REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 437 OF 2000

Delhi Bar Association (Regd.) ..... Petitioner

vs.

Union of India & Ors. ... Respondents

WITH

WRIT PETITION (CIVIL) NO. 451 OF 2000 (Som Nath vs. Union of India & Ors.),
WRIT PETITION (CIVIL) NO. 741 OF 1989 (Delhi Judicial Service Association (Regd.) vs. Union of India & Ors.) and
TRANSFERRED CASE (CIVIL) NO. 38 OF 1996 (New Delhi Bar Association & Anr. vs. Union of India & Ors.)

JUDGMENT

P.P. NAOLEKAR, J.:

1. The Delhi High Court was constituted in 1966. Even after the constitution of the Delhi High Court, the region of Delhi had only one district civil court and one session court. Over the years, with growth in the population of the city, the amount of litigation has seen a constant upward spiral. The very high volume of litigation both on the civil side and on the criminal side has led to a huge backlog of cases and great delays in dispensation of justice, putting the common man and the layman-litigant to great inconvenience.

2. This rather dismal state of affairs in the Delhi courts has not gone unnoticed and at various stages, suggestions and requests have been made to the Union

Government for division of the region of Delhi into smaller judicial districts with civil and criminal courts in each district to handle the volume of litigation, to help reduce the backlog of cases and to dispense justice with greater efficacy. The steps taken in this direction will be discussed in greater detail in the latter section of facts.

3. There have been a few petitions on the question of backlog of cases and delay in dispensation of justice. The case filed by the Delhi Judicial Service Association [WP(C) No.741 of 1989], among others, prayed this Court to direct the Delhi Government for creating additional posts in the Delhi Judicial Service. This Court, while passing orders in that matter, directed the Delhi High Court to form a Committee under its aegis, which would look into the feasibility of division of Delhi into smaller judicial districts. On the basis of the report prepared by the Committee, this Court passed an order on 01.05.2000 directing the Delhi Government to take concrete steps towards the creation of judicial districts and further directed the Delhi High Court to appoint two of its Judges to oversee the process of implementation.

4. In pursuance of this order, the Delhi Government, through the Lt. Governor of the National Capital Territory of Delhi, issued a notification in the Official Gazette dated 28.06.2000 under the provisions of Section 19 of the Punjab Courts Act, 1918 as extended to the region of Delhi.

5. The instant WP(C) No.437 of 2000 has been filed by the Delhi Bar Association, claiming to be the largest association of its nature in the country, questioning the propriety of such notification and issuance thereof by the Lt. Governor without it

being deliberated upon by the Legislative Assembly of Delhi, and thereby questioning the validity of its operation.

6. The facts and the chronology of events leading up to the first WP(C) No. 741 of 1989 (Delhi Judicial Service Association vs. Union of India & Ors.) and the facts leading up to the second Writ Petition in WP(C) No. 437 of 2000 are as follows.

7. WP(C) No.741 of 1989 was filed by the Delhi Judicial Service Association praying the court to issue a mandamus directing the Government to increase the number of available posts in Delhi Higher Judicial Service and Delhi Judicial Service, to streamline the process of filling up of any vacancies in the posts and to conduct the whole process with greater transparency. While hearing the petition, a number of orders were passed by this Court at various instances on matters relating to creation of posts and criterion for promotion.

8. During the pendency of the petitions, there were deliberations at various levels between the Delhi High Court, the Union Government and the Delhi Administration regarding the possibility of division of Delhi into smaller judicial districts and the constitution of courts in these districts. Since there was a connection between the question of division of Delhi into smaller judicial districts and the issues that were being heard in WP(C) No.741 of 1989, the Delhi High Court, which was one of the respondents in the petition, considered it fit to file an additional affidavit on its behalf bringing to light the deliberation on division of Delhi into smaller judicial districts. The chronology of events leading up to the additional affidavit being filed is enumerated below.

9. There had been attempts towards the division of Delhi into smaller constituent judicial districts. Characteristics of such an expectation are contained in the letter dated 21.05.1979 sent by the then Chief Justice of Delhi High Court to the Union Law Minister requesting some official action towards the division of Delhi into five judicial districts. The letter says that historically Delhi has been one civil district for the purposes of civil work and one sessions division for criminal work as once upon a time Delhi was the district of Punjab. Even after Delhi became a Union Territory, it continued to be so till the High Court was constituted in 1966. Initially there used to be only one District & Sessions Judge with one or two Additional and a few Sub Judges. With increase in the population of Delhi and consequent litigation, there has been a tremendous increase in the number of judicial officers dealing with civil and criminal cases. Administratively as well as judicially, one District & Sessions Judge cannot effectively control such large number of judicial officers. Therefore, it was suggested that in view of the enormous amount of litigation pending in Delhi, the Union Territory should be divided into five districts on the analogy of its division into five areas for police administration. Just as there is Superintendent of Police for each police district, there should be District & Sessions Judge for each civil district and sessions division. This should be called Central, East, West, North and South. The benefits of such re-organisation were said to be obvious. First, it will bring courts nearer to the place where the litigants reside or the cause of action arises. Secondly, it will allow the Bar of these five areas to locate themselves near the courts. Thirdly, it will redress the great injustice that is caused to the Delhi Judicial Service and the Delhi Higher Judicial Service by

denying them the normal higher judicial posts which would have been available if they are divided into several districts in the State.

10. Vide letter dated 26.03.1982, the Union Government intimated the High Court of Delhi and the Delhi Administration of its agreement to the possibility of dividing Delhi into five judicial districts for the purposes of effective administration of justice. In pursuance of this communiqui, the then Chief Justice of Delhi High Court constituted a Committee to look into the modalities for implementation of such a scheme. This move towards division of Delhi into five judicial districts and the possibility of streamlining of the judicial set-up in the Delhi region was put on the back- burner when the Union Law Minister intimated the Delhi High Court vide his letter dated 05.10.1984 that the Government of India was not in favour of division of Delhi into judicial districts.

11. A few years later, the Delhi High Court reiterating the importance of the move to divide Delhi into smaller judicial districts, sent a letter dated 09.04.1990 through Registrar addressed to the Government of India conveying the desire of the then Chief Justice and the Judges of the High Court to impress upon that the decision of the Government of India conveyed vide letter dated 26.03.1982 in respect of division of Delhi into five districts may be implemented at the earliest as recommended by the Delhi High Court vide its letter dated 21.05.1979.

12. On 07.05.1990, the Union Law Minister intimated the Delhi High Court of the decision of the Union Government not to go ahead with any move towards bifurcation of Delhi into any smaller judicial districts due to protest and prolonged agitation by

lawyers. However, the letter also informed the High Court that it may after consultation with the Bar Council of Delhi and various Bar Associations that have a stake in the matter, send a proposal for division of Delhi into smaller districts, if necessary, to the Government for reconsidering their decision.

13. By communication dated 31.01.1991 from the then Union Law Minister to the then Chief Justice, his attention was drawn to the views expressed by the Lt. Governor that Delhi be divided into separate judicial districts.

14. On 12.04.1991, the Delhi High Court informed the Union Law Minister, after a Full Court meeting on 06.04.1991, that they were of the opinion that no further consultation with the Bar Associations was necessary and reiterated their stance on the division of Delhi into five judicial districts and recommended that the same be done at the earliest possible time as it has already been recommended by the High Court vide letters dated 21.05.1979 and 09.04.1990.

15. In the meantime, the Government of India sent a letter dated 17.10.1991 wherein it was suggested that effective decentralization of the courts could be done through creating independent courts in various parts of Delhi without actually constituting separate districts. The High Court conveyed to the Union government its opinion on the new proposal i.e., such dispersion of courts is an untenable proposition and reiterated its earlier requests for division into judicial districts.

16. When the Government repeated the proposal, the then Chief Justice of Delhi High Court sent a letter to the Lt. Governor dated 07.12.1992 enclosing therewith the resolutions passed by the Full Court dated 31.03.1990, 06.04.1991, 25.01.1992, 28.03.1992 and 02.12.1992 regarding the division of Delhi into five separate judicial districts. In the letter, it was reiterated that the Delhi High Court has consistently been of the view that the Union Territory of Delhi should be divided into five separate judicial districts and insisted on issuance of the notification for dividing Delhi into five separate judicial districts at the very earliest and if possible by 31.12.1992. It was mentioned in the letter that the High Court is keen to expedite the decentralization process of courts in Delhi.

17. Vide letter dated 06.07.1993, the Union Government sought views of the Delhi Administration on division of Delhi into nine districts along the lines of already existing police headquarters and revenue district divisions. The same was forwarded to the Delhi High Court by the Delhi Administration.

18. On 19.07.1993, the Delhi Bar Association went on strike against the division of Delhi, and the Full Court again considered the matter and it was decided to constitute a Committee consisting of Chief Justice with four Judges of the High Court to look into the problem and examine the matter in depth as a whole.

19. Vide letter dated 07.12.1993, the Union Minister of Law enquired if the High Court of Delhi was amenable to empowering Additional District Judges to discharge the functions of District Judges in their respective areas. Shortly thereafter on

21.02.1994, the Union Minister of State for Law requested for the views of the Delhi High Court on the modalities for implementing the decision to bifurcate Delhi into five district courts and other related matters. In response to all these letters, no opinions were offered as the matter was sub judice in WP(C) No. 766 of 1994 filed by some lawyers seeking a mandamus for creation of the five judicial districts.

20. On 26.02.1999, the first meeting of the Committee constituted to work on the modalities for the creation of nine judicial districts was held under the chairmanship of the Chief Secretary of the National Capital Territory of Delhi. The Committee noted that while appreciating the urgency of establishment of nine judicial districts, the Chief Secretary desired that before the proposal is implemented in its right perspective, the Registrar, High Court of Delhi and the District & Sessions Judge, Delhi should also facilitate the Government while affording their valuable views so far as the involvement of legal implications in the proposal especially with regard to the amendment of relevant laws, rules and regulations, etc. along with necessary details for minimum staff which would be required to augment the new judicial set-up in the National Capital Territory of Delhi. It was noted that the District & Sessions Judge and the Registrar, High Court of Delhi had expressed some of their views in this regard and assured the Committee to furnish the details at the earliest.

21. On 23.04.1999, again a meeting of the Committee was held under the Chairmanship of the Chief Secretary in pursuance of the order dated 13.4.1999 of the High Court of Delhi in WP(C) No. 4386 of 1998 (Indian Council of Indian Aid and

Advice vs. Government of NCT of Delhi & Ors.). It was decided that the proposed nine judicial districts should be located as follows:

Sl. No.	Area	District Courts	No. of Courts
1.	Karkardooma	East & North East	Two
2.	Rohini	North West	One
3.	Tis Hazari	North and Central	Two
4.	Saket	South	One
5.	Raja Garden	West	One
6.	Dwarka	South West	One
7.	Patiala House	New Delhi	One

22. On 31.08.1999, a meeting was held at Raj Niwas between the Chief Justice of Delhi High Court and the Lt. Governor of NCT of Delhi. The relevant portion of the Minutes of the meeting read as under:

> "First of all, the issues relating to the division of Delhi into 5 Judicial Districts was briefly discussed in the meeting. It was pointed out by the Chief Secretary that the Hon'ble High Court of Delhi in the recent past, had reiterated the earlier view of establishing only 5 Judicial Districts, while the Govt. of NCT of Delhi had been of the opinion that nine Judicial Districts may be established in consonance with the nine Police/Revenue Districts already functioning in the city. It was observed by the Hon'ble the Chief Justice that as a long term planning, the High Court was also in agreement in principle for establishment of nine Judicial Districts, but to start with, it would be preferred that five Judicial Districts be established and, in the meanwhile, expeditious efforts be made for the procurement of lands and constructing court buildings in different parts of the city towards the ultimate aim of nine Judicial Districts. ...".

The Minutes further noted that a Committee headed by the Law Secretary would look into the aspect of various amendments which may be required in different enactments in this regard and that an exercise had earlier been undertaken by the High Court for the purpose of consideration of bifurcation of districts and consequential amendments along with draft notifications were prepared. It was decided that the draft notifications and the report

prepared earlier to consider the bifurcation would also be considered by the Committee and the recommendations of the Committee shall be forwarded to the High Court within a period of 10-15 days.

23. The Committee submitted its report on 03.04.2000 regarding division of Delhi into separate judicial districts. The Committee recommended that the best course for the immediate creation of nine judicial districts in the National Capital Territory of Delhi would be to request the Lt. Governor of Delhi to initially divide the National Capital Territory of Delhi into nine civil districts in terms of Section 19 of the Punjab Courts Act, 1918 and only thereafter to initiate the process for separate sessions divisions .

24. On 20.04.2000, this Court while hearing WP(C) No.741 of 1989 (Delhi Judicial Service Association (Regd.) vs. Union of India & Ors.) called for the above report dated 03.04.2000 of the Committee and after perusing the same passed the following directions:

> "Report as to the division of Delhi into separate judicial Districts dated 3.4.2000 has been given to the Acting Chief Justice, Delhi High Court. This report is prepared by a Committee of officers of various ranks both under the High Court and of the Government of NCT of Delhi.
>
> Two copies of this report are being given to Mr. Goburdhan. He may pass over this report to the Lt. Governor and Chief Secretary and other officers concerned after making necessary copies.
>
> Court buildings are to come up at Rohini, Saket and Dwarka. Mr. Goburdhan has filed status report regarding finances and construction of buildings there.
>
> We direct that a meeting be held by the Acting Chief Justice, Delhi High Court, which shall be attended by the Chief Secretary, Secretary (Law, Justice & Legal Affairs), Divisional Commissioner-cum-Secretary (Revenue), Chief Engineer (Civil), PWD, all of the Government of NCT of Delhi and also by the

> Additional Secretary, Department of Justice in the Ministry of Law, Justice & Company Affairs. All these officers shall meet the Acting Chief Justice of the Delhi High Court in the High Court premises on or before 26.4.2000, when all aspects of the matter shall be discussed. A report be submitted to the Court by the Registrar of the Delhi High Court as well as by Mr. Goburdhan, learned counsel appearing for NCT of Delhi. Counsel for the parties shall intimate the respective officers with regard to the meeting with the Acting Chief Justice of the Delhi High Court. Registrar of the Delhi High Court shall also intimate the date and time to all the officers. Report submitted to this court shall indicate the Division of Courts, time schedule and when the vacancies are to be filled up.
>
> These directions are issued peremptorily and there shall be no excuse for not convening the meeting. List the matter on 28.4.2000. Report shall be submitted by the counsel for the High Court and by counsel for the NCT of Delhi and they shall be assisted by the officers so as to answer all the queries."

25. Pursuant to the directions issued by the Court, the Acting Chief Justice of Delhi High Court fixed a meeting of the Full Court on 26.04.2000 to consider the matter. The Full Court on 26.04.2000 held its meeting and delved upon the agenda item : "To consider the matter regarding division of Delhi into separate judicial districts. - Report of the Committee dated 03.04.2000" and resolved that "Report of the Committee dated 03.04.2000 regarding division of Delhi into separate judicial districts, adopted. Necessary follow up action be taken."

26. On 01.05.2000, this Court by its detailed order taking into consideration the report of the Committee dated 03.04.2000, the minutes of the meeting dated 25.04.2000 and that of Full Court Meeting dated 26.04.2000 gave the following directions regarding division of Delhi into separate districts for implementation of the scheme of division of Delhi into separate judicial districts:

> "1. Delhi High Court will send a request to the Government of NCT of Delhi within 15 days from today for the purpose of issuance of requisite notifications for implementation of the scheme of division of Delhi into separate judicial districts.

2. Government of NCT of Delhi will then take necessary steps for issuing the notifications which shall be done on or before 30.6.2000 on the basis of the requisition given by the High Court. Within the period Government of NCT of Delhi and Central Government shall further consider the report of the Committee, which has been accepted by the High Court for creation of further posts in the Delhi Higher Judicial Service and Delhi Judicial Service.

3. High Court thereafter will make necessary appointments of the District Judges and other officers on the basis of the report and issue necessary notifications within 15 days from 30.6.2000.

4. On 16.8.2000 five districts, which would cover nine civil districts as per the report, shall start functioning.

5. Again within 15 days from today High Court will make recommendations to the Government of NCT of Delhi for consequential amendments to the statements as may be required by reason of creation of sessions divisions in Delhi.

6. Government of NCT of Delhi and the Central Government shall then take decision on such recommendations for amendment of the statutes. If it is found that for some reasons such amendments cannot be made, reasons for such rejection shall be communicated to the High Court within eight weeks of the receipt of such recommendations from the High Court. If the amendments are approved and if the matter is being delayed, the Central Government may consider the necessity for promulgation of an ordinance/ordinances so that the recommendations can be given effect to expeditiously. The Central Government as well as the Government of NCT of Delhi will report to the High Court on a regular basis as to the steps taken in this connection."

The Court also gave directions in regard to construction of district court building for separate judicial districts/sessions divisions and other aspects.

27. On 28.06.2000, a notification was issued by the Lt. Governor of the National Capital Territory of Delhi in exercise of the powers conferred by sub-section (1) of Section 19 of the Punjab Courts Act, 1918 (Punjab Act 6 of 1918) as extended to the National Capital Territory of Delhi, dividing the National Capital Territory of Delhi and creating nine civil districts. The Notification dated 28.06.2000 reads as under:

(TO BE PUBLISHED IN THE DELHI GAZETTE PART IV - EXTRAORDINARY)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(Law, Justice & Legislative Affairs Department)

No. F.6/10/2000-Judl./694-704. Dated the 28th June, 2000

NOTIFICATION

No. F.6/10/2000-Judl. - In exercise of the powers conferred by sub-section (1) of Section 19 of the Punjab Courts Act, 1918 (Punjab Act 6 of 1918) as extended to the National Capital Territory of Delhi and all other powers enabling him in this regard, the Lt. Governor of the National Capital Territory of Delhi hereby divides the National Capital Territory of Delhi and creates the following nine Civil Districts, namely:-

Sl.No.	Name of the Civil District created
1.	New Delhi
2.	South
3.	North
4.	North-West
5.	Central
6.	East
7.	North-East
8.	West
9.	South-West

The territorial limits of the above Civil Districts shall be co-terminus with the existing nine Revenue Areas known as Revenue Districts.

This notification shall come into force with effect from the 16th August, 2000.

By order and in the name of the
Lt. Governor of the National
Capital Territory of Delhi,

Sd/-
(Anoop Kumar Mendiratta)
Joint Secretary (Law, Jus. & L.A.)

Copy forwarded to:

xxx xxx xxx"

28. On 03.07.2000, the High Court issued the notification fixing the places of the newly nine civil districts.

29. On 26.07.2000, the Delhi Bar Association filed the instant petition [WP (C) No. 437 of 2000] under Article 32 of the Constitution of India in this Court challenging issuance of the notification dated 28.06.2000 and prayed for the following directions:

> "(a) quash and set aside the impugned Notification i.e. Gazette Notification No. 108 dated 28.6.2000, issued by the Government of National Capital Territory of Delhi;
>
> (b) prohibit the respondents from bifurcating Delhi into nine districts, as per the aforesaid notification;"

30. In WP(C) No. 451 of 2000 also which has been filed by a litigant Som Nath under Article 32 of the Constitution, a challenge has been made to the notification dated 28.06.2000.

31. We propose to dispose of WP(C) No. 437 of 2000 and WP(C) No. 451 of 2000 by this common judgment, and delink WP(C) No. 741 of 1989 - filed by Delhi Judicial Service Association - relating to creation of additional posts in the Judicial

Service and send back TC(C) No. 38 of 1996 - filed by the New Delhi Bar Association - relating to Patiala House Complex, to Delhi High Court.

32. It is urged by Shri Arun Jaitley, learned senior counsel appearing for the Delhi Bar Association that there was no specific explicit administrative decision to divide Delhi into nine judicial districts in order to create nine separate courts in the Union Territory of Delhi and that at no point of time there was a consensual decision taken by the Chief Justice of Delhi High Court and the Lt. Governor of Delhi agreeing to have nine judicial districts. The subject of correspondence between the Registrar, High Court of Delhi and the Secretary, Government of NCT of Delhi was in fact in favour of division of Delhi into five judicial districts and it is not clear as to when and how this figure of five was converted into a figure of nine in the absence of consensual decision either by the High Court or by the Government of NCT. Before arriving at such a decision, the authorities concerned were required to apply their mind to certain salient features before creation of judicial districts such as the interest of the litigant and his convenience, adequate number of cases per Judge which could be placed before the courts for adjudication, the future requirements, providing comfortable and convenient accommodation to the Judges, transport/connectivity, etc. From the material placed on record, it is obvious that such exercise has not been done at all. It is further urged that in the absence of executive or administrative order to bifurcate Delhi into nine judicial districts, this Court by its order dated 1.5.2000 erroneously directed the High Court of Delhi peremptorily to convene a meeting and fix a time schedule for bifurcation of Delhi into nine judicial districts.

33. Countering the argument, it is urged by Shri P.P. Rao, learned senior counsel appearing for the Delhi High Court that it is not correct to say that no consensual decision to bifurcate Delhi into nine judicial districts was taken by the authorities. The decision taken by the authorities to create nine districts and issuance of the notification to create nine districts has been arrived at after due consideration of all relevant aspects. Proposal in regard to bifurcation and reorganization of courts had engaged the attention of the High Court, the Government of India and the Delhi Government since 1979 and thereafter the decision was taken.

34. It is urged by Shri D.N. Goburdhun, learned counsel appearing on behalf of NCT of Delhi that the decision taken for bifurcation of Delhi into nine districts was a policy decision after elaborate consultation between the Chief Secretary, Hon'ble the Law Minister and the Chief Justice of Delhi High Court. The Government is the best judge to determine the choice of and to formulate policy. The policy matters are best left for the executive/legislatures as normally it is in their domain. The court would not interfere and strike down a policy matter which is beneficial to the public at large. The policy decision which is in public interest for the consumers of justice, who are paramount recipients of justice delivery system, cannot be faulted with on the basis of some irregularities and normally the policy decisions taken by the authorities after due deliberation and taking into consideration all relevant aspects would not be subject to judicial review. The matters of Government policy are best left to the Government to decide. It was urged by him that the policy decision taken is the result of prolonged threadbare discussion and application of mind to the relevant aspects and is not open to challenge.

35. The arguments of Shri A. Sharan, learned Additional Solicitor General are directed mainly towards challenge to WP(C) No. 741 of 1989 under Article 32 of the Constitution. Since we are not deciding this matter, we need not dwell upon submissions made by him in this petition.

36. From the facts narrated hereinabove, it appears to us that the Government of India, the High Court and the Delhi Government were considering the reorganization of courts since 1979. Vide communication dated 26.3.1982, the Government of India conveyed its agreement to divide Delhi into separate districts. The High Court throughout has been insisting on the division of Delhi into separate judicial districts. By communication dated 31.1.1991 from the then Union Law Minister to the then Chief Justice, his attention was drawn to the views expressed by the Lt. Governor that Delhi be divided into separate judicial districts. On 6.7.1993, the Government of India sought the views of the Chief Secretary, Delhi Government on the division of Delhi into nine judicial districts. Before the decision was taken, various details in this regard were considered at different times. The Delhi Government has been consistently insisting on the division of Delhi into nine judicial districts. In a meeting between the Chief Justice and the Lt. Governor held on 31.08.1999, in principle it was agreed to divide Delhi into nine judicial districts. A Committee was constituted to, inter alia, work out the modalities and study and advise on the notifications that may be required to be issued and the amendments that may be required in any Act and in any existing notifications. The Committee submitted its report on 03.04.2000. The entire matter was placed before the Full Court in its meeting held on 26.4.2000 and the Full Court after considering the relevant aspects and the report of the Committee dated 03.04.2000 approved the

bifurcation of Delhi into nine judicial districts and directed necessary follow-up action to be taken as recommended by the Committee. The need of bifurcation has been stressed upon and very succinctly dealt with in the order of this Court dated 01.05.2000 passed in WP(C) No. 741 of 1989 (Delhi Judicial Service Association (Regd.) v. Union of India through the Secretary and Others, (2000) 9 SCC 562), when the Court said in para 6 as under:

> "Needless to say that the working of courts at Tis Hazari and Patiala House (New Delhi Courts) with reference to the accommodation for the Judges, litigant public, witnesses and members of the Bar and supporting services like stamp vendors, etc. are almost at the stage of collapse. A visit to these court complexes is an appalling experience. Situation is alarming to say the least. Everyone realizes so. Jammed court rooms, crowded and dark corridors, overflowing toilets, insanitary conditions, it is almost nauseating to visit these courts. There is certainly a lim it up to which services can be provided for all concerned. Tis Hazari Court Complex was built in 1956 keeping in view at that time the quantum of litigation and population of Delhi. Today Delhi of 1956 is not the same in the year 2000. With the phenomenal rise in the quantum of litigation, new avenues of justice delivery system, tremendous increase in number of courts and lawyers with the corresponding increase in staff and office accommodation, Tis Hazari Court Complex has practically ceased to be functional and the impasse will continue until the burden is shifted to newly- constructed spacious court complexes with modern facilities and conveniences. All this is necessary for efficient administration of justice. In Patiala House Court Complex things are no better. Patiala House was never built as a court complex. Over three decades ago New Delhi Courts, which were functioning at Parliament Street, were temporarily housed in Patiala House. No thought was ever given thereafter to construct a proper court complex for New Delhi Courts. Immediate and urgent steps are needed to spread out the courts all over Delhi. In the absence of proper provisions for bifurcation of courts it is paradoxical that while there are no courtrooms and space for other services in Tis Hazari and Patiala House Court Complexes, over 40 rooms are lying vacant in Karkardooma. The matter for bifurcation of courts in Delhi is pending for the last many years but no steps were being taken for one reason or the other which we need not now go into. It must, however, be understood that consumer of justice is litigant for whom the courts are established .
>
> When it comes to litigant, who is consumer of justice, the need of the Judges and the lawyers takes a back seat."

37. From the aforesaid, it is apparent that before the decision was taken, all authorities for arriving at the policy decision were consulted and thus it cannot be said that the policy decision taken by the Government was arbitrary or without consideration of the relevant material.

38. In State of Maharashtra and Another v. Lok Shikshan Sanstha and Others, (1971) 2 SCC 410, the petitioner moved an application for opening a new school which was rejected by the authority. The rejection was challenged by the petitioner by filing a writ petition in the High Court. The High Court allowed the petition and directed the authorities to grant permission to the petitioner to start school. Reversing the judgment, this Court said :

> "9. ... So long as there is no violation of any fundamental rights and if the principles of natural justice are not offended, it was not for the High Court to lay down the policy that should be adopted by the educational authorities in the matter of granting permission for starting schools. The question of policy is essentially for the State and such policy will depend upon an overall assessment and summary of the requirements of residents of a particular locality and other categories of persons for whom it is essential to provide facilities for education. If the overall assessment is arrived at after a proper classification on a reasonable basis, it is not for the courts to interfere with the policy leading up to such assessment."

In M.P. Oil Extraction and Another v. State of M.P. and Others, (1997) 7 SCC 592, this Court said that unless a policy decision is absolutely capricious, unreasonable and arbitrary and based on mere ipsi dixit of the executive authority or is violative of any constitutional or statutory mandate, court’s interference is not called for. The executive authority of the State must be held to be within its competence to frame a policy for the

administration of the State. Policy decision is in the domain of the executive authority of the State and the court should not embark on the adequacy of public policy and should not question the efficacy or otherwise of such policy so long it falls within the constitutional limitations and does not offend any provision of the statute.

In Ugar Sugar Works Ltd. v. Delhi Administration and Others, (2001) 3 SCC 635, a challenge was made to the executive policy regulating trade in liquor in Delhi. This Court held that it is well settled that the courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions unless such policy framed could be faulted on the grounds of mala fide, unreasonableness, arbitrariness, unfairness, etc. However, if the policy cannot be faulted on any of these grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. The courts are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State.

In Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranchal and Others, (2007) 8 SCC 418, the petitioner company owned a factory in the State of Uttaranchal. The company was engaged in the manufacture, sale and supply of sugar. One IGL submitted an application for grant of a licence for power-driven crusher for manufacturing rab from sugarcane. The application was rejected as per the licensing policy of the Government whereunder a new licence to khandsari unit could not be granted in the reserved area of the existing sugar mills. However, the State Government modified its earlier sugar policy and the Government was empowered to relax the limitation in certain cases. When new

policy came into force, the IGL unit submitted a fresh application for grant of licence. The said application was allowed by the licensing authority observing that the new unit would not adversely affect adequate and sufficient supplies of sugarcane to the sugar mills in the reserved area and thus relaxation under the policy can be given. While considering the policy decision, this Court observed that "a court of law is not expected to propel into 'the unchartered ocean' of government policies. Once it is held that the Government has power to frame and reframe, change and rechange, adjust and readjust policy, the said action cannot be declared illegal, arbitrary or ultra vires the provisions of the Constitution only on the ground that the earlier policy had been given up, changed or not adhered to. It also cannot be attacked on the plea that the earlier policy was better and suited to the prevailing situation."

39. From the aforesaid decisions of this Court, it is apparent that the policy decision taken by the Government cannot be faulted with unless it suffers from unreasonableness, arbitrariness or unfairness or it is beyond the legislative powers of the State or is beyond the constitutional limits. In the present case, not only the policy decision taken by the NCT of Delhi is founded on prolonged and in-depth deliberation between the NCT of Delhi, the Lt. Governor and the Delhi High Court which is directly concerned with the division of Delhi into judicial districts, but is also a result of directions issued by this Court by its order dated 01.05.2000.

40. It is further urged by Shri Arun Jaitley, learned senior counsel appearing for the Delhi Bar Association that the direction issued by this Court on 1.5.2000 requesting the High Court of Delhi peremptorily to convene a meeting and fix a time

schedule for bifurcation of Delhi into nine judicial districts, was erroneous. It is contended that the Court while giving such direction had exceeded its power by acting as an advisory to the Delhi Government in WP(C) No. 741 of 1989 and directing the Delhi Government to issue a notification what is supposedly an essential legislative function. It is urged that this Court has acted as an advisory and directed the Delhi Government to perform an act which is otherwise a policy consideration. In All India Judges' Association v. Union of India and Others, (1992) 1 SCC 119, this Court had directed the Union of India to take appropriate measures in regard to uniformity in pay scales, age of retirement, amenities and facilities to judicial officers, conveyance and so on. Some State Governments had sought review of the directions on considerations of policy and contended that the directions given by the Court in the matters which also fall under the policy decisions of the State, do amount to by-passing the constitutionally permissible modes and amount to usurpation of the essential functions of the legislature or executive. This Court while disposing of review petitions vide order dated 24.08.1993 reported in (1993) 4 SCC 288 (All India Judges' Association and Others v. Union of India and Others), has held in paras 14 and 15 as under:

> "14. ... By giving the directions in question, this Court has only called upon the executive and the legislature to implement their imperative duties. The courts do issue directions to the authorities to perform their obligatory duties whenever there is a failure on their part to discharge them. The power to issue such mandates in proper cases belongs to the courts. ... The further directions given, therefore, should not be looked upon as an encroachment on the powers of the executive and the legislature .... They are directions to perform the along overdue obligatory duties.

> 15. The contention that the directions of this Court supplant and bypass the constitutionally permissible modes for change in the law, we thinks, wears thin if the true nature and character of the directions are realised. ... The directions issued are mere aids and incidental to and supplemental of the main direction and intended as a transitional measure till a comprehensive national policy is evolved. These directions, to the extent they go, are both reasonable and necessary."

In the third round of litigation, after the report of Justice Shetty Commission, this Court again made certain directions relating to the working conditions of the members of the subordinate judiciary throughout the country, reported in (2002) 4 SCC 247.

41. Thus, we are of the view that by giving directions by its order dated 01.05.2000, this Court did not exceed its jurisdiction and did not encroach upon the essentially executive or legislative function of different authorities.

42. Shri Ranjit Kumar, learned senior counsel appearing for the petitioner in WP(C) No. 451 of 2000, has challenged the propriety, competence and validity of notification dated 28.06.2000 issued by the Lt. Governor under Section 19 of the Punjab Courts Act, 1918. It is submitted that Delhi is not a State but a Union Territory under Schedule I of the Constitution of India and that the definition of ‘State Government’ not being provided under the Punjab Courts Act the same should be taken from the General Clauses Act, 1897. The definition of ‘State Government’ applicable in Delhi is the definition under the Bengal General Clauses Act, 1899 which has been extended to the State of Delhi by SRO 862 issued by the Central Government in exercise of powers conferred upon it under Section 2 of Part C States (Law) Act, 1950 and, therefore, the

notification issued by the Lt. Governor appointed as an administrator under Article 239 representing the National Capital Territory of Delhi was without jurisdiction. The notification should have been issued by the competent authority of the Union of India.

43. It is the contention of Shri P.P. Rao, learned senior counsel appearing for the Delhi High Court that the notification issued by the Lt. Governor is in accordance with law and there was no lack of competence in the Lt. Governor to issue the notification after the introduction of Article 239AA in the Constitution. The notification has been issued under Section 19 of the Punjab Courts Act, 1918. Section 19 of the Punjab Courts Act, 1918, reads as under:

> "19. Civil Districts
>
> (1) For the purposes of this Part the State Government shall divide the territories under its administration into civil districts.
>
> (2) The State Government may alter the limits or the number of these districts."

44. The Punjab Courts Act does not define as to who shall be the State Government. The Bengal General Clauses Act, 1899 refers to the General Clauses Act, 1897. Section 5a of the Bengal General Clauses Act, 1899 reads as under:

> "5a. Application of certain definitions in Section 8 of Act 10 of 1897 to all Bengal & West Bengal Acts. - The definitions in section 3 of the General Clauses Act, 1897 of the expression "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities", "High Court", "India", "Indian Law", "Indian State", "merged territories",

"Official Gazette", "Part A State", "Part B State", "Part C State", "Province", "Provincial Act", "Provincial Government", "State", "State Act" and "State Government" shall apply also unless there is anything repugnant in the subject or context to all Bengal and West Bengal Acts as extended to Delhi."

By virtue of Section 5a of the Bengal General Clauses Act, 1899, the definition of 'State Government', that is applicable to the State of Delhi, is the definition under the General Clauses Act, 1897. The definition of 'State Government' under the General Clauses Act, 1897 is as follows:

"3. Definitions. - In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context, --

xxx xxx xxx

(60) "State Government", --

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorized at relevant date to exercise executive government in the corresponding Acceding State, and in a Part C State, the Central Government;

(b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean in a Part A State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union Territory, the Central Government;

and shall, in relation to functions entrusted under Article 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that Article;"

It is submitted on behalf of the petitioners that based on the above definition, the authority that acts as the State Government in a Union Territory is the Central Government and not the Lt. Governor.

45. Delhi is a Union Territory and after introduction of Article 239AA in the Constitution, the Union Territory of Delhi is called the National Capital Territory of Delhi. Every Union Territory is administered by the President acting to such extent as it thinks fit through an Administrator to be appointed by him. The Lt. Governor has been appointed as an Administrator to administer the National Capital Territory of Delhi. Under this Article, it has been provided that there shall be a Legislative Assembly for the National Capital Territory. After the introduction of this Article, the National Capital Territory of Delhi has been administered by the President through the Administrator appointed under Article 239. Thus, the Lt. Governor is the Administrator for the National Capital Territory of Delhi and shall be representing and authorized to act for and on behalf of the National Capital Territory of Delhi. After the introduction of this Article, the Bengal General Clauses Act, 1899 would not have any application as the Punjab Courts Act, 1918 has been made applicable to the National Capital Territory of Delhi. Thus, the State in Section 19 of the Punjab Courts Act shall be read as the National Capital Territory of Delhi which is represented and administered by the Lt. Governor who has been empowered to issue a notification on behalf of the National Capital Territory of Delhi to divide the territory under his administration into civil districts. The Lt. Governor of Delhi being the representative of the National Capital Territory of Delhi was competent to divide the territory of Delhi under his administration into civil districts.

46. It is further urged by Shri Ranjit Kumar, the learned senior counsel that after the introduction of Article 239AA by the Sixty-ninth Amendment Act, 1991 w.e.f. 01.02.1992 in the Constitution, the person authorized to make any law or regulation in relation to administration of justice is the Legislative Assembly of Delhi and not the Lt. Governor. It is urged that under Article 239AA(3)(a), power to make laws or rules or regulations with respect to any of the matters enumerated in the State List or in the Concurrent List under Schedule VII of the Constitution is with the Legislative Assembly except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18. Relevant portion of Article 239 and 239AA is as under:

> "239. Administration of Union territories.-- (1) Save as otherwise provided by the Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.
> xxx xxx xxx
>
> 239AA. Special provisions with respect to Delhi.-- (1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.
> xxx xxx xxx
>
> (3) (a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.
>
> xxx xxx xxx

> (4) There shall be a Council of Ministers consisting of not more than ten per cent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:
>
> Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary."

From the commencement of Article 239AA, the Legislative Assembly of the National Capital Territory of Delhi has power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List under the Constitution of India in so far as such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the Entries 1, 2 and 18. Thus, the Legislative Assembly of the National Capital Territory has authority to make laws in regard to the Entries in the State List or in the Concurrent List except Entries 1, 2 and 18 and the matters enumerated in Entries 64, 65 and 66 so far as they relate to the said Entries. Under clause (4) of Article 239AA, there shall be a Council of Ministers with the Chief Minister at the head who shall aid and advise the Lieutenant Governor to exercise his functions in relation to matters which fall within the ambit of the Legislative Assembly to make laws except the functions which are required to be undertaken under any law by the Lt. Governor exercising his own discretion.

47. Administration of justice and constitution of courts is provided under Entry 11A of the Concurrent List and this is a matter also under the jurisdiction of the Legislative Assembly upon which the Assembly is competent to make laws. Entry 11A of the Concurrent List reads as under:

> "Administration of Justice; constitution and organization of all courts except the Supreme Court and the High Courts."

Further, it has been submitted that under the Government of National Capital Territory of Delhi Act, 1991, the discretionary powers of the Lt. Governor are clearly enumerated and these discretionary powers specifically exclude those matters that fall within the jurisdiction of the Legislative Assembly. It is contended that in the instant case the subject matter of the notification, i.e. the organization of courts is within the jurisdiction of the Legislative Assembly and therefore does not fall within the purview of the discretionary powers of the Lt. Governor. Section 41 of the Government of National Capital Territory of Delhi Act, 1991, reads as under:

> "41. Matters in which Lieutenant Governor to act in his discretion. - (1) The Lieutenant Governor shall act in his discretion in a matter--
>
> (i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President; or
>
> (ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.
>
> (2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final."

For these reasons, it is submitted that the impugned notification dated 28.06.2000 has been improperly and invalidly issued by an authority having no competence and is, therefore, non est in law and any action taken in furtherance of the notification issued is also null and void.

48. To counter this argument, it is urged by Shri P.P. Rao, learned senior counsel appearing for the Delhi High Court, that the introduction of the Government of National Capital Territory of Delhi Act, 1991 does not in any way affect the operation of the Punjab Courts Act, 1918; that the operation of the Punjab Courts Acts, 1918 was extended to Delhi; that the operation of Article 239AA does not hinder the operation of the Punjab Courts Act; and that the Punjab Courts Act being in operation in Delhi, the notification for organization of civil courts is in consonance and under the authority of Section 19 of the Punjab Courts Act, 1918. It is further submitted that there is no requirement under the Punjab Courts Act, which has provisions relating to the organization of civil courts, to place the notification issued by the Lt. Governor before th e State Legislative Assembly.

49. The Delhi Legislative Assembly by virtue of Article 239AA(3)(a) and the Seventh Schedule of the Constitution has been vested with the power to make laws on all

matters contained in the entries of the State List and Concurrent List. Therefore, the Delhi Legislative Assembly has the power to make laws with respect to Entry 11A of the Concurrent List. The phrase "administration of justice" has been interpreted and given meaning in The State of Bombay v. Narottamdas Jethabhai and Another, AIR 1951 SC 69 (para 5), as necessarily including the power to try suits and proceedings of a civil as well as criminal nature, irrespective of who the parties to the suit or proceedings or what its subject-matter may be. This power must necessarily include the power of defining, enlarging, altering, amending and diminishing the jurisdiction of the Courts and defining their jurisdiction territorially and pecuniarily.

50. In the instant case the notification has been issued by the Lt. Governor. The notification clearly specifies that in exercise of the powers conferred under sub-section (1) of Section 19 of the Punjab Courts Act, 1918, as extended to the National Capital Territory of Delhi, the National Capital Territory of Delhi has been divided and nine civil districts, mentioned therein, have been created. A plain reading of the notification makes it absolutely clear that the import of the notification is to divide the National Capital Territory of Delhi into nine civil districts. The notification neither defines, enlarges, alters, amends or diminishes the jurisdiction of the courts which are in existence nor has impinged upon the existing courts' territory or pecuniary jurisdiction. The notification simply divides Delhi into nine civil districts. Therefore, the notification merely deals with and is confined to geographical division of the district boundaries and nowhere deals with jurisdiction of the courts or defines the courts' jurisdiction territorially or pecuniarily. The impugned notification issued by the Lt. Governor dated 28.06.2000 covers the subject, namely, division of the territory of U.T. of Delhi under his

administration into civil districts. The impugned notification does not cover the subject under Entry 11A of the Concurrent List, namely, administration of justice, constitution and organization of all courts except the Supreme Court and the High Court. The powers exercised by the Lt. Governor are referable to Section 19 of the Punjab Courts Act, 1918. The impugned notification would fall under the discretionary powers of the Lt. Governor under Section 41 of the Government of National Capital Territory of Delhi Act, 1991 which provides that he shall act in his discretion in a matter outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted to him or delegated to him by the President or when he is required under any law to act in his discretion.

51. The enforcement of the Government of National Capital Territory of Delhi Act, 1991 from 01.02.1992 does not hinder the continuing application of the Punjab Courts Act, 1918 to Delhi. The notification issued on 28.6.2000 itself mentions that the Punjab Courts Act, 1918, is being extended to the National Capital Territory of Delhi and none of the parties to the present petition have denied this position. The Punjab Courts Act, 1918 has been extended to the National Capital Territory of Delhi and there is no notification, order or legislation brought to our notice whereby application of the Punjab Courts Act, 1918 to the National Capital Territory of Delhi has been repealed or curtailed. Therefore, in the absence of any provision in the Government of National Capital Territory of Delhi Act or in the absence of any other notification, order or legislation, the Punjab Courts Act, 1918, has continuous application to Delhi along with the laws made by the Delhi Legislative Assembly. Further, the Delhi High Court Act, 1966 is an enactment by Parliament whereunder from 31.10.1966 the High Court has been

established for the U.T. of Delhi which has been referred to as High Court of Delhi. The territorial jurisdiction of the High Court includes the territory of U.T. of Delhi. All original, appellate and other jurisdictions which had been exercised in regard to this territory by the High Court of Punjab shall be exercised by the High Court of Delhi. The Punjab Courts Act, 1918, though only extended to Delhi, has the status of a central legislation directly enacted for Delhi. When a provincial Act or an Act which may be treated as a provincial Act was extended to the territory by a legislature, it would be deemed to be the enactment of such legislature. This principle has been clearly recognised by this Court in the case of Mithan Lal etc. v. State of Delhi, AIR 1958 SC 682. It is, thus, clear that on the extension of the Punjab Courts Act, 1918, to the U.T. of Delhi, it becomes a Central Act or an Act of Parliament as it is made by virtue of powers of Parliament to legislate for the U.T. of Delhi by virtue of clause (4) of Article 246 of the Constitution of India. Therefore, the Punjab Courts Act, 1918 assumes the position of central legislation enacted specifically for Delhi and is the law operative in the NCT of Delhi. Hence, the notification issued by the Lt. Governor under Section 19 of the Punjab Courts Act, 1918 has been authorized by a central legislation. Further, any legislation passed by the State Legislative Assembly is always subordinate to the laws of Parliament. Article 239AA(3)(b)&(c) limits the power of the State Legislature which reads as under :-

> "(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.
>
> (c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect

to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:"

Therefore, from the aforesaid constitutional provisions, it is clear that in the NCT of Delhi the laws made by the Delhi Legislative Assembly are always subordinate to the laws of Parliament whether prior or post in time. This has been reiterated by a Constitution Bench of nine Judges of this Court in New Delhi Municipal Council v. State of Punjab and Others, (1997) 7 SCC 339, wherein the Court held that Delhi Legislative Assembly is inferior to Parliament in hierarchy. The 9-Judge Bench in para 136 at page 402 has held as under:

"By the Constitution Sixty-Ninth (Amendment) Act, 1991, Article 239-AA was introduced in Part VIII of the Constitution. This article renamed the Union Territory of Delhi as the "National Capital Territory of Delhi" and provided that there shall be a Legislative Assembly for such National Capital Territory. The Legislative Assembly so created was empowered by clause (3) of the said article

"to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List insofar as any such matter is applicable to Union Territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List insofar as they relate to the said Entries 1, 2 and 18".

Clause (3) further provided that the power conferred upon the Legislative Assembly of Delhi by the said article shall not derogate from the powers of Parliament "to make laws with respect to any matter for a Union Territory or any part thereof". It further provided that in the case of repugnancy, the law made by Parliament shall prevail, whether the parliamentary law is earlier or later to the law made by the Delhi Legislative Assembly. Parliament is also empowered to amend, vary or repeal any law made by the Legislative Assembly. Article 239-

AA came into force with effect from 1.2.1992. Pursuant to the article, Parliament enacted the Government of National Capital Territory of Delhi Act, 1991. It is not only provided for constitution of a Legislative Assembly but also its powers as contemplated by Article 239-AA. This Act too came into force on 1.2.1992. The subordinate status of the Delhi Legislature is too obvious to merit any emphasis."

52. The power to legislate to the Legislative Assembly of Delhi shall not supersede the powers of Parliament to make laws with respect to any matter for Union Territory or any part thereof. If any provision made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case the law made by Parliament or such earlier law shall prevail and the law made by the Legislative Assembly shall, to the extent of repugnancy, be void. The Punjab Courts Act, 1918, being the central legislation, will have the primacy over any legislation made by the Delhi Legislative Assembly on the subject and even if the Delhi Legislative Assembly has a power to make law on the subject which is covered under the impugned notification, Section 19 of the Punjab Courts Act, 1918 shall prevail on the subject and a notification issued thereunder shall not be invalidated merely because the subject matter also falls within the Concurrent List.

53. For the reasons aforesaid, we are of the view that the notification issued by the Lt. Governor dividing Delhi into nine civil districts was validly issued and as a consequence thereof, WP (C) No. 437 of 2000 and WP (C) No.451 of 2000 are dismissed.

54. WP(C) No. 741 of 1989 is de-linked and TC(C) No. 38 of 1996 is sent back to Delhi High Court to decide it on its own merits.

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.J.
(B.N. AGRAWAL)

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.J.
(P.P. NAOLEKAR)

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J.
(D.K. JAIN)

New Delhi;
May 15, 2008.