2025 INSC 535

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3797 OF 2025
(Arising out of SLP (Civil) No. 2138 of 2024)

MD. FIROZ AHMAD KHALID …APPELLANT(S)

VERSUS

THE STATE OF MANIPUR & ORS. …RESPONDENT(S)

WITH

CIVIL APPEAL NO. 3798 OF 2025
(Arising out of SLP (Civil) No. 8642 of 2024)

J U D G M E N T

M. M. Sundresh, J.

1. Whether a Muslim Member of the Bar Council of the State or the Union territory (hereinafter referred to as "**the Bar Council**"), duly elected as

a Member of the Waqf Board (hereinafter referred to as "**the Board**") constituted under Section 14 of the Wakf Act, 1995 (hereinafter referred to as "**the 1995 Act**"), can continue to hold the said position, even after the expiry of his tenure in the Bar Council, is the short issue that arises for consideration in these appeals.

2. The facts of the case in a nutshell are as follows :–

A Gazette notification had been issued by the Bar Council of Manipur on 26.12.2022, vide which the appellant in Civil Appeal No. 3797 of 2025 (hereinafter referred to as the "**appellant**"), had been elected as a Member of the Bar Council. Subsequently, an order was issued by the Commissioner-cum-Secretary (Minority Affairs), Government of Manipur, on 08.02.2023, appointing the appellant as one of the Members of the 7th Waqf Board Committee, in exercise of powers conferred under Section 14(1)(b)(iii) and Section 14(3) of the 1995 Act, since respondent No. 3 in Civil Appeal No. 3797 of 2025 (hereinafter referred to as "**respondent No. 3**"), being an earlier Member of the Board, had ceased to be a Member of the Bar Council of Manipur.

3. Respondent No. 3 had filed Writ Petition (Civil) No. 304 of 2023 before the High Court of Manipur at Imphal, praying for the order dated

08.02.2023, vide which the appellant had been appointed to the Board, to be quashed. The challenge to the said order was on the ground that there is no provision under the 1995 Act, which stipulates that a Member of the Board shall cease to continue in his position, if he is no longer a Member of the Bar Council. Vide judgment and order dated 23.08.2023, the Single Judge dismissed Writ Petition (Civil) No. 304 of 2023 as respondent No. 3 had lost the Bar Council election held on 17.12.2022, and therefore, as per the mandate of Explanation II to Section 14(1)(b) of the 1995 Act, he cannot be a Member of the Board, any longer.

4. Vide impugned judgment dated 23.11.2023, the Division Bench of the High Court, placing reliance on Explanation II to Section 14(1)(b) of the 1995 Act, has arrived at the conclusion that the said Explanation only speaks about instances wherein a Member of the Board, who ceases to be a Member of Parliament or Member of the State Legislative Assembly, as the case may be, shall be deemed to have vacated their position in the Board. The Division Bench has further concluded that the said Explanation does not apply to a Member of the Board, who ceases to hold their position as a Muslim Member of the concerned Bar

Council, and that they would continue to hold their position as a Member of the Board, regardless of them having ceased to be a Muslim Member of the Bar Council. Consequently, the order dated 08.02.2023 issued by the Commissioner-cum-Secretary (Minority Affairs), Government of Manipur appointing the appellant as a Member of the Board in place of respondent No. 3, was set aside, and the State of Manipur was directed to continue the services of respondent No. 3 as a Member of the 7th Waqf Board Committee, till the completion of the term of his office as stipulated under Section 15 of the 1995 Act.

5. Learned Senior Counsel appearing for the appellant and learned counsel appearing for the State of Manipur submit that Section 14 of the 1995 Act, is clear and unambiguous. Sub-section (1) which deals with the composition of the Board, stipulates that the Board shall mandatorily consist of a Chairperson, and amongst other members, it would comprise Muslim Members of Parliament from the State or the National Capital Territory of Delhi, Muslim Members of the State Legislative Assembly, and Muslim Members of the Bar Council. Explanation II to Section 14(1)(b) of the 1995 Act merely clarifies that an individual who ceases to be either a Member of Parliament or a Member of the State

Legislative Assembly, from the said community, would be deemed to have vacated their office as a Member of the Board. The interpretation as rendered by the Division Bench of the High Court, vide the impugned judgment, would militate against the very legislative intent of the substantial part of the provision, and, therefore, the same ought to be interfered with.

6. *Per-contra*, learned counsel appearing for respondent No. 3 by placing reliance upon the decision of this Court in *The State of Maharashtra* vs. *Shaikh Mahemud & Anr. (Civil Appeal No.2784 of 2022 arising out of Special Leave Petition (Civil) No.11652 of 2021)* decided on 06.04.2022, and the decision of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in *Shri Asif S/o. Shaukat Qureshi* vs. *The State of Maharashtra and Anr. (Writ Petition No. 4343 of 2016)* decided on 22.12.2016, submits that one shall read the provision as a whole, and not in piecemeal. The Legislature, in its wisdom, has thought it fit to apply Explanation II to Section 14(1)(b) of the 1995 Act, only to a Member of Parliament, or a Member of the State Legislative Assembly, who ceases to hold the said posts. Placing reliance on the maxim, "*expressio unius est exclusio alterius"*, he

submits that there is a conscious omission on the part of the Legislature to the effect that a Member of the Bar Council is excluded from the purview of Explanation II. In such view of the matter, there is no need for interference in the impugned judgment.

7. On a conspectus of the arguments advanced by both the sides, we deem it fit to firstly extract Section 14 of the 1995 Act:

Section 14 of the 1995 Act

> **"14. Composition of Board.**- (1) The Board for a State and the National Capital Territory of Delhi shall consist of-
>
> (a) a Chairperson;
>
> (b) one and not more than two members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of-
>
> (i) Muslim Members of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;
>
> (ii) Muslim Members of the State Legislature;
>
> **(iii) Muslim members of the Bar Council of the concerned State or Union territory**:
>
> *Provided that in case there is no Muslim member of the Bar Council of a State or a Union territory, the State Government or the Union territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union territory, and*
>
> *(iv) mutawallis of the auqaf having an annual income of rupees one lakh and above.*
>
> *Explanation I* - For the removal of doubts, it is hereby declared that the members from categories mentioned in sub-clauses (i) to (iv), shall be elected from the electoral college constituted for each category.

Explanation II. - **For the removal of doubts it is hereby declared that in case a Muslim member ceases to be a Member of Parliament from the State or National Capital Territory of Delhi as referred to in sub-clause (i) of clause (b) or ceases to be a Member of the State Legislative Assembly as required under sub-clause (ii) of clause (b), such member shall be deemed to have vacated the office of the member of the Board for the State or National Capital Territory of Delhi, as the case may be, from the date from which such member ceased to be a Member of Parliament from the State National Capital Territory of Delhi, or a Member of the State Legislative Assembly, as the case may be;**

(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government;

(d) one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology;

(e) one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government;

(1-A) No Minister of the Central Government or, as the case may be, a State Government, shall be elected or nominated as a member of the Board:

Provided that in case of a Union territory, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from categories specified under sub-clauses (i) to (iv) of clause (b) or clauses (c) to (e) in sub-section (1):

Provided further that at least two Members appointed on the Board shall be women:

Provided also that in every case where the system of mutawalli exists, there shall be one mutawalli as the member of the Board.

(2) Election of the members specified in clause (b) of sub-section (1) shall be held in accordance with the system of proportional representation by means of a single transferable vote, in such manner as may be prescribed:

Provided that where the number of Muslim Members of Parliament, the State Legislature or the State Bar Council, as the case may be, is only one, such Muslim Member shall be declared to have been elected on the Board:

Provided further that where there are no Muslim Members in any or the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the ex-Muslim Members of Parliament, the State Legislature or ex-member of the State Bar Council, as the case may be, shall constitute the electoral college.

(3) Notwithstanding anything contained in this section, where the State Government is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the State Government may nominate such persons as the members of the Board as it deems fit.

(4) The number of elected members of the Board shall, at all times, be more than the nominated members of the Board except as provided under sub-section (3).

(6) In determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of Shia auqaf and Sunni auqaf to be administered by the Board and appointment of the members shall be made, so far as may be, in accordance with such determination.

(8) Whenever the Board is constituted or re-constituted, the members of the Board present at a meeting convened for the purpose shall elect one from amongst themselves as the Chairperson of the Board.

(9) The members of the Board shall be appointed by the State Government by notification in the Official Gazette."

(emphasis supplied)

8. Section 14 of the 1995 Act, as extracted above, has two parts to it. While Section 14(1) of the 1995 Act concerns itself with the composition of the Board, and lists out the eligibility criteria for membership to the Board, Section 14(2) of the 1995 Act provides for the mode of election, and the eventualities in case of a lack of, or unavailability of eligible Muslim Members as provided for under Section 14(1)(b) of the 1995

Act. Section 14(1)(b) of the 1995 Act facilitates for one and at the most two Members each to be elected from the electoral colleges comprising (i) Muslim Members of Parliament, (ii) Muslim Members of the State Legislative Assembly and (iii) Muslim Members of the Bar Council. Only in the event that there is no Muslim Member of the Bar Council available, the State Government or the Union territory administration, as the case may be is given the discretion to nominate any Senior Muslim advocate to the electoral college. As is evident from the language of Section 14 of the 1995 Act, this is a mandatory provision.

9. Explanation II to Section 14(1)(b) of the 1995 Act merely clarifies that in case a Member of the Board ceases to be a Member of Parliament or a Member of the State Legislative Assembly, such Member shall be deemed to have vacated the office of the Member of the Board from the date on which they ceased to be a Member of Parliament or Member of the State Legislative Assembly, as the case may be. The difficulty herein has arisen on account of the fact that a Muslim Member of the Bar Council serving as a Member of the Board, does not find a specific mention in Explanation II to Section 14(1)(b) of the 1995 Act with

respect to their deemed vacation of office, pursuant to ceasing to be a Member of the concerned Bar Council.

10. To interpret a legislative provision, what must be primarily considered is its substantive part. An explanation simply performs a clarifying function. In other words, the substantive part of a provision cannot be understood solely from the point of view of an explanation.

11. The words "for the removal of doubts" in Explanation II to Section 14(1)(b) of the 1995 Act, throw light on the clarificatory nature of the said Explanation. Although Explanation II to Section 14(1)(b) of the 1995 Act does not explicitly mention that the term of a Muslim Member of the Bar Council in the Board, is also co-terminus with their term in the Bar Council, this must be understood to be implied, upon a reading of the provision as a whole. This is because the eligibility of persons under the categories listed in Section 14(b)(i), 14(b)(ii), and 14(b)(iii) of the 1995 Act, hinges on their membership in either the Parliament, or the State Legislative Assembly, or the Bar Council respectively. Without such membership in the Parliament, or the State Legislative Assembly or the Bar Council, the very basis for their membership in the Board ceases to exist. There is no satisfactory justification to exclude

the applicability of Explanation II to Section 14(1)(b) of the 1995 Act, to a Member of the Bar Council. Such an exclusion would, in fact, run contrary to the legislative intent behind the statute.

12. Upon reading the provision as a whole, we find that the implied inclusion, as aforestated, is also supported by the two provisos appended to Section 14(2) of the 1995 Act. Section 14(2) of the 1995 Act provides that the election of the Members specified in Section 14(1)(b) of the 1995 Act, shall be held in accordance with the system of proportional representation by means of a single transferable vote, in such manner as may be prescribed. The first proviso makes it clear that where the number of Muslim Members of Parliament, State Legislative Assembly, or Bar Council, as the case may be, is only one, the said person shall be declared to have been elected as a Member of the Board. More pertinently, the second proviso clarifies that where there are no Muslim Members in any of the three categories mentioned in Section 14(1)(b) of the 1995 Act, ex-Muslim Members of Parliament, State Legislative Assembly or ex-Member of Bar Council, as the case may be, shall constitute the electoral college. In simpler terms, the first

proviso reiterates the fact that there are twin conditions, to be eligible to be a Member of the Board, namely:

1. The candidate must be from the Muslim community, and
2. The candidate must hold a position either as a Member of Parliament, or a Member of the State Legislative Assembly, or a Member of the Bar Council.

The aforementioned conditions are reiterated with further clarity in the second proviso. The second proviso states that by way of an exception based on a factual contingency, in the event that there are no Muslim Members available in any of the categories listed in Section 14(1)(b) of the 1995 Act, an ex-Member of Parliament, State Legislative Assembly or an ex-Member of the Bar Council, as the case may be, would constitute the electoral college.

13. This makes it clear that an ex-Member of the Bar Council would constitute the electoral college only when there is no eligible Member as provided for in Section 14(1)(b)(iii) of the 1995 Act, and the proviso contained therein. This means that if there is no serving Muslim Member in the Bar Council and also no Senior Muslim advocate who is available, only then would an ex-Member of the Bar Council be

eligible to be a Member of the Board. It is thus, axiomatic to state that an existing Muslim Member of the Board from the Bar Council, would cease to be a Member of the Board, upon the completion of their tenure as a Member of the Bar Council, when there is another Muslim Member available to replace them from within the Bar Council. Thus, upon a reading of the entire provision, it is clear that there is no conscious intention on the part of the Legislature to omit the applicability of Explanation II to Section 14(1)(b) of the 1995 Act, to Muslim Members of the Board elected from the Bar Council.

14. The object of any provision must be seen in light of the provisions surrounding it, which includes the proviso(s) and the explanation(s) appended to it. When a right accrues to a person pursuant to a position that they hold, it ultimately becomes a qualification. Once such qualification ceases to exist, that person would not be eligible to hold any other post based on his earlier position, unless the statute categorically facilitates the same. An explanation, which is simply in the nature of a clarification as regards certain categories, cannot be read in a manner which is violative of the substantive part of the provision. Although normally, a proviso cannot be used to understand the

substantive part of the provision, there is no absolute bar in doing so, particularly in cases where the statute is peculiar and the proviso does not create any exception. For the aforementioned purpose, an explanation can also be understood through the proviso. In other words, if a proviso or an explanation, as the case may be, is phrased in a manner which throws more light on the objective behind the substantive part of the provision, there would be no difficulty in appreciating the same. Ultimately, a proviso or an explanation may be used for several purposes. Therefore, what is required is that Courts appreciate the context of such usage before rendering an interpretation to a provision vis-a-vis the proviso or explanation contained therein.

15. On another footing, extending the applicability of Explanation II to Section 14(1)(b) of the 1995 Act, even to a Muslim Member of the Bar Council, is only but natural even in light of the doctrine of reasonable classification that has evolved from the jurisprudence on Article 14 of the Constitution of India, 1950, which provides for equality before the law and equal protection of the law. A classification would be reasonable only when there is an intelligible differentia which has a rational nexus with the object sought to be achieved through the statute.

In the instant case, giving an overreaching interpretation to Explanation II to Section 14(1)(b) of the 1995 Act, to imply that a Muslim Member of the Bar Council shall continue to hold membership in the Board, despite losing their position in the former post, would amount to treating Members of Parliament and Members of the State Legislative Assembly differently from Members of the Bar Council. No intelligible differentia is discernible for such a classification from the scheme of the provision. In fact, it is tantamount to rewriting the provision in its entirety. On this ground also, we find that Explanation II to Section 14(1)(b) of the 1995 Act must be given a harmonious construction and purposive interpretation to mean that the term of a Member of the Bar Council serving on the Board, is co-terminus with their membership in the Bar Council itself**.**

Dattatraya Govind Mahajan v. State of Maharashtra, (1977) 2 SCC 548

> **"9. …**It is true that the orthodox function of an explanation is to explain the meaning and effect of the main provision to which it is an explanation and to clear up any doubt or ambiguity in it**. <u>But ultimately it is the intention of the legislature which is paramount and mere use of a label cannot control or deflect such intention. It must be remembered that the legislature has different ways of expressing itself and in the last analysis the words used by the legislature alone are the true repository of the intent of the legislature and they must be construed having regard to the context and setting in which they occur. Therefore, even though the provision in question has been called an Explanation, we must construe</u>**

it according to its plain language and not on any a *priori* considerations…."

(emphasis supplied)

S. Sundaram Pillai v. Pattabiraman, (1985) 1 SCC 591

"46. …It is now well settled that **an Explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain or clarify certain ambiguities which may have crept in the statutory provision.** Sarathi in *Interpretation of Statutes* while dwelling on the various aspects of an Explanation observes as follows:

(a) The object of an Explanation is to understand the Act in the light of the explanation.
(b) It does not ordinarily enlarge the scope of the original section which it explains, but only makes the meaning clear beyond dispute. (p. 329)

47. Swarup in *Legislation and Interpretation* very aptly sums up the scope and effect of an Explanation thus**:**

"Sometimes an Explanation is appended to stress upon a particular thing which ordinarily would not appear clearly from the provisions of the section. The proper function of an Explanation is to make plain or elucidate what is enacted in the substantive provision and not to add or subtract from it. Thus an Explanation does not either restrict or extend the enacting part; it does not enlarge or narrow down the scope of the original section that it is supposed to explain.... The Explanation must be interpreted according to its own tenor; that it is meant to explain and not vice versa." (pp. 297-98)

48. Bindra in *Interpretation of Statutes* (5th Edn.) at p. 67 states thus**:**

"An Explanation does not enlarge the scope of the original section that it is supposed to explain. It is axiomatic that an Explanation only explains and does not expand or add to the scope of the original section... The purpose of an Explanation is, however, not to limit the scope of the main provision.... The construction of the Explanation must depend upon its terms, and no theory of its purpose can be entertained unless it is to be inferred from the language used. An 'Explanation' must be interpreted according to its own tenor."

49. The principles laid down by the aforesaid authors are fully supported by various authorities of this Court. To quote only a few, in *Burmah Shell Oil Storage and Distributing Co. of India Ltd.* v. *CTO* [(1961) 1 SCR 902 : AIR 1961 SC 315 : (1960) 11 STC 764] a Constitution Bench decision, Hidayatullah, J. speaking for the Court, observed thus**:**

"Now, the Explanation must be interpreted according to its own tenor, and it is meant to explain clause (1)(fl) of the Article and not *vice versa*. It is an error to explain the Explanation with the aid of the Article, because this reverses their roles**."**

50. In *Bihta Cooperative Development Cane Marketing Union Ltd*. v. *Bank of Bihar* [(1967) 1 SCR 848 : AIR 1967 SC 389 : 37 Com Cas 98] this Court observed thus**:**

"<u>The Explanation must be read so as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section.</u>"

51. In *Hiralal Rattanlal case* [(1973) 1 SCC 216 : 1973 SCC (Tax) 307] this Court observed thus: [SCC para 25, p. 225: SCC (Tax) p. 316]

"On the basis of the language of the Explanation this Court held that it did not widen the scope of clause (*c*). But from what has been said in the case**, <u>it is clear that if on a true reading of an Explanation it appears that it has widened the scope of the main section, effect be given to legislative intent notwithstanding the fact that the Legislature named that provision as an Explanation.</u>"**

*** *** ***

53. Thus, from a conspectus of the authorities referred to above, it is manifest that the object of an Explanation to a statutory provision is—

"<u>(a) to explain the meaning and intendment of the Act itself,</u>
<u>(b) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve,</u>
<u>(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,</u>
<u>(d) an Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and</u>

(e) it cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same.""

(emphasis supplied)

Government of Andhra Pradesh v. Corporation Bank, (2007) 9 SCC 55

"12. In construing a statutory provision, the first and foremost rule of construction is the literal construction. If the provision is unambiguous and if from that provision, the legislative intent is clear, we need not call into aid the other rules of construction. The other rules of construction are invoked when the legislative intent is not clear. In *Bihta Co-op. Development and Cane Marketing Union Ltd.* v. *Bank of Bihar* [AIR 1967 SC 389] this Court was called upon to consider Explanation to Section 48(1) of the Bihar and Orissa Cooperative Societies Act, 1935. This Court observed that the Court should not go only by the label**. The Court observed that an explanation must be read ordinarily to clear up any ambiguity in the main section and it cannot be construed to widen the ambit of the section. However, if on a true reading of an Explanation it appears to the Court in a given case that the effect of the Explanation is to widen the scope of the main section then effect must be given to the legislative intent. It was held that in all such cases the Court has to find out the true intention of the legislature. Therefore, there is no single yardstick to decide whether an Explanation is enacted to clarify the ambiguity or whether it is enacted to widen the scope of the main section…."**

(emphasis supplied)

Kirloskar Ferrous Industries Ltd. v. Union of India, (2025) 1 SCC 695

"66. What can be discerned from the above is that an explanation must be read so as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section. An explanation does not enlarge the scope of the original section that it is supposed to explain. It is axiomatic that an explanation only explains and does not expand or add to the scope of the original section. The purpose of an explanation is, however, not to limit the scope of the main provision. The construction of the explanation must depend upon its terms, and no theory of its purpose can be entertained unless it is to be inferred from the language used. **An "explanation" must be interpreted according to its**

own tenor. Sometimes an explanation is appended to stress upon a particular thing which ordinarily would not appear clearly from the provisions of the section. The proper function of an explanation is to make plain or elucidate what is enacted in the substantive provision and not to add or subtract from it. Thus, an explanation does not either restrict or extend the enacting part; it does not enlarge or narrow down the scope of the original section that it is supposed to explain. The Explanation must be interpreted according to its own tenor; that it is meant to explain and not vice versa. Explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain or clarify certain ambiguities which may have crept in the statutory provision."

(emphasis supplied)

Shailesh Dhairyawan v. Mohan Balkrishna Lulla, (2016) 3 SCC 619

"31. …The principle of "*purposive interpretation*" or "*purposive construction*" is based on the understanding that the court is supposed to attach that meaning to the provisions which serve the "*purpose*" behind such a provision**. The basic approach is to ascertain what is it designed to accomplish? To put it otherwise, by interpretative process the court is supposed to realise the goal that the legal text is designed to realise.** As Aharon Barak puts it:

"Purposive interpretation is based on three components: language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal meaning of the text from among the (express or implied) semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language." [Aharon Barak, *Purposive Interpretation in Law* (Princeton University Press, 2005).]

32. Of the aforesaid three components, namely, language, purpose and discretion "*of the court*", insofar as purposive component is concerned, this is the *ratio juris*, the purpose at the core of the text. This purpose is the values, goals, interests, policies and aims that the text is designed to actualise. It is the function that the text is designed to fulfil**.**

33. We may also emphasise that the statutory interpretation of a provision is never static but is always dynamic. Though the literal rule of interpretation, till some time ago, was treated as the "*golden rule*", it is now

the doctrine of purposive interpretation which is predominant, particularly in those cases where literal interpretation may not serve the purpose or may lead to absurdity. If it brings about an end which is at variance with the purpose of statute, that cannot be countenanced**. Not only legal process thinkers such as Hart and Sacks rejected intentionalism as a grand strategy for statutory interpretation, and in its place they offered purposivism, this principle is now widely applied by the courts not only in this country but in many other legal systems as well.**"

(emphasis supplied)

Grid Corpn. of Orissa Ltd. v. Eastern Metals & Ferro Alloys, (2011) 11 SCC 334

"**25. …The golden rule of interpretation is that the words of a statute have to be read and understood in their natural, ordinary and popular sense. Where however the words used are capable of bearing two or more constructions, it is necessary to adopt purposive construction, to identify the construction to be preferred, by posing the following questions: (*i*) What is the purpose for which the provision is made? (*ii*) What was the position before making the provision? (*iii*) Whether any of the constructions proposed would lead to an absurd result or would render any part of the provision redundant? (*iv*) Which of the interpretations will advance the object of the provision? The answers to these questions will enable the court to identify the purposive interpretation to be preferred while excluding others.** Such an exercise involving ascertainment of the object of the provision and choosing the interpretation that will advance the object of the provision can be undertaken, only where the language of the provision is capable of more than one construction**…."**

(emphasis supplied)

16. We further add that the legal maxim "*expressio unius est exclusio alterius"* finds absolutely no application to the instant case, as applying the same would render an interpretation contrary to the intent of the provision, resulting in an unreasonable and unjust classification. The aforesaid maxim is not one of universal and absolute application.

Before the said principle can be applied, the Court must discern whether a natural interpretation flows from a reading of the provision as a whole, which in the instant case is possible by reading Section 14(2) along with Section 14(1) of the 1995 Act**.**

Asstt. Collector, Central Excise v. National Tobacco Co., (1972) 2 SCC 560

> **"30.** …This rule flows from the maxim**: "Expressio unius ast exclusio alterius". But, as was pointed out by Wills, J., in *Colquoboun* v. *Brooks*, [(1888) 21 QBD 52, 62] this maxim "is often a valuable servant, but a dangerous master….". The rule is subservient to the basic principle that Courts must endeavour to ascertain the legislative intent and purpose, and then adopt a rule of construction which effectuates rather than one that may defeat these. Moreover, the rule of prohibition by necessary implication could be applied only where a specified procedure is laid down for the performance of a duty….**"
>
> (emphasis supplied)

Union of India v. B.C. Nawn and others, 1971 SCC OnLine Cal 180 : (1972) 84 ITR 526 : 1971 Tax LR 1198

> **"8.** The maxim is not of universal application. Crawford in his book *The Construction of Statutes*, 1940 edition, at pages 335-336, has pointed out that this maxim does not apply to matters "where it clearly appears that something was expressly mentioned for another reason or merely because of caution" and "this maxim, or general principle of construction, as must be apparent, is based upon the probable intention of the legislature. Hence**, where that intention clearly reveals that the law-makers did not mean that the express mention of one thing should operate to exclude all others, of course, the principle is not applicable.** Consequently, when the statutory language is plain and the meaning is clear, there can be no implied exclusion. In other words**, the principle is to be used as a means of ascertaining the legislature's intent where it is doubtful and not as a means of defeating the apparent intent of the legislature.**
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> **9.** *Maxwell on the Interpretation of Statutes*, eleventh edition, at page 306 observes:

> **"Provisions sometimes found in statutes, enacting imperfectly or for particular cases only that which was already and more widely the law, has occasionally furnished ground for the contention that an intention to alter the general law was to be inferred from the partial or limited enactment, resting on the maxim *expressio unius exclusio alterius*. But, that maxim is inapplicable in such cases. The only inference which a court can draw from such superfluous provisions (which generally find a place in Acts to meet unfounded objections and idle doubts), is that the legislature was either ignorant or unmindful of the real state of the law, or that it acted under the influence of excessive caution. If the law be different from what the legislature supposed it to be, the implication arising from the statute, it has been said, cannot operate as a negation of its existence, and any legislation founded on such a mistake has not the effect of making that law which the legislature erroneously assumed to be so."**
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> (emphasis supplied)

State of Karnataka v. Union of India, (1977) 4 SCC 608

> **"80.** It is evident from the foregoing discussion that the principle relied upon by the plaintiffs learned Counsel repeatedly, in support of which a passage from *Crawford's "Statutory Construction"* (1940 Edn.) (Paragraph 195 at pp. 334-335) was also cited, as the basis of the submissions of the learned Counsel, was that **what is expressly provided for by the Constitution must necessarily exclude what is not so provided for. This reasoning is an attempted misapplication of the principle of construction "*Expressio Unius Est Exclusio Alterius*". Before the principle can be applied at all the Court must find an express mode of doing something that is provided in a statute, which, by its necessary implication, could exclude the doing of that very thing and not something else in some other way. ……..**That maxim has been aptly described as a "useful servant but a dangerous master" (per Lopes L.J. in *Colquhoun v. Brooks* [(1888) 21 QBD 52, 65]). The limitations or conditions under which this principle of construction operates are frequently overlooked by those who attempt to apply it**."**
>
> (emphasis supplied)

17. At this juncture, we take note of Lord Denning's words of wisdom in

Seaford Court Estates Ld. v. Asher [(1949) 2 K.B. 481]

> **"…when a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of**

finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word sc as to give "force and life" to the intention of the legislature. That was clearly laid down by the resolution of the judges in Heydon's case, and it is the safest guide to-day. Good practical advice on the subject was given about the same time by Plowden in his second volume Eyston v. Studd. Put into homely metaphor it is this: A judge should ask himself the question: If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases."

(emphasis supplied)

18. In the case at hand, the State of Manipur has deemed it fit to accept the membership of the appellant, who is admittedly serving as a Muslim Member of the Bar Council, to the Board. A Gazette notification had been issued by the Bar Council of Manipur, stating that the appellant had been elected as a Member of the Bar Council. Therefore, as such, a Member of the Bar Council was available, who was subsequently elected as a Member of the Board, in accordance with Section 14(1)(b)(iii) of the 1995 Act. Respondent No. 3, who is no longer holding the said post of a Muslim Member of the Bar Council, cannot be allowed to contend that even after he had ceased to be a Member of the Bar Council, he would be entitled to continue as a Member of the Board.

19. We also note that presently, the appellant is the only Muslim Member in the concerned Bar Council - a fact that has been rightly taken note of by the State of Manipur, while appointing him as a Member of the Board. In any case, there is no dispute with respect to the appellant's eligibility to be a Member of the Board by virtue of his membership in the Bar Council.

20. Based on the aforesaid discussion and reasoning, we are not inclined to concur with the reasoning adopted by the Division Bench of the High Court in the impugned judgment. Thus, we hold that the decision rendered by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in *Shri Asif S/o Shaukat Qureshi Versus The State of Maharashtra and Anr. (Writ Petition No. 4343 of 2016)* decided on 22.12.2016, is not a good law.

21. Accordingly, the impugned judgment stands set aside, and the judgment and order of the Single Judge of the High Court dated 23.08.2023, dismissing Writ Petition (Civil) No. 304 of 2023, stands restored.

22. The appeals are allowed in the aforesaid terms.

23. Pending application(s), if any, shall stand disposed of.

...…… J.
(M. M. SUNDRESH)

…… J.
(RAJESH BINDAL)

NEW DELHI;
APRIL 22, 2025