PETITIONER:
M/S PUNJAB TIN SUPPLY CO., CHANDIGARH ETC. ETC.

Vs.

RESPONDENT:
THE CENTRAL GOVERNMENT & ORS.

DATE OF JUDGMENT20/10/1983

BENCH:
VENKATARAMIAH, E.S. (J)
BENCH:
VENKATARAMIAH, E.S. (J)
SEN, A.P. (J)

CITATION:
1984 AIR 87 1984 SCR (1) 428
1984 SCC (1) 206 1983 SCALE (2)503
CITATOR INFO :
R 1984 SC 121 (31)
R 1986 SC 244 (7,14,15)
F 1987 SC2117 (28,31)
D 1992 SC1806 (7)

ACT:
The East Punjab Urban Rent Restriction Act, 1949 as modified by the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act. 1974- Sec. 3-Validity of. Whether Union Territory of Chandigarh, Home Department Notification No. 352-LD-73/602 dated January 31, 1973 as modified by notifications dated September 24, 1973 and Sept. 24,1974 issued under sec. 3 valid Whether Notifications operate prospectively.

Interpretation of statutes-Rule of-Object and policy of statute need not always be strictly confined to preamble and provisions of statute.

Interpretation of statutes-Rule of-Whether a statute operates retrospectively-Does not depend primarily on language of statute-Court to see surrounding circumstances.

HEADNOTE:
By enacting the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974 the Parliament brought into force with effect from November 4, 1972, the East Punjab Urban Rent Restriction Act, 1949 which was in force in the former State of Punjab with the modifications set out in its schedule in the Union Territory of Chandigarh and validated all actions taken, notifications issued and orders made or purported to have been taken, issued or made under the 1949 Act. Sec. 3 of the Act of 1949 provided that the Central Government may exempt any building from the application of the Act. Under that section the Chief Commissioner of Chandigarh issued a notification dated January 31, 1973 stating that the provisions of the Act shall not apply to buildings, constructed in the urban area of Chandigarh, for a period of five years with effect from the date the sewerage connection is granted in respect of such buildings. This notification was modified by notifications dated September 24, 1973 and Sept. 24, 1974. The petitioners questioned the validity of s. 3 of the Act of 1949 and notifications issued thereunder on the grounds

that s. 3 suffered from the vice of excessive delegation of legislative power; that the exemption granted by the notification dated January 3, 1973 as modified by the later notifications was outside the scope of the object and policy of the Act and at the same time discriminatory, and that the power to issue notifications under s. 3 of the Act could be exercised by the Central Government only. It was also urged that the notification had prospective operation.
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Dismissing the petitions,
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HELD: Section 3 of the Act does not suffer from the vice of excessive delegation of legislative power and is also not violative of Art. 14 of the Constitution. [439 F]
P. J. Irani v. The State of Madras. [1962] 2 S.C.R. 169; State of Madhya Pradesh v. Kanhaiyalal, [1970] 15 M.P.L.J. 973; and Sadhu Singh v. The District Board, Gurdaspur & Anr. (Civil Appeal No. 2594 of 1966 decided on October 29, 1968) referred to.
The preamble and the provisions of a statute no doubt assist the Court in finding out its object and policy but its object and policy need not always be strictly confined to its preamble and the provisions contained therein. [440 D]
In the instant case, the object and policy of the Act appears to be slightly wider than some of the key provisions of the Act namely fixation of fair rent and prevention of unreasonable eviction of tenants. The policy and object of the Act generally is mitigation of hardship of tenants. Such mitigation can be attained by several measures, one of them being creation of incentive to persons with capital who are otherwise reluctant to invest in the construction of new buildings in view of the chilling effect of the rent control laws. As a part of the said scheme in order to persuade them to invest in the construction of new buildings exemption is granted to them from the operation of the Act for a short period of five years so that whatever may be the hardship for the time being to the tenants of the new buildings, the new buildings so constructed may after the expiry of the period of exemption be available for the pool of housing accommodation controlled by the Act. The impugned notification is not therefore, ultra vires section 3 of the Act as in its true effect, it advances the scheme, object and purposes of the Act which are articulated in the preamble and the substantive provisions of the Act. Moreover the classification of buildings into exempted buildings and unexempted buildings brought about by the notification bears a just and reasonable nexus to the object to be achieved namely the creation of additional housing accommodation to meet the growing need of persons who have no accommodation to reside or to carry on business and it cannot be considered as discriminatory or arbitrary or unreasonable in view of the shortness of the period of exemption available in the case of each exempted building. [440 E-441 B]
Art. 239(1) of the Constitution provides that save as otherwise provided by Parliament by law, Union Territory shall be administered by the President acting through an administrator to be appointed by him with such designation as he may specify. Under a notification issued on November 1, 1966, the President has directed that the administrator (the Chief Commissioner) shall in relation to the Union Territory of Chandigarh exercise and discharge with effect from November 1, 1966 the powers and functions of the State Government under any law which is extended to the Union Territory of Chandigarh. The Act is a State law which is so

extended to Union Territory through the Extension Act. It is further seen that s. 3 (8) (b) (iii) of the General Clauses
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Act defines 'Central Government' in relation to the administration of a Union Territory as including the administrator thereof acting within the scope of the authority given to him under Art. 239 of the Constitution. The Union of India which is a party to these proceedings does not dispute the authority of the Chief Commissioner to issue the notification referred to above. Moreover s. 4 of the Extension Act clearly validates the notifications which had been issued or purported to have been issued under the Act before the date of the Extension Act by declaring that they shall be deemed to be valid and effective. [441 G-442 E]

Uttam Bala Ravankar v. Asstt. Collector of Customs & Central Excise Goa & Anr., [1971]1 S.C.R. 714 referred to.

All laws which affect substantive rights generally operate prospectively and there is a presumption against their retrospectivity if they affect vested rights and obligations unless the legislative intent is clear and compulsive Such retrospective effect may be given where there are express words giving retrospective effect or where the language used necessarily implies that such retrospective operation is intended. Hence the question whether a statutory provision has retrospective effect or not depends primarily on the language in which it is couched. If the language is clear and unambiguous effect will have to be given to the provision in question in accordance with its tenor. If the language is not clear then the Court has to decide whether in the light of the surrounding Circumstances retrospective effect should be given to it or not. [443 D-F]

In the instant case a reading of the notification does not clearly indicate that the Chief Commissioner intended to grant exemption in respect of any of the buildings constructed prior to January 31, 1973. There was also no compelling reason for giving exemption to buildings which had already been constructed as the object of issuing the notification was only to encourage construction of new buildings thereafter and not to take away the statutory protection already extended to tenants of buildings which had come into existence prior to January 31, 1973. The notification applies only to those buildings which are given sewerage connection or electric connection or which are occupied, as the case may be, on or after January 31, 1973. [443 H-444 F; 346 C]

The notification impugned in the instant case stands by itself and it is not to be construed in the background of the provision of s. 2 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. [446 A]

Om Prakash Gupta v. Dig Vajendrapal Gupta, [1982] 2 S.C.C. 61; Ratan Lal Shinghal v. Smt. Murti Devi, (A.I.R. 1980 S.C. 635); Shri Ram Saroop Rai v. Smt. Lilavati, [1980] 3 S.C.C. 452; Strawboard Manufacturing Co. Ltd. v. Gupta Mill Workers Union,[1953] S.C.R. 439; Dr. Indramani Pyarelal Gupta. v. W.R. Nathu & Ors., [1963]1 S.C.R. 721; and Income-Tax Officer, Alleppey v. M.C. Ponnoose & Ors., [1970] 1 S.C.R. 678 referred to.
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JUDGMENT:

ORIGINAL JURISDICTION : Writ Petitions Nos. 6372-80, 9604, 9935-41, 9943-44, 9946-56 and 10001 of 1982, 13-18, 83, 393, 410, 682, 914-25, 928, 1108-11, 2742-52, 2770, 2898, 3330-33, 3362, 3543, 3875-79, 3941, 3946, 3950, 4241, 4242, 4815-16, 4826, 4829, 4834-37, 5183, 5574, 5717, & 7891 of 1983, 7016, 8189-8206 & 9346 of 1982, 4614-20, 5188, 5845, 7489, 8212, 8612, 8875-76, 8886-88, 8268-69, 8348-50, 8382, 8384, 9082-83, 9094, 9129, 9133, 9134, 9145, 9147, 9262, 9562, 9862,9864 and 9876-78 of 1983.

(Under article 32 of the Constitution of India)

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The Judgment of the Court was delivered by

VENKATARAMIAH, J. In these petitions under Article 32 of the Constitution, the petitioners have questioned the constitutional validity of the Home Department Notification No. 352-LD-73/602 dated January 31, 1973 (hereinafter referred to as 'the Notification') as modified by the Home Department Notification No. 2294-LD-73/3474 dated September 24, 1973 and the Home Department Notification No. 3205-LD-74/3614 dated September 24, 1974 issued by the Chief Commissioner of the Union Territory of Chandigarh under section 3 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Act') exempting every building constructed in the urban area of Chandigarh for a period of five years from the respective date applicable to it from the operation of the Act and issuing certain other directions in that behalf. Incidentally the petitioners have also questioned the validity of section 3 of the Act.

For a proper appreciation of the rival contentions of the parties, it is necessary to refer briefly to the history of the relevant provisions of law. The area now known as the

Union Territory of Chandigarh was a part of the State of Punjab as it existed prior to the coming into force of the Punjab Reorganization Act. 1966 (Act 31 of 1966). With effect from November 1, 1966 i.e. the appointed day under section 4 of the said Act the Union Territory of Chandigarh came into existence and thereupon the said area ceased to from part of the erst while State of Punjab. Section 87 of the Punjab Reorganization
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Act, 1966 conferred power on the Central Government to extend by notification with such restrictions or modifications as it thought fit any enactment which was in force in a State at the date of the notification to the Union Territory of Chandigarh. Whereas section 88 of that Act provided for the territorial extent of laws, section 89 dealt with the power to adapt laws, with the object of providing as far as possible for the continuity of laws in force in the several parts of the erstwhile State of Punjab in the successor States namely the States of Punjab and Haryana and the Union Territory of Chandigarh.

The Act i.e. the East Punjab Urban Restriction Act, 1949 was a law which had been enacted before the commencement of the Constitution and continued to be in operation even after the commencement of the Constitution in the erstwhile State of Punjab by virtue of the provisions of the Constitution. But the Act had not been brought into force in the area constituting the Union Territory of Chandigarh by the State Government of the erstwhile State of Punjab. By the Notification No. 13/1/66-CHD dated November 1, 1966 issued by the Government of India, Ministry of Home Affairs, the President authorised the Administrator of the Union Territory of Chandigarh i.e. the Chief Commissioner thereof, in relation to the said territory to exercise and discharge with effect from November 1, 1966 the powers and functions of the State Government under any such law. On the basis of the above notification and other relevant provisions of law and notifications which had been issued from time to time to which a detailed reference is not necessary, the Chief Commissioner issued a notification bringing the Act into force in the Union Territory of Chandigarh with certain modifications with effect from November 4, 1972. The validity of the said notification was challenged before the High Court of Punjab and Haryana. The High Court quashed the said notification by its judgment dated October 9, 1974 holding that the Act had not been effectively brought into force in the Union Territory of Chandigarh by virtue of that notification (vide Dr. Harkishan Singh v. Union of India & Ors).(1) It is not necessary to deal with the reasons given by the High Court in support of its judgment since the legal infirmities pointed out by the High Court were set right by the Parliament by the enactment of the East Punjab Urban Rent Restriction Act (Extension of Chandigarh) Act, 1974 (Act 54 of 1974) (hereinafter referred to as 'the Extension Act') the relevant part of which reads as follows:
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> "1. This Act may be called the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974.
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> 2. In this Act, "The Act" means the East Punjab Urban Rent Restriction Act, 1949 as it extended to, and was in force, in certain areas in the pre-reorganisation State of Punjab (being areas which were administered by municipal committees, cantonment boards, town committees or notified area committees or area notified as urban areas for the purposes of that Act)

immediately before the 1st day of November, 1966.

3. Notwithstanding anything contained in any judgment, decree or order of any court, the Act shall subject to the modifications specified in the Schedule be in force in and be deemed to have been in force with effect from the 4th day of November, 1972 in the Union Territory of Chandigarh as if the provisions of the Act as so modified had been included in and formed part, of this section and as if this section had been in force at all material times.

4. (1) Notwithstanding anything contained in any judgment, decrees or order of any court, anything done or any action taken (including any notification or direction issued or rents fixed or permission granted or oder made) or purported to have been done or taken under the Act shall be deemed to be as valid and effective as if the provisions of this Act had been in force at all material times when such thing was done or such action was taken.

(2) Nothing in this Act shall render any person guilty of any offence for any contravention of the provisions of the Act which occurred before the commencement of this Act.

THE SCHEDULE

(See Section 3)

Modifications in the Act

1. Throughout the Act, for "State Government" substitute "Central Government".

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2. Section 1, for sub-sections (2) and (3), substitute "(2) It extends to all the urban areas in the Union Territory of Chandigarh".

3. Section 2.-

(i) after clause (d), insert-

(dd) "Notification" means a notification published in the Official Gazettee".

(ii) for clause (j), substitute-

'(j) "urban area" means the area comprised in Chandigarh as defined in Clause (d) of Section 2 of the Capital of Punjab (Development and Regulation) Act, 1952 and includes such other area comprised in the Union Territory of Chandigarh as the Central Government may, having regard to the density of the population and the nature and extent of the accommodation available therein and other relevant factors, declare by notification to be urban for the purposes of this Act."

4. For Section 20, substitute-

"20. (1) The Central Government may by notification make rules, for the purpose of carrying out all or any of the provisions of this Act.

(2) Every rule made under this Section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule".

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Thereafter in exercise of the powers conferred by section 3 of the Act the Chief Commissioner published a notification dated January 31, 1973 exempting the buildings referred to therein from the operation of the Act. It reads:-

"No. 352-LD-73/602 dated January 31, 1973. In exercise of the powers conferred by section 3 of the East Punjab Urban Rent Restriction Act, 1949 (Punjab Act No. III of 1949), as applicable to the Union Territory of Chandigarh, the Chief Commissioner, Chandigarh, is pleased to direct that the provisions of the said Act shall not apply to buildings, constructed in the urban area of Chandigarh, for a period of five years with effect from the date the sewerage connection is granted in respect of such buildings by the competent authority under rule 112 of the Punjab Capital (Development and Regulation) Building Rules, 1952."

This was followed by the issue of another notification dated September 24, 1973 which is as follows:-

"No. 2294-LD-73/3474 -In partial modification of Chandigarh Administration, Home Department/Notification No. 532-LD-73/602 dated the 31st January, 1973, the Chief Commissioner, Chandigarh is pleased to direct that the period of five years' exemption shall be computed as under:

(a) Where sewerage connection can be given, from the date such connection is granted by the competent authority;

(b) Where sewerage connection cannot be granted, as for instance, in the case of booths, from the date electric connection is first given by the competent authority.

(c) In case not covered in categories (a) or (b) above from the date the building is actually occupied."

Again on June 11, 1982 a further notification was issued as follows:

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"No. LD-82/10.11.- In partial modification of Chandigarh Administration, Home Department Notification No. 352-LD-73/602 dated the 31st January, 1973 read with Chandigarh Administration Home Department Notification No. 2294-LD-73/3474, dated the 24th September, 1973 and in exercise of the powers conferred by section 3 of the East Punjab Urban Rent Restriction Act, 1949 as applicable to the Union Territory of Chandigarh, the Chief Commissioner, Chandigarh is pleased to direct that the period of 5 years' exemption shall be computed in the manner indicated below:

(a) Where sewerage connection can be given, from the date such connection is granted by the competent authority;

(b) Where sewerage connection cannot be granted, as for instance, in the case of booths, from the date electric connection is first given by the competent authority;

(c) Where sewerage connection has already been given and new building is constructed in addition to or over and above the existing building and has been separately let out, from the date new building is actually occupied;

(d) In cases not covered in categories above, from the date the building is actually occupied."

On September 24, 1974, the Chief Commissioner had issued earlier another notification which read thus:

"No. 3205-LD-74/3614.

In exercise of the powers conferred by section 3 of the East Punjab Urban Rent Restriction Act, 1949 as applicable to the Union Territory of Chandigarh, the Chief Commissioner, Chandigarh is pleased to direct that the provisions of Section 13 of the said Act shall not apply to buildings, exempted from the provisions of the Act for a period of five years vide Chandigarh Administration Notification No. 352-LD-73/602 dated the 31st January,

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1973 in respect of decrees passed by Civil Courts in suits for ejectment of tenants in possession of these buildings instituted by the landlords against such tenants during the period of exemption whether such decrees were or are passed during the period of exemption or at any time thereafter."

The Extension Act merely brought into force with effect from November 4, 1972, the Act which was an Act in force in the former State of Punjab with the modifications set out in its Schedule in the Union Territory of Chandigarh and validated all actions taken, notifications issued and orders made or purported to have been taken issued or made under the Act. Having done that it withdrew from the scene. Thereafter the Act as modified by the Extension Act alone has to be looked into to consider its effect on the Union Territory of Chandigarh. As observed by this Court in Rajputana Mining Agencies Ltd. v. Union of India & Anr.(1) 'there is neither precedent nor warrant for the assumption that when one Act applies another Act to some territory, the latter Act must be taken to be incorporated in the former Act. It may be otherwise, if there were words to show that the earlier Act is to be deemed to be reenacted by the new Act.' The Act in the instant case was only extended but not re-enacted. We should, therefore, proceed on the assumption that the Act itself with the amendments was in force with effect from November 4, 1972 in the Union Territory of Chandigarh. Every building that was in existence on that day and which was constructed thereafter came to be governed by the Act as amended by the Extension Act. It was on January 31, 1973 that the Chief Commissioner issued-the notification under section 3 of the Act exempting a certain class of buildings namely new buildings for a period of five years calculated from the relevant date applicable to them. Section 3 of the Act as amended by the Extension Act reads thus:

"3. The Central Government may direct that all or any of the provisions of this Act shall not apply to any particular building or rented land or any class of buildings or rented lands."

The notification dated January 31, 1973 and the other notifications modifying it are already set out above.

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Several contentions have been urged on behalf of the petitioners in support of their case. Their first attack is directed against section 3 of the Act itself. It is urged that the said section which authorises the Central Government to issue notifications exempting certain buildings or class of buildings suffers from the vice of excessive delegation of legislative power. This contention need not detain us long because of the decision in P.J. Irani v. The State of Madras(1) in which section 13 of the Madras Buildings (Lease and Rent Control) Act, 1949 (Madras Act XXV of 1949) which read as:

"Notwithstanding anything contained in this Act the State Government may by a notification in the Fort

St. George Gazette exempt any building or class of buildings from all or any of the provisions of this Act,"

was upheld by a Constitution Bench of this Court. This Court did not also notice any infirmity in section 3(2) of the Madhya Pradesh Accommodation Control Act, 1961 (41 of 1961) which read as:

"The Government may, by notification exempt from all or any of the provisions of this Act any accommodation which is owned by any educational religious or charitable institution or by any nursing or maternity home, the whole of the income derived from which is utilised for that institution or nursing home or maternity home."

while deciding the case of State of Madhya Pradesh v. Kanhaiyalal.(2) In fact the very section i.e. section 3 of the Act has been held by this Court not to suffer from the vice of excessive delegation of legislative power (See Sadhu Singh v. The District Board, Gurdaspur & Anr.(3) It is also held in that case that section 3 is not violative of Article 14 of the Constitution. This contention, therefore, fails.

The next contention is that the exemption granted by the notification in these cases being outside the scope of the object and policy of the Act and at the same time discriminatory is liable to be struck down. The argument proceeds on the assumption that the policy and object of an Act can be gathered only from its preamble

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and the provisions contained therein and that in the instant case since the preamble of the Act stated that it had been enacted to restrict the increase of rent of certain premises situated within the limits of urban areas and the eviction of tenants therefrom and the Act has made provision only for those purposes mentioned in the preamble, the Central Government which is only a delegate of the Parliament could not exempt totally certain new buildings from the operation of the Act, thus enabling greedy landlord to charge excessive rents and to evict at their sweet will the tenants who did not submit to their wishes. In the counter affidavit filed on behalf of the administration of the Union Territory of Chandigarh it is pleaded that the object of issuing the notification is to encourage construction of new buildings in the urban area of Chandigarh so that as the supply of housing accommodation increased, the pressure on the tenant as a class may decrease.

The preamble and the provisions of a statute no doubt assist the Court in finding out its object and policy but its object and policy need not always be strictly confined to its preamble and the provisions contained therein. The object and policy of the Act which is now before us appears to be slightly wider than some of the key provisions of the Act namely fixation of fair rent and prevention of unreasonable eviction of tenants. The acute problem of shortage of urban housing as we all know has become a permanent feature throughout India. It is on account of the shortage of the number of houses in urban areas, the landlords get an opportunity to exploit tenants who are in need of housing accommodation by compelling them to enter into unconscionable bargains. The Act is passed as one of the measures taken to mitigate the hardship caused to the tenants. The policy and object of the Act generally is mitigation of the hardship of tenants. Such mitigation can be attained by several measures, one of them being creation of incentive to persons with capital who are otherwise reluctant to invest in the construction of new buildings in

view of the chilling effect of the rent control laws. As a part of the said scheme in order to persuade them to invest in the construction of new buildings exemption is granted to them from the operation of the Act for a short period of five years so that whatever may be the hardship for the time being to the tenants of the new buildings, the new buildings so constructed may after the expiry of the period of exemption be available for the pool of housing accommodation controlled by the Act. The impugned notification is not, therefore, ultra vires section 3 of the Act as in its true effect,

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it advances the scheme, object and purposes of the Act which are articulated in the preamble and the substantive provisions of the Act. Moreover the classification of buildings into exempted buildings and unexempted buildings brought about by the notification bears a just and reasonable nexus to the object to be achieved namely the creation of additional housing accommodation to meet the growing needs of persons who have no accommodation to reside or to carry on business and it cannot be considered as discriminatory or arbitrary or unreasonable in view of the shortness of the period of exemption available in the case of each exempted building. The exemption granted for a period of five years only serves as an incentive as stated above and does not create a class of landlords who are for ever kept outside the scope of the Act. The notification tries to balance the interests of the landlords on the one hand and of the tenants on the other in a reasonable way. We do not, therefore, agree with the submission that the notification either falls outside the object and policy of the statute or is discriminatory.

The next submission made on behalf of the petitioners is that the notification dated January 31, 1973 and the other subsequent notifications issued by the Chief Commissioner are of no effect since according to the petitioners, the power to issue such notifications under section 3 of the Act can be exercised by the Central Government only. On behalf of the respondents i.e. the Union of India and the administration of the Union Territory of Chandigarh, it is urged that although the Central Government is vested with the power to issue orders under section 3 of the Act, the said power can be exercised concurrently by the Chief Commissioner of the Union Territory of Chandigarh also by virtue of Article 239(1) of the Constitution read with the notification issued by the President there-under and of the definition of the expression 'Central Government' given in section 3(8) of General Clauses Act, 1897.

Clause (1) of Article 239 of the Constitution reads thus:

> "239. (1) Save as otherwise provided by 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."

The administrator of the Union Territory of Chandigarh is called the Chief Commissioner. Under a notification issued on

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November 1, 1966, the President has directed that the administrator (the Chief Commissioner) shall in relation to the Union Territory of Chandigarh exercise and discharge with effect from November 1, 1966 the powers and functions of the State Government under any law which is extended to the Union Territory of Chandigarh. The Act is a State law

which is so extended to the Union Territory through the Extension Act which is only a corollary to sections 87, 88 and 89 of the Punjab Reorganisation Act, 1966. It is further seen that section 3 (8) (b) (iii) of the General Clauses Act defines 'Central Government' in relation to the administration of a Union Territory as including the administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution. The Union of India which is a party to these proceedings does not dispute the authority of the Chief Commissioner to issue the notifications referred to above. In Uttam Bala Ravankar v. Asstt. Collector of Customs & Central Excise, Goa & Anr.(1) this Court has applied section 3(8) of the General Clauses Act to uphold a notification issued by the Lt. Governor of Goa, Daman and Diu (the administrator of the Union Territory) where the power to issue it was exercisable by the Central Government. Moreover section 4 of the Extension Act clearly validates the notifications which had been issued or purported to have been issued under the Act before the date of the Extension Act by declaring that they shall be deemed to valid and effective. We do not, therefore, find any merit in this contention too.

We shall next deal with the question whether the notification issued under section 3 of the Act has retrospective effect. This question affects those buildings which were constructed in the sense that they satisfied the criteria applicable to them prior to the issue of the notification. It is urged on behalf of the tenants of such buildings that the notification is only prospective in its operation and the benefit of the exemption accorded by it cannot be claimed by the landlords of such buildings. The stand of the administration of the Union Territory of Chandigarh is also the same. The submission made on behalf of the Chandigarh administration is that the notifications take within their sweep only such buildings as are completed in the sense fulfilling the criteria laid down therein after the notifications were brought into force. The landlords of certain buildings, however, claim that all buildings which were given

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sewerage connection within five years prior to January 31,1973 or buildings to which such sewerage connection could not be given but which were given electric connection within five years prior to January 31,1973 or in any other case buildings which were occupied within five years prior to January 31,1973 should also be treated as having been exempted from the operation of the Act for a period of five years from the respective dates applicable to them In other words, it is urged by them that all the buildings which satisfied any of the above conditions on or after January 31,1968 would be entitled to the exemption in question for a period of five years. It is further contended by them that any decree for eviction that may have been obtained by them in respect of such buildings in civil courts in suits instituted by them during the period of such exemption would be executable notwithstanding the provisions contained in Section 13 of the Act.

All laws which affect substantive rights generally operate prospectively and there is a presumption against their retrospectivity if they affect vested rights and obligations unless the legislative intent is clear and compulsive. Such retrospective effect may be given where there are express words giving retrospective effect or where the language used necessarily implies that such

retrospective operation is intended. Hence the question whether a statutory provision has retrospective effect or not depends primarily on the language in which it is couched. If the language is clear and unambiguous effect will have to be given to the provision in question in accordance with its tenor. If the language is not clear then the Court has to decide whether in the light of the surrounding circumstances retrospective effect should be given to it or not.

In these cases the document which has got to be construed is a notification issued under section 3 of the Act by the Chief Commissioner who is only a delegate of the Legislature. It is to be noted that there is no dispute that as soon as the Act came into force on November 4, 1972 all the buildings which had been constructed prior to that date came within the scope of the Act. The Act also applied to all the buildings which were constructed thereafter and before January 31, 1973 on which date the notification was issued. The point for consideration is whether on the issue of the notification on January 31, 1973 any such building to which the Act already applied was taken out of the operation of the Act. A reading of the notification does not clearly indicate that the Chief

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Commissioner intended to grant exemption in respect of any of the buildings constructed prior to January 31, 1973. While the words 'buildings constructed in the urban area of Chandigarh for a period of five years with effect from the date the sewerage connection is granted' which are found in the notification refer to all the buildings to which sewerage connection is granted after the date of the notification, they do not necessarily mean and include buildings which had been given sewerage connection within five years prior to that date. There was also no compelling reason for giving exemption to buildings which had already been constructed as the object of issuing the notification as mentioned earlier was only to encourage construction of new buildings thereafter and not to take away the statutory protection already extended to the tenants of buildings which had come into existence prior to January 31, 1973. The landlords of these buildings have, however, relied upon the decision of this Court in Om Prakash Gupta v. Dig Vajendrapal Gupta(1) in support of their contention. In that case, the Court had to construe the provisions of sub-section (2) of section 2 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U.P. Act 13 of 1972), the relevant part of which read thus:

> "Except as provided in sub-section (5) of section 12, sub-section (1-A) of section 21, sub-section (2) of section 24, sections 24-A, 24-B, 24-C or sub-section (3) of section 29, nothing in this Act shall apply to a building during a period of ten years from the date on which its construction is completed:
>
> xxx xxx xxx
>
> Explanation 1.-For the purposes of this sub-section,-
> (a) the construction of a building shall be deemed to have been completed on the date on which the completion thereof is reported to or otherwise recorded by the local authority having jurisdiction, and in the case of a building subject to assessment, the date on which the first assessment thereof comes into effect, and where the said dates are different, the earliest of the said dates, and in the absence of any such report, record or assessment, the date on which it is actually occupied (not including occupation merely for the purposes of

supervising the
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construction or guarding the building under construction) for the first time."

In the above case, the Court held that the aforesaid provision had retrospective effect and applied to buildings constructed prior to the date on which the said Act came into force provided they satisfied the conditions mentioned therein.

The above provision appears as part of section 2 of the U.P. Act referred to above which exempted many existing and future buildings which satisfied the conditions referred to in clauses (a) to (f) of sub-section (1), sub-section (2) and sub-section (3) thereof. The said exemption was given by the statute itself. It may be stated here that at the instance of one of the parties to the Special Leave Petition (Civil) No. 3573 of 1979 (Suresh Chand v. Gulam Chisti) which was disposed of by the same judgment, a review of the above judgment has been granted and by an order made on October 7, 1983 the case is directed to be reheard. Moreover on the construction of the above provision, there are two earlier decisions-one in Ratan Lal Shinghal v. Smt. Murti Devi(1) decided on August 21, 1979 in which it is held that the said provision has no retrospective effect but is only prospective in operation and another in Shri Ram Saroop Rai v. Smt. Lilavati(2) decided on May 7, 1980 in which a contrary view is taken. Section 2 of the said U.P. Act requires to be considered in the setting in which it appears. We are of the view that any decision on that provision has to be confined to that provision and cannot be extended to the present case by analogy.

There is one other distinction which is sought to be made between an exemption granted by a notification which is issued by a delegate of the Legislature who is not given power by the Legislature to issue a notification having retrospective effect and an exemption granted by the Legislature itself on the basis of the observations made in Strawboard Manufacturing Co. Ltd. v. Gupta Mill Workers Union, Dr. Indramani Pyarelal Gupta v. W. R. Nathu & Ors. and Income-tax Officer, Alleppey v. M.C. Ponnoose & Ors.
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It is not necessary to deal with the above point any further since we are of the view that the notification impugned in these cases stands by itself and it is not to be construed in the background of the provisions of section 2 of the U.P. Act referred to above.

On a careful consideration of the question we feel that the benefit of the notification cannot be extended to buildings which were given the sewerage connection or electric connection or which were occupied, as the case may be, prior to January 31, 1973. Those buildings are governed by the provisions of the Act and any decrees passed in respect of them are governed by section 13 of the Act. The notification applies only to those buildings which are given sewerage connection or electric connection or which are occupied, as the case may be, on or after January 31, 1973.

In the result we declare that section 3 of the Act and the notification dated January 31, 1973 and the other notifications impugned in these cases are valid and effective. We further declare that the exemption granted by the notification dated January 31, 1973 applies only to those buildings which are given sewerage connection or electric connection or which are occupied, as the case may be, on or after January 31, 1973 and not to those buildings which satisfied any of the said conditions before January

31, 1973.

The petitions are accordingly disposed of. No costs.

H.S.K. Petitions dismissed.

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