1985 bill, which was subsequently withdrawn after its introduction.

India is committed to pursue the policy of 'Zero Tolerance against Corruption'. India ratified the United Nations Convention against Corruption by deposit of Instrument of Ratification on the 9th of May, 2011. This Convention imposes a number of obligations, some mandatory, some recommendatory and some optional on the Member States. The Convention, *inter alia*, envisages that State Parties ensure measures in the domestic law for criminalization of offences relating to bribery and put in place an effective mechanism for its enforcement. The obligations of the Convention, with reference to India, have come into force with effect from the 8thof June, 2011. As a policy of Zero tolerance against Corruption, the Bill seeks to establish in the country, a more effective mechanism to receive complaints relating to allegations of corruption against public servants, including, Ministers, Members of Parliament, Chief Ministers, Members of Legislative Assemblies, public servants and to inquire into them and take follow up actions. The bodies, namely, Lokpal and Lokayuktas which are being set up for the purpose will

> **be constitutional bodies. This setting up of these bodies will further strengthen the existing legal and institutional mechanism thereby facilitating a more effective implementation of some of the obligations under the aforesaid Convention."**

22. We, therefore, conclude by quoting Justice Krishna Iyer *In Reference, the Special Courts Bill, 1978*[4] *and* holding that the Act as it stands today is an eminently workable piece of legislation and there is no justification to keep the enforcement of the Act under suspension till the amendments, as proposed, are carried out.

> **"The pathology of our public law, with its class slant, is that an unmincing ombudsman or sentinel on the *qui vive* with power to act against those in power, now or before, and offering legal access to the informed citizen to complain with immunity does not exist; despite all the bruited umbrage of political performers against peculations and perversions by higher echelons. Law is what law does, not what law says; and the moral gap between word and deed menaces people's faith in life and law. The tragedy,**

[4] **AIR 1979 SC 478 : (1979) 1 SCC 380**

> **then, is that democracy becomes a casualty."**

23. For the aforesaid reasons, the writ petitions and the transferred cases shall stand allowed as indicated above.

....................,J.
(RANJAN GOGOI)

....................,J.
(NAVIN SINHA)

NEW DELHI
APRIL 27, 2017