REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 163 OF 2022
[Arising out of SLP (Civil) No. 34681 of 2017]

SHRI KSHETRIMAYUM MAHESHKUMAR SINGH AND ANR. ….. APPELLANTS

VERSUS

THE MANIPUR UNIVERSITY AND ORS. ….. RESPONDENTS

J U D G M E N T

Hima Kohli, J.

Leave granted.

1. The appellants are aggrieved by the judgment dated 21st August, 2017 passed by the High Court of Manipur at Imphal in Writ Petition (C) No. 753 of 2014 whereunder, amongst others, it has been held that after the amendment of the Central Educational Institutions (Reservation in Admission) Act, 2006[1], in the year 2012, on introduction of the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012[2], respondent No. 1 - Manipur University[3] is required to follow the reservation norms of 2% for the candidates belonging to Scheduled Caste [SC], 31%

1 For short "the Reservation Act"
2 For short 'the Amendment Act"
3 'University'

for the Scheduled Tribes [ST] and 17% for the Other Backward Classes [OBC] for purposes of admission in the University.

2. To contextualize the issue raised in the present appeal, it is necessary to briefly refer to the relevant facts of the case. Respondent no. 1-University was initially established as a 'State University' under the Manipur University Act, 1980 that came into force on 05th June, 1980. In the year 2005, the Manipur University Act was legislated, whereafter respondent No. 1 – University was converted from a 'State University' to a 'Central University' w.e.f. 13th October, 2005. On 04th January, 2007, the Reservation Act was notified. Section 3 of the said Act prescribed reservation of seats in the Central Educational Institutions and laid down as follows:

> **"3. Reservation of seats in Central Educational Institutions. –**
>
> The reservation of seats in admission and its extent in a Central Educational Institution shall be provided in the following manner, namely:-
>
> i out of the annual permitted strength in each branch of study or faculty, **fifteen per cent. seats shall be reserved for the Scheduled Castes**;
> ii out of the annual permitted strength in each branch of study or faculty, **seven and one-half per cent. seats shall be reserved for the Scheduled Tribes**;
> iii. out of the annual permitted strength in each branch of study or faculty, **twenty-seven per cent. seats shall be reserved for the Other Backward Classes**."
>
> [emphasis supplied]

3. The expression "*out of the annual permitted strength*" referred to in Section 3 above, has been defined in Section 2(b) in the following words:

"**2. Definitions:-**

In this Act, unless the context otherwise requires,-

xxx xxx xxx

b. "**annual permitted strength**" means the number of seats, in a course or programme for teaching or instruction in each branch of study or faculty authorised by an appropriate authority for admission of students to a Central Educational Institution;

xxx xxx xxx"

4. From the academic year 2009-10 onwards, respondent No. 1 – University started following the reservation norms as prescribed in the Reservation Act. On 20th June, 2012, the aforesaid Statute was amended by virtue of the Amendment Act and as a result of the said amendment, Clauses (ia) and (ib) were inserted in Section 2, i.e. the definition clause and two provisos were inserted in Section 3. Further, Clause (a) of Section 4 was omitted and sub-sections (1) and (2) of Section 5 were amended. The aforesaid Amendment Act, 2012 that forms the bedrock of the grievance raised in the present appeal, is extracted below for ready reference:

"THE CENTRAL EDUCATIONAL INSTITUTIONS (RESERVATION IN ADMISSION) AMENDMENT ACT,2012
NO. 31 OF 2012 [19th June, 2012]

PREAMBLE
An Act to amend the Central Educational Institutions (Reservation in Admission) Act, 2006 Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows: -

SECTION - 1. **Short title**.-This Act may be called the Central Educational institutions (Reservation in Admission) Amendment Act, 2012.

SECTION - 2. Amendment of section 2 -In section 2 of the Central Educational Institutions (Reservation in Admission) Act, 2006 (5 of 2007) (hereinafter referred to as the principal Act), after clause (i), the following clauses shall be inserted, namely:-

(ia) **"Specified north-eastern region" means the area comprising of the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and the tribal areas of Assam referred to in the Sixth Schedule to the Constitution;**

(ib) "**State seats**", in relation to a Central Educational Institution, means such seats, if any, out of the annual permitted strength in each branch of study or faculty as are earmarked to be filled from amongst the eligible students of the State in which such institution is situated;

SECTION -3. Amendment of section 3.- In section 3 of the principal Act, the following provisos shall be inserted, namely:-"Provided that the State seats, if any, in a Central Educational Institution situated in the tribal areas referred to in the Sixth Schedule to the Constitution shall be governed by such reservation policy for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, as may be specified, by notification in the Official Gazette, by the Government of the State where such institution is situated:

Provided further that if there are no State seats in a Central Educational Institution and the seats reserved for the Scheduled castes exceed the percentage specified under clause (i) or the seats reserved for the Scheduled Tribes exceed the percentage specified under clause (ii) or the seats reserved for the Scheduled Castes and the Scheduled Tribes taken together exceed the sum of percentages specified under clauses (i) and (ii), but such seats are-

(a) less than fifty per cent. of the annual permitted strength on the date immediately preceding the date of commencement of this Act, the total percentage of the seats required to be reserved for the Other Backward Classes under clause (iii) shall be restricted to the extent such sum of percentages specified under clauses (i) and (ii) falls short of fifty per cent. of the annual permitted strength,;

(b) more than fifty per cent. of the annual permitted strength on the date immediately preceding the date of commencement of this Act, in that case no seat shall be reserved for the Other Backward Classes under clause (iii) but the extent of the reservation of seats for the Scheduled Castes and the Scheduled Tribes shall not be reduced in respect of Central Educational Institutions in the specified north-eastern region.".

SECTION - 4. **Amendment of section 4**.-In section 4 of the principal Act, clause (a) shall be omitted.

SECTION - 5. Amendment of section 5.-In section 5 of the principal Act, - (a) in sub-section (1), for the words "number of such seats available", the words "number of such seats available or actually filled, wherever be less, shall be substituted;

(b) in sub-section (2), for the words "three years", the words "six years" shall be substituted."

[emphasis supplied]

5. Relying on the provision of reservation made under Section 3 of the Reservation Act, Respondent No. 1 – University promulgated Ordinance 5.2, that prescribes rules relating to admission to the University and

Ordinance 5.4 deals with reservation of seats and other special provisions for admission to the University, both in the year 2014. Rule 18 of Ordinance 5.2 reads as below:

> "18. **15% of the seats in the academic programmes offered by the University shall be reserved for students belonging to Scheduled Caste, 7-1/2 % for students belonging to Scheduled Tribe and 27% for students belonging to Other Backward Classes**.
>
> Provided that nothing in this section shall be deemed to prevent the University from making special provisions for admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens.
>
> Provided further that no such special provision shall be made on the ground of domicile."
>
> [emphasis supplied]

6. While Rule 1 of Ordinance 5.4 deals with reservation of seats, Rule 2 deals with reservation of seats for students belonging to SC & ST categories. Respondent No. 1 – University has stipulated in Rule 2.1 of Ordinance 5.4 as below:

> "**2. Scheduled Castes and Scheduled Tribes**
>
> 22.5% of seats in all Courses will be reserved for Scheduled Castes and Scheduled Tribes candidates in the following order:
>
> **2.1 15% of seats will be reserved for Scheduled Castes and 7.5% Scheduled Tribes. 27% of seats will be reserved for OBC.** "

7. For the academic year 2014-15, respondent No. 1- University issued a prospectus, stating *inter alia* that seats shall be reserved as per the Government of India norms. In the Press Release dated 24th July, 2014, respondent No. 1 – University clarified that for conducting admissions for

the academic year 2014-15, reservation will be provided to the extent of 2% for SC category, 31% for ST category and 17% for OBC category.

8. Aggrieved by the denial of admission to them, the appellants, who are candidates belonging to the SC category and had applied for admission in various Post Graduate courses, questioned the purported reduction of the quota for SC category candidates from 15%, as prescribed in Section 3 of the Reservation Act to 2% and filed a writ petition in the High Court of Manipur which was disposed of by the learned Single Judge *vide* order dated 01st September, 2015, holding *inter alia* that the percentage of reservation for SC and ST candidates, as was applied to the respondent No. 1 – University prior to the commencement of the Reservation Act, would be adopted for determination of percentage of reservation for the reserved categories in question. It was specifically directed that the percentage of reservation for the students belonging to the SC, ST and OBC categories in the University, would be 2%, 31% and 17% respectively for admission to various courses. However, the Court declined to go into the actual calculation of the seats notified as reserved by the respondent No. 1 – University and confined itself to the principles to be adopted for determination of percentage of reservation of seats on which basis, calculation of the seats had to be made.

9. Dissatisfied by the aforesaid judgment dated 01st September, 2015, the appellants filed Writ Appeal No. 40 of 2015 before the High Court of

Manipur at Imphal. As no Division Bench was available due to paucity of Judges in the said Court, recourse was taken to filing a Transfer Petition before this Court, which was allowed and the captioned writ appeal was transferred to the High Court of Meghalaya at Shillong for adjudication by a Division Bench and was re-numbered as Writ Appeal No. 83 of 2016.

10. *Vide* judgment dated 20th April, 2017, the Division Bench of the High Court of Meghalaya remanded the matter back to the learned Single Judge of the Manipur High Court for consideration afresh and called upon the said Court to examine and decide the percentage of reservation for SC, ST and OBC categories in the light of the second *proviso* to Section 3 of the Reservation Act [as amended vide Amendment Act] and the effect of Ordinance 5.2 and Ordinance 5.4, promulgated by the respondent No. 1 – University. It is on remand that the impugned judgment dated 21st August, 2017 has been passed by the High Court of Manipur, the concluding para whereof is extracted below for ready reference:

> "[71] This Court accordingly, concludes and directs as follows:
>
> (i) This Court holds, as also held by Hon'ble Division Bench, that the *Second Proviso* provides the formulae for working out the percentage of reservation for the OBCs in the Institutions located in the States within the specified north eastern region which is to be worked out on the basis of the figures of percentages for the SCs and STs existing on the date immediately preceding the date of commencement of the Act of 2006.
>
> (ii) It is this set of figures of percentages for the SCs and STs existing on the date immediately preceding the date of commencement of the Act of 2006 ascertained and used for working out the percentage of reservation for the OBCs, which would also be the percentages of reservation for admission for the SCs and STs after the amendment of the Central Educational Institutions (Reservation in Admission) Act, 2006 by the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012, and the Institute or the Manipur University cannot

anymore invoke Clause (i) and (ii) of Section 3 to determine the reservation for the SCs and STs separately.

(iii) The Central Educational Institutions (Reservation in Admission) Act, 2006 as amended in the year 2012, does not provide nor the Hon'ble Division Bench had held that, once the aforesaid set of figures of percentages for SCs and STs existing on the date immediately preceding the date of commencement of the Act of 2006 have been ascertained and used for working out the percentage of reservation for the OBCs, this set has to be jettisoned and ignored and the Institute. (Manipur University in this case) can go back to Clauses (i) and (ii) of Section 3 to determine the reservation of reservation for the SCs and STs independent of the figures used under the *Second Proviso* after the amendment of the Central Educational Institutions (Reservation in Admission) Act, 2006 in 2012.

Neither the Act, nor the Hon'ble Division Bench has stated that irrespective of the formula for ascertaining the percentage of reservation for the OBCs as provided under the *Second Proviso* to Section 3 of the Act after the amendment in 2012, the Institute has to apply Clauses (i) and (ii) of Section 3 of the Act to fix the percentage of reservation for the SCs and STs.

(iv) *Second Proviso* was specifically inserted for the Central Educational Institutions located in the specified North Eastern Region for protecting the interest of STs, particularly as evident from the Clause (b) of the *Second Proviso*. It protects the interest of the STs wherever, their percentage of reservation is more than what is prescribed under Clause (ii) of Section 3 of the Act. The Act specifically provides that even if the extent of reservation of seats of the STs & SCs exceed 50% of the annual permitted strength on the date immediately preceding the date of commencement of the Act, there shall not be reservation for the OBCs under Clause (3) but, the extent of reservation of seats for STs & SCs shall not be reduced.

(v) The Institute has to determine the percentages of reservation for admission for the SCs, STs and OBCs on the basis of the Central Educational institutions (Reservation in Admission) Act, 2006 as amended in 2012 and not on the basis of any other statute. In the present case, the Manipur University has to fix the percentages of reservation for the SCs, STs and OBCs on the basis of the Central Educational Institutions (Reservation in Admission) Act, 2006 as amended in 2012 and not on the basis of Section 31(1)(a) or any other provision of the Manipur University Act, 2005 as the Manipur University Act is no more the source of authority for determining the percentages of reservation after the implementation of the Central Educational Institutions (Reservation in Admission) Act, 2006.

(vi) The reservation norm has to be adopted by the Manipur University by referring to the Central Educational Institutions (Reservation in Admission) Act, 2006 as amended by the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 only and by not referring to any provision of the Manipur University Act, 2005.

(vii) Accordingly, any Statute or Ordinance or any rule or notification fixing the percentage of reservation for admission framed/issued by the Manipur University has to conform to the aforesaid norm of 2% for the Scheduled Castes, 31 % for the Scheduled Tribes and 17% for the Other Backward Classes worked out and ascertained in terms of the *Second Proviso* to

> Section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006 as amended in 2012. Any other norm not conforming to the above will be invalid being in contravention of the Central Education Institutions (Reservation in Admission) Act, 2006 as amended in 2012.
>
> (viii) Ordinances 5.2 and 5.4 made by the Manipur University as far as determining the percentages of reservation for the SCs, STs and OBCs are concerned, are not valid. Hence, these have no value, worth or effect as far as the issue of determination of the percentages of reservation for the SCs, STs and OBCs in Manipur University is concerned.
>
> (ix) In any event, it has not been shown by these Ordinances, how the Manipur University had fixed the percentage of reservation for the OBCs at 27% in the face of the formulae specifically provided under the *Second Proviso* for working out the percentage of reservation for the OBCs and also for the SCs and STs. To that extent, these Ordinances also suffer from the vice of arbitrariness.
>
> (x) The validity of these Ordinances relating to other matters, other than fixation of percentage of reservation for admission of students, not being an issue in this petition, is left open to be decided in appropriate case.
>
> **(xi) Before the implementation of the Central Educational Institutions (Reservation in Admission) Act, 2006, Manipur University was following the reservation norm of 2% for the Scheduled Castes, 31 % for the Scheduled Tribes and 17% for the Other Backward Classes.**
>
> **(xii) After the implementation of the Central Educational Institutions (Reservation in Admission) Act, 2006, Manipur University started following the reservation norm as per Clauses (i), (ii) and (iii) of Section 3 of the Act to the extent of 15% for the Scheduled Castes, 7.5% for the Scheduled Tribes, and 27% for the Other Backward Classes from the academic year 2009-2010.**
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> **(xiii) After the amendment of the Central Educational Institutions (Reservation in Admission) Act, 2006 in 2012 introduced by the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012, Manipur University has to follow the reservation norm of 2% for the Scheduled castes, 31 % for the Scheduled Tribes and 17% for the Other Backward Classes.**"
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> [emphasis supplied]

11. Ms. Punam Kumari, learned counsel for the appellants has assailed the impugned judgment contending that the High Court has erred in taking a view that the *proviso* inserted *vide* the Amendment Act, would be applicable to a Central Educational Institution[4] located in States falling

4 For short "the CEI"

within the "S*pecified north eastern region"* and that the extent of reservation would have to be worked out on the basis of the figures of percentage for the SCs and STs, as was existing on the date immediately preceding the date of commencement of the Reservation Act. It is her submission that the amendments brought about by the Amendment Act are only in respect of tribal States falling under the purview of the Sixth Schedule to the Constitution of India[5] and not in respect of other States including a State like Manipur falling under *"Specified north eastern region",* defined in the amended Section 2 (ia) of the Parent Act [Reservation Act].

12. Learned counsel for the appellants sought to draw a distinction between the amended Section 2 (ia) that defines *"Specified north eastern region"* and the amended Section 3 by virtue of the Amendment Act by urging that clause (ia) of Section 2 has been inserted only to group together all North Eastern States, irrespective of whether they fall under the Sixth Schedule to the Constitution or not, whereas Section 3 makes a separate provision for a tribal State. She submitted that the second *proviso* was inserted in Section 3 only to ensure that the percentage of reservation provided for in Section 3 (i) and (ii) of the Reservation Act that laid down the percentage of reservation of seats for SC and ST candidates as 15% and 7.5% respectively, were to be maintained and not that the same could be increased or decreased by the CEI in a *"Specified north eastern region".* It was canvassed that the group of States defined in Section 2 (ia) as

5 For short "the Constitution"

"Specified north eastern region", have been created by the Amendment Act with the specific purpose of protecting the interest of SC and ST candidates belonging to other North Eastern States that are not tribal States and contrary to the said provision, respondent No. 1 – University has reduced the quota of seats for SC candidates, which is impermissible.

13. It was further sought to be pointed out on behalf of the appellants that amendment to Section 3 of the Reservation Act was necessitated only because Section 4(a) of the Reservation Act, stood omitted by the Amendment Act. Pertinently, Section 4(a) of the Reservation Act as it stood prior to the amendment, stated that the provision of Section 3 of the Act would not apply to a CEI established in tribal areas, referred to in the Sixth Schedule to the Constitution. It was submitted that the intention of the Legislature in amending the Reservation Act by introducing the Amendment Act was not to make the amendments applicable to CEIs situated in non-tribal States like the State of Manipur and the expression *"on the date immediately preceding the date of commencement of the Reservation Act"*, as used in the *second proviso* to Section 3 of the Act, qualifies the expression *"annual permitted strength"* as used in Section 3 and defined in Section 2(b) of the Parent Act and not the extent of reservation.

14. To sum up, it is the contention of learned counsel for the appellants that the Amendment Act was legislated to ensure that reservation for SC and ST candidates as prescribed in Section 3 of the Parent Act, should not

be reduced from the benchmark of 15% and 7.5% respectively. Rather, the Amendment Act contemplates that the percentage of reservation for SC and ST candidates earmarked in Section 3 of the Parent Act could be increased even to the detriment of the earmarked percentage of reservation for OBC candidates, to ensure that the overall limit of 50% reservation for SC and ST candidates taken collectively, is not disturbed in any manner.

15. Mr. Sanjay Jain, learned Additional Solicitor General appeared for the respondent No. 5 - Union of India that has filed a counter affidavit through the Ministry of Human Resource Development. In its counter affidavit, Union of India has supported the findings returned in the impugned judgment to the effect that the percentage of reservation for SC and ST candidates was existing and being applied by the respondent No. 1 – University when it was a 'State University', before the commencement of the Reservation Act, viz. 31% for STs and 2% for SCs which was required to be adopted for determination of the percentage of reservation for ST and SC candidates in the University and that the percentage of reservation for OBC candidates was to be restricted to the extent of the percentages of reservation for the ST and SC candidates taken collectively, provided it falls short of 50% of the annual permitted strength, as provided under clause (a) of the *second proviso* to the amended Section 3 of the Reservation Act. It is the stand of the Union of India that the percentage of reservation for SC, ST and OBC candidates has been correctly pegged at 2%, 31% and 17% respectively for

admission to various courses in the respondent No. 1 – University, since the same percentage was applicable immediately preceding the date of commencement of the Reservation Act.

16. Mr. Ashutosh Dubey, learned counsel appearing on behalf of respondent No. 7, an ST category candidate has supported the stand taken by the respondent No. 5 - Union of India and submitted that the plea of the appellants for restoration of minimum 15% reservation for SC students is impermissible. He argued that the respondent No. 1 – University is a 'Central University' and is governed by the Rules and Regulations of the Central Government which in this case, translates into the Reservation Act. He clarified that the respondent No. 1 – University had the status of a 'State University' only till the year 2005 and at that point in time, it was following the then prevalent rules of reservation in the State of Manipur viz. 2% for SC candidates and 31% for ST candidates for admission in courses offered by the University. However, the said position changed when the respondent No. 1 – University was granted the status of a 'Central University' in the year 2005 and was thereafter governed under the Reservation Act which came into force w.e.f. 03rd January, 2007. On being designated as a Central University, respondent No. 1 – University discontinued the reservation norms of the State Government and started following the reservation norms provided under Section 3 of the Reservation Act i.e., 15% for SCs, 7.5% for STs and 27% for OBCs. Learned counsel clarified that the respondent No.

1 – University was not covered under the exemption clause provided under Section 4 (a) of the Parent Act that was subsequently repealed since the University is not an "institution established in tribal areas", referred to in the Sixth Schedule to the Constitution. Only after enactment of the Amendment Act did the respondent No. 1 – University make changes in its reservation policy and in compliance to the *proviso* of Section 3, inserted post amendment, the University restored the earlier norms of reservation by reserving 2% seats for SCs, 31% seats for STs and 17% seats for OBCs. Learned counsel for the respondent No. 7 concluded by submitting that the impugned judgment projects the correction position and does not warrant any interference by this Court.

17. Mr. Shivendra Dwivedi, learned counsel appearing for the respondent Nos. 8, 9 and 10 has also supported the findings returned in the impugned judgment and submitted that in compliance to the Amendment Act, respondent No. 1 - University has rightly calculated the ratio of reservation of seats in admission to 31% for ST, 2% for SC and 17% for OBC candidates. He submitted that a plain reading of the last part of clause (a) of the *second proviso* to Section 3 of the Parent Act, as amended vide Amendment Act makes it amply clear that in view of the substantial tribal population in the State of Manipur and the other States mentioned in Section 2(ia) that defines "*Specified north eastern region",* the ratio of reservation for SC and ST candidates prevailing immediately before the

enactment of the Reservation Act would not be reduced. At the same time, the said ratio of reservation would not be controlled by the general rule of the ratio of reservation as provided under Clause (i), (ii) and (iii) of Section 3 of the Parent Act. Learned counsel sought to urge that Amendment Act was necessitated only to rectify the anomaly in Section 3 of the Reservation Act that provided a blanket reservation for SC, ST and OBC candidates while overlooking the fact that in the case of the State of Manipur, over 42% of the population is tribal as against only 3.4% of the population that falls under the SC category. He sought to explain that the *second proviso* was inserted in Section 3 of the Parent Act to carve out an exception to the general rule of reservation as provided in Clauses (i), (ii) and (iii) of Section 3 and that respondent No. 1 - University is squarely covered under the said *proviso* since there is no State seat reserved in the said University for purposes of allocation which is the first requirement prescribed for application of the second proviso inserted in Section 3 of the Act.

18. Learned counsel appearing for the respondent No. 6 – the UGC has, however, subscribed to the arguments advanced by learned counsel for the appellants and submitted that reduction of the number of seats reserved for SC candidates in the respondent No. 1 – University runs contrary to the mandate of the Reservation Act. It is his submission that the Amendment Act provides for reduction of reservation to the OBC category candidates to the extent that there need not be any reservation at all for the said category

only to ensure that there is no reduction in the overall seats reserved for the SC and ST candidates. Referring to the *provisos* incorporated in Section 3 of the Parent Act by virtue of the amendments, learned counsel submitted that the requirement that "*the extent of reservation of seats for Scheduled Castes and Scheduled Tribes shall not be reduced in respect of Central Education Institutions in specified North Eastern Regions"* applies not only to the situation contemplated in Clause (a) to the *second proviso* appended to Section 3 of the Parent Act, but also to Clause (b) to the *second proviso*. In other words, reservation made for SC and ST candidates should not be reduced to the extent below what was prevailing before the Reservation Act, 2006 came into force or after the said enactment thereby meaning that reservation for SC candidates could not be less than 15% and for ST candidates could not be less than 7.5%. Therefore, provision of only 2% reservation to SC candidates by the respondent No. 1 – University violates the mandates of Section 3 of the Parent Act.

19. We have perused the impugned judgment and given our thoughtful consideration to the multifaceted arguments advanced by learned counsel for the parties.

20. It is not in dispute that respondent No. 1 – University was originally established as a 'State University' in the year 1980 under the Manipur University Act No. 8 of 1980. As a State University, respondent No. 1 – University was following the Manipur Sate reservation policy by reserving

2% seats for SC candidates and 31% for ST candidates for admission into various courses. On 13th October, 2005, the respondent No. 1 – University was converted into a 'Central University' under the Manipur University Act No. 54 of 2005. After conversion too, respondent No. 1 - University continued following the Manipur State Reservation Policy, i.e., 2% for SC and 31% for ST for admission upto the academic session 2008-2009. On 3rd January, 2007, the Reservation Act came into force. Pursuant thereto, the respondent No. 1 – University started following the reservation policy as prescribed in Section 3 of the Reservation Act i.e. 15% for SCs, 7.5% for STs and 27% for OBCs for the academic session 2009-2010 onwards. A shift in reservation came on amendment of the Reservation Act by virtue of the Amendment Act w.e.f. 19th June, 2012.

21. The necessity to amend the Reservation Act can be gleaned from a glance at the Statement of Objects and Reasons appended to the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010[6] which is extracted hereinbelow for ready reference:

STATEMENT OF OBJECTS AND REASONS

> The Central Educational Institutions (Reservation in Admission) Act, 2006 provides, *inter alia*, for the reservation in admission of students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes of citizens to the extent of fifteen per cent., seven and one-half per cent. and twenty-seven per cent. respectively to certain Central Educational Institutions established, maintained or aided by the Central Government. It also provides for mandatory increase of seats in such institutions over a maximum period of three years from the academic session commencing on and from the calendar year, 2007. Section 4 of the aforesaid Act further provides that the provisions of the

6 For short 'the Amendment Bill'

> Act are not applicable to certain Central Educational Institutions including those established in the tribal areas referred to in the Sixth Schedule to the Constitution.
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> 2. **It is noted that some of the Central Educational Institutions particularly those situated in the North-Eastern States including Sikkim (but excluding the non-tribal areas of Assam) inhabited significantly, and in some cases predominantly by tribal population and Babasaheb Bhimrao Ambedkar University, Lucknow, which has been reserving fifty per cent. seats for the Scheduled Castes and the Scheduled Tribes in keeping with the objects specified in the Act establishing that University, have been showing their inability to reduce the extent of reservation of seats for the Scheduled Castes and the Scheduled Tribes prevailing therein, in order to give way for reservation of twenty-seven per cent. of seats for the Other Backward Classes as stipulated under the Act. Further, the existing provisions of the Act exempt the Central Educational Institutions situated in the tribal areas referred to in the Sixth Schedule to the Constitution from reservation for the Scheduled Castes and the Scheduled Tribes, if any, but this was not intended while enacting the aforesaid Act, except in case of Minority Educational Institutions which are exempt in terms of clause (5) of article 15 of the Constitution. Moreover, some of the Central Educational Institutions have been finding it difficult to adhere to the time-limit of three years for creation of the requisite physical and academic infrastructure owing to various reasons beyond their control.**
>
> 3. In order to remove the aforesaid practical difficulties being faced by the various Central Educational Institutions in giving effect to the provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006, it has become necessary to amend certain provisions of the Act. It is also proposed to clarify that implementation of the Act has, in fact, taken effect from the calendar year 2008 and not from the year 2007 as specified in section 6 of the Act.
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> 4. The Bill seeks to achieve the above objects."
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> [emphasis supplied]

22. The aforesaid Bill was placed before the Parliamentary Standing Committee on Human Resources Development[7], that submitted its 234th Report, which was tabled before both the Houses of the Parliament on 26th February, 2011. The Standing Committee took note of the Statement of Objects and Reasons for amending the Reservation Act as reproduced hereinabove and also noticed the practical difficulties faced by some of the CEIs in implementing the provisions of the Reservation Act as expressed by the Department of Higher Education. The clarifications given by the Department of Higher Education for proposing amendment to Section 3 of the Parent Act have been summarized in paras 3.4 and 3.5 of the Report as below: -

7 For short ' the Standing Committee'

"**3.4** The Committee takes note of the following clarification given by the Department for bringing the proposed amendments in Section 3: -

(i) State Seats, if any, in a Central Educational Institution (CEI) situated in the tribal areas referred to in the Sixth Schedule to the Constitution shall be governed by the reservation policy of the concerned State Government in the matter of admissions of SCs, STs and OBCs to that CEI.

(ii) In a CEI with no State seats, if the seats reserved for the SCs exceed 15 per cent or the seats reserved for the STs exceed 7 .5 per cent or the seats reserved for the SCs and the STs taken together in a CEI exceed 22.5 per cent but fall short of 50 per cent of the annual permitted strength, the percentage of seats reserved for the OBCs shall be restricted to such shortfall.

(iii) In a CEI with no State Seats, if the seats reserved for SCs or the STS or both taken together in a CEI exceed 50 per cent of the annual permitted strength, that CEI shall be exempt from making any reservation for the OBCs. Further, if such a CEI is situated in the north-eastern States, including Sikkim but excluding the non-tribal areas of Assam, the percentage of seats reserved for the SCs or the STs shall not be reduced from the level obtaining on the date immediately preceding the date of the commencement of the Act; while in case of a CEI situated in other areas the percentage of seats reserved for the SCs and STs in that CEI shall stand reduced to 50 per cent.

3.5 While the Committee is convinced with the proposed amendment in Section 3, it would like to point out that there are conceptual difficulties in determining the 13 OBC reservation in the States. While the SC/ST reservation may be definite, it is the OBC reservation which may differ from State to State. The Committee is also aware of the fact that reconciliation has to be made between 50 per cent cap on reservation and 27 per cent OBC quota. The Committee is of the view that OBC percentage is to be decided by taking SC and ST reservation as a compulsory component. Since the extent of reservation is 50 per cent whatever remaining after fulfilling the SC/ST reservation may go to OBCs."

23. The reasons for omitting Clause (a) of Section 4, which exempted application of Section 3 of the Parent Act to a CEI established in tribal areas referred to in the Sixth Schedule to the Constitution, was discussed in paras 3.7 and 3.8 of the Report in the following manner: -

"3.7 This clause seeks to omit clause (a) of section 4, thereby withdrawing the exemption erroneously given to the CEIs established in the tribal areas referred to in the Sixth Schedule to the Constitution from implementing the reservation policy for SCs and STs, if any, in force immediately preceding the date of the coming into force of the principal Act.

3.8 On a specific query about the factors necessitating the proposed amendment, the Committee was informed that as per the existing provision, reservation policy for SCs, STs and OBCs could not be

> considered to be applicable to CEIs established in the tribal areas. While the intention of the Government was to exempt such CEIs from implementing 27 per cent reservation introduced for the OBCs only, these institutions were inadvertently exempted from reservation for SCs/STs as well, if any, in force, immediately preceding the date of coming into force of the Act. **In view of the clarification given by the Department, the Committee accepts the proposed amendment so as to remove any ambiguity with regard to specific ground realities governing the CEIs established in the Sixth Schedule States."**

24. It is noteworthy that the Division Bench of the High Court of Meghalaya did discuss the 234th Report at page 24 of the judgment dated 20th April, 2017, in the context of the reasons offered by the learned Single Judge in the earlier judgment dated 1st September, 2015 wherein it was held that by an inference drawn from the said Report, one could determine the percentage of reservation for SC and ST candidates for purposes of applying the second *proviso* inserted in Section 3 of the Parent Act post-amendment, but the appellate court was not persuaded by the said logic.

25. It is no longer *res integra* that Reports and recommendations made by the Parliamentary Committees/Commissions that precede enactment of a Statute can be used as external aids to interpret the meaning of ambiguous words in a statutory provision wherever considered necessary. It can also be taken note of as to the existence of a historical fact. At the same time, it must be borne in mind that such Reports are not decisive and a Court is free to arrive at a different conclusion based on its own findings and other evidence produced by the parties. [Refer ***State of Mysore v. R.V. Bidap***[8], ***R.S. Nayak v. A.R. Antulay***[9] and ***Kalpana Mehta and Others. v. Union of***

8 (1974) 3 SCC 337
9 (1984) 2 SCC 183

India and Others[10]]. For our purpose, we do not intend to take notice of the said Report with an idea of determining the extent of reservation for SC and ST candidates in the light of the amendment by way of insertion to Section 3 of the Parent Act. However, the said Report can be treated as a useful tool to fathom the background in which the Amendment Act was introduced and throw light on what had weighed with the legislating authorities in proposing the amendments to the Reservation Act.

26. It can be discerned from the Statement of Objects and Reasons appended to the Amendment Bill, the background notes submitted to the Standing Committee by the Department of Higher Education and the 234th Report tabled by the Standing Committee in the Parliament that some of the CEIs, in particular those situated in North Eastern States having a pre-dominant tribal population, expressed their inability to reduce the extent of reservation of seats for SCs and STs for ensuring reservation of 27% of the seats for the OBC category, as stipulated in the Reservation Act. It can also be seen that the provisions of the Reservation Act as they stood, exempted CEIs situated in tribal areas referred to in the Sixth Schedule to the Constitution, from making any reservation for SCs and STs, which as a matter of fact, was not the object behind introducing the enactment. Recognising the fact that the composition of the population in the North Eastern States ought to be given precedence, the Standing Committee stated in its Report that while the extent of reservation of seats for SCs/STs

10 (2018) 7 SCC 1

may be definite, OBC reservation may differ from State to State. It was with the idea of reconciliating 50% cap on reservation for SCs/STs and 27% for the OBC quota, that the Amendment Bill was introduced primarily to remove the existing ambiguities and to overcome the difficulties that were being faced by the CEIs established in the Sixth Schedule States, to accommodate the aspirations of a large tribal population in that region.

27. In the aforesaid backdrop, learned counsel for the appellants cannot be heard to state that the amendments brought about in the Reservation Act by legislating the Amendment Act were only directed towards tribal States covered by the Sixth Schedule to the Constitution and cannot be made applicable to the State of Manipur, even though the definition of the expression "*Specified north eastern region*" introduced by virtue of the amended Section 2(ia) encompasses the State of Manipur. Nor is this Court persuaded by the submission made on behalf of the appellants that the *second proviso* was inserted in Section 3 only to make sure that the percentage of reservation provided for in Section 3(i) and (ii) of the Parent Act would remain untouched. Accepting such a submission would tantamount to negating the very aim and object of the Amendment Act, which was enacted only to resolve the difficulties that were being faced by the CEIs in implementing the Reservation Act when it came to the North Eastern States, including the State of Manipur. The two *provisos* inserted in Section 3 of the Parent Act are nothing but a recognition of the demography

of the North Eastern States covered under the umbrella of "*Specified north eastern region*" which have a substantial tribal population.

28. It is in the light of the aforesaid factors that it has been held in the impugned judgment that the respondent No. 1 – University was correct in calculating the extent of reservation of seats in making admissions to different courses, viz., 31% for ST candidates, 2% for SC candidates and 17% for OBC candidates which is in line with the mandate of the Amendment Act. The aforesaid understanding of the respondent No. 1 – University is also reflected from the affidavit filed by it in opposition to the writ petition filed by the appellants, in particular, paras 5 and 9 thereof, which are extracted below for ready reference :

> "5. **That, in reply to the contents of the paragraph No. 4 of the writ petition under reply, it is submitted that in view of the provisions of the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 reservation of seats in respect of reserved categories, candidates have to be 31%, 2% and 17% in respect of ST, SC and OBC candidates respectively. Thus, the seats reserved for SC have to be recalculated in accordance with the said Amendment Act, and it was the same percentage of reservation prevalent in the University prior to the commencement of the Principal Act i.e. the Central Educational Institutions (Reservation in Admission) Act, 2006.** The distribution of seats/break-up for SC/ST/OBC/UR based on the said proportion for reservation was intimated to the Secretary to His Excellency the Governor of Manipur vide the letter dated 23- 07-2014, after obtaining the approval/concurrence of the Heads i and Deans of all subjects of the Manipur University.
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> XXX XXX XXX
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> 9. **That, in reply to the contents of para No. 1O of the writ petition under-reply, it is submitted, as stated in the foregoing paragraphs that the Central Educational 'Institutions (Reservation in Admission) Act; 2006 has been adopted by the Manipur University from the Academic Session 2009-2010 by providing the quota of seats to the candidates belonging to the reserved categories in accordance with the said Act. It is to state that after the enactment of the Amendment Act, 2012 the provision of**

Ordinance 5.2 ceased to exist and the provision of the Act is to be implemented/acted upon, as per the law."

[emphasis supplied]

29. It can be understood from the aforesaid averments made in the affidavit that on the date immediately preceding the date of commencement of the Reservation Act, the respondent No. 1 – University had been reserving 2% seats for SC and 31% for ST candidates for purposes of admission. It has been strenuously argued by learned counsel for the appellants that the meaning ascribed to the words "*date immediately preceding the date of commencement of the 2006 Act*", used in Clause (a) of the second proviso to Section 3 should be taken to mean the date just before enactment of the Amendment Act, i.e., a roll back to the situation as was prevalent when the Reservation Act had come into force viz. 15% for SCs, 7.5% for STs and 27% for OBC candidates. In our opinion, any such interpretation would strike at the root of the Amendment Act which was legislated with the sole object of overcoming the ambiguities that had come to the fore on working out the warp and woof of the Reservation Act, namely, the inability to meet the aspirations of a large number of ST candidates looking for opportunities to gain entry in CEIs located in the areas subsequently defined as the *"Specified north eastern region"* in the Amendment Act.

30. Once the two *provisos* were inserted in Section 3 of the Parent Act by virtue of the Amendment Act, the general norms of reservation as laid down

in Clauses (i), (ii) and (iii) of Section 3 of the Parent Act had to be restricted in terms of the said *provisos*. While the first *proviso* deals with "State seats", if any, in a CEI situated in tribal areas referred to in the Sixth Schedule to the Constitution, the second *proviso* addresses a situation where there are no State seats in a CEI and the seats reserved for the SC/ST candidates exceeds the percentage specified under Clauses (i) and (ii) of Section 3 (viz., 15% seats for SCs plus 7.5% for STs, totalling to 22.5% seats) or if the combined seats reserved for the SC and ST candidates exceeds the sum total of the percentage as specified under Clauses (i) and (ii). Two riders have also been dovetailed in the *second proviso* to Section 3, namely Clauses (a) and (b). Clause (a) of the *second proviso*, contemplates a situation where seats referred to in the *second proviso* are less than 50% of the annual permitted strength on the date immediately preceding the date of commencement of the Amendment Act. Clause (b) provides for a situation where such seats are over 50% of the annual permitted strength on the date immediately preceding the date of commencement of the Amendment Act. In a situation contemplated in Clause (a) of the second *proviso*, a restriction has been imposed on the total percentage of seats required to be reserved for OBC candidates under Section 3(iii) of the Parent Act by limiting them to the balance seats available after factoring in the combined percentage of seats specified in Clauses (i) and (ii) of Section 3 of the Parent Act, falling short of 50% of the annual permitted strength. But in circumstances contemplated in Clause

(b), the Act recognizes the fact that no seats need be reserved for the OBC candidates under Clause (iii) of Section 3 of the Parent Act. However, this is subject to the condition that the extent of reservation of seats for SC and ST candidates shall not be reduced when it comes to CEIs established in "*Specified north eastern region*". This goes to demonstrate that the underlying intent of the Amendment Act was to secure a particular percentage of seats through reservation for a set of candidates and leave some space for capping of seats for OBC candidates, depending on the circumstances contemplated in Clauses (a) and (b) of the second *proviso* to the amended Section 3.

31. In the instant case, the respondent No.1 – University has clarified in its affidavit that prior to commencement of the Reservation Act, the prevalent percentage of reservation for ST and SC candidates was 31% and 2% respectively. Nothing to the contrary has been brought forth by the appellant. That being the position, we are in complete agreement with the findings returned in the impugned judgment that the respondent No. 1 – University was right in reverting back to the position obtaining immediately before the commencement of the Reservation Act by reserving seats in respect of ST, SC and OBC candidates, pegged at 31%, 2% and 17% respectively which was in consonance with the Manipur State Reservation Policy.

32. The submission made by learned counsel for the appellants that the respondent No. 1 – University was under a mandate to follow the norms provided under Clauses (i) and (ii) of Section 3 of the Parent Act while giving a complete go by to the *provisos* inserted in the said provision by virtue of the Amendment Act which, as per the learned counsel, could be applied only to determine the percentage of seats required to be reserved for OBC candidates, is devoid of merits and turned down. To our mind, the learned Single Judge is perfectly right in making the observation that the formulae for fixing the percentage of reservation for the SC and ST candidates and for determining the percentage of seats to be reserved for OBC candidates under the *second proviso* of Section 3, ought to be gathered from the same source and any other interpretation would lead to uncertainty.

33. To put it differently, the reference point of the period for determining the reservation quota for OBC candidates must be the same as that of the SC and ST candidates for the simple reason that for working out the reservation quota for OBC candidates would necessarily require one to find out in the first instance, as to what would be the difference between 50% of the annual permitted strength and the combined existing percentage for the SC and ST candidates, as obtained on the date immediately preceding the date of commencement of the Reservation Act. Both the issues are so interlaced that to determine the percentage of reservation for OBC

candidates, one would have to undertake an exercise of determining the percentage of seats to be reserved for SC and ST candidates, all within the four corners of the *second proviso* inserted in Section 3 of the Parent Act. Any other interpretation sought to be assigned to the *second proviso* to Section 3 inserted post-amendment, would make the proviso itself unworkable and redundant and is, therefore, impermissible. Thus, we make it clear that the general rules of reservation have been encapsulated in Clauses (i), (ii) and (iii) of Section 3 of the Parent Act. But when it comes to CEIs established in States falling under the definition of "*Specified north eastern region*", categorized in Section 2(ia) introduced by the Amendment Act, the two new *provisos* appended to Section 3 would govern the norms of reservation which prescribes a different criteria, *vis-à-vis* the main provision and would apply irrespective of whether they are situated in areas covered by the Sixth Schedule to the Constitution or not.

34. For the aforesaid reasons, the present appeal fails and the impugned judgment is upheld. We endorse the view taken by the learned Single Judge that after amendment of the Reservation Act, the respondent No. 1 – University had to follow the reservation norms of 2% for SC candidates, 31% for ST candidates and 17% for OBC candidates which is in consonance with the *second proviso* to Section 3 of the Reservation Act inserted by virtue of the Amendment Act.

35. The appeal is accordingly dismissed while leaving the parties to bear their own costs.

.....**J.**
[L. NAGESWARA RAO]

.....**J.**
[HIMA KOHLI]

New Delhi,
January 05, 2022.