2020 INSC 298

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No 1819 of 2020
(Arising out of SLP(C) No 18752 of 2014)

Council of Architecture **Appellant**

Versus

Mr Mukesh Goyal & Ors **Respondents**

WITH

Civil Appeal Nos 1820-1822 of 2020
(Arising out of SLP(C) Nos 25524-25526 of 2014)

J U D G M E N T

Dr Dhananjaya Y Chandrachud J.

1 The question before this Court is whether Section 37 of the Architects Act 1972[1] merely prohibits the use of the title "Architect" by individuals not registered

[1] "Architects Act"

with the Council of Architecture[2] under Chapter 3 of the enactment or alternatively whether Section 37 actually prohibits unregistered individuals from carrying out the practice of architecture and its cognate activities. In other words, does Section 37 permit individuals not registered with the Council to continue practicing the profession of architecture in India? As a corollary to this question, this Court is also called upon to determine whether a government post titled or styled using the term "Architect" can be held by individuals not registered with the Council of Architecture.

2 The present appeals arise out of three writ petitions filed by the first respondent before the High Court of Allahabad. The first respondent has been working as an Architectural cum Planning Assistant in the service of the third respondent, the New Okhla Industrial Development Authority[3] since January 1988 and claims to possess a degree in architecture from the Indian Institute of Architects. NOIDA is an authority created under Section 3 of the Uttar Pradesh Industrial Area Development Act 1976[4] to supervise and manage the development of various geographical zones of the state of Uttar Pradesh.

3 Exercising its powers under Section 19 of the U.P. Industrial Area Development Act and with the approval of the state government, NOIDA framed the Service Regulations of 1981 for the recruitment and promotion of employees in its various departments. One of the departments under NOIDA's purview is the Department of Planning and Architecture where the first respondent is employed.

[2] "Council"
[3] "NOIDA"
[4] "U.P. Industrial Area Development Act"

Regulation 16 of the Service Regulations 1981 sets out the 'Sources of Recruitment'. Under sub-clause (iv) of clause (2) of Regulation 16, NOIDA has been conferred with the power to modify the sources of recruitment or the percentage of candidates appointed through promotion and direct recruitment. Thus, under the Service Regulations 1981, NOIDA has the power to lay down the conditions and qualifications for promotion from the feeder cadre to various posts in the Department of Planning and Architecture.

4 NOIDA spelt out the qualifications and conditions required for the promotion to various posts in the Recruitment and Promotion Policy 2005[5]. The Department of Planning and Architecture consists of two cadre streams, the Planning cadre stream and the Architecture cadre stream. The Planning cadre stream consists of the following posts (in ascending order of seniority): (i) Planning Assistant; (ii) Associate Town Planner; (iii) Town Planner; and (iv) Senior Town Planner. The Architecture cadre stream consists of the following posts (in ascending order of seniority): (i) Architecture Assistant; (ii) Associate Architect; (iii) Architect; and (iv) Senior Architect. In practice, the two cadres draw on a common pool of candidates, the only distinction being made when specific work orders are issued.

5 The Promotion Policy 2005 provided that for the post of Associate Town Planner, 60 per cent of recruitment would take place by way of promotion, the eligibility criteria being fifteen years' experience as a Planning Assistant.

[5] "Promotion Policy 2005"

Similarly, for the post of Associate Architect, 60 per cent of the posts were to be filled through promotion, the eligibility criteria being fifteen years' experience as an Architecture Assistant. The remaining 40 per cent of posts were to be filled through direct recruitment, with a degree in Architecture and Town Planning and a degree in Architecture stipulated as essential qualifications for appointment as an Associate Town Planner and Associate Architect respectively.

6 A meeting was held by NOIDA on 20 March 2006 to decide whether a degree in Architecture and Town Planning and a degree in Architecture was necessary for candidates who were to be promoted to the posts of Associate Town Planner and Associate Architect. An opinion was sought from the Mukhya Nagar Gram Niyojak, Uttar Pradesh (Town and Country Planning Department, Uttar Pradesh). In a letter dated 22 December 2008, the Mukhya Nagar Gram Niyojak recommended that a degree or diploma in the relevant subjects should be an essential qualification for candidates seeking promotion. NOIDA subsequently sought the opinion of the state government on the same question. During this period, promotions to the post of Associate Town Planner and Associate Architect have continued to remain in abeyance, resulting in a situation where employees who have served for as many as twenty-five years being denied consideration for promotion.

7 Before the High Court of Allahabad, the first respondent filed three writ petitions.[6] In the writ petitions, the first respondent also impleaded the present

[6] W.P. 57577 of 2008; W.P. 65973 of 2008; W.P. 22155 of 2011.

appellant, the Council of Architecture which is the regulatory body for the profession of architecture in India. By the writ petitions, the first respondent sought two reliefs:

(i) A writ of mandamus directing NOIDA to enforce the provisions of the Architects Act by ensuring that only persons registered with the Council of Architecture are appointed to the post of Associate Town Planner / Associate Architect; and

(ii) The post of Associate Town Planner / Associate Architect be filled entirely through promotion of the senior most Architect cum Planning Assistant holding the necessary qualifications.

By an amendment to Writ Petition 22155 of 2011 made in 2013, the first respondent challenged the Promotion Policy 2005 in so far as it permitted the promotion of candidates to the post of Associate Town Planner / Associate Architect without requiring that such candidates should hold a degree in Architecture recognised under the Architects Act.

8 The High Court of Allahabad observed that Regulation 16 of the Service Regulations 1981, conferred NOIDA with the power to lay down the conditions and qualifications for promotions in the authority's various departments. NOIDA had laid down these conditions and qualifications in the Promotion Policy 2005. The High Court noted that the sole ground for challenging the Promotion Policy 2005 was that it allegedly fell foul of Sections 14 and 37 of the Architects Act. Relying extensively on the decision of the Madhya Pradesh High Court in

Mukesh Kumar Manhar v **Sri Ram Singh Ahirwar** ("**Mukesh Kumar Manhar**")[7] the High Court held that Section 37 of the Architects Act does not create a bar on individuals not registered with the Council from carrying out the duties and functions of an Architect. The High Court held that Section 37 only prohibits unregistered individuals from using the title "architect". As a necessary adjunct of this reasoning, the High Court held that the Promotion Policy 2005, which allowed for individuals not holding a degree in architecture being appointed to the Class II post of Associate Architect, did not contravene Section 37 of the Architects Act in so far as they would be carrying out the activities of an architect.

9 In disposing of the writ petitions, the High Court of Allahabad held that the "mere nomenclature of the particular post will not in any way be said to violate the provisions of the Architects Act 1971". Therefore, the High Court permitted NOIDA to continue referring to the Class II posts as Associate Town Planner and Associate Architect. The High Court further noted that as a central legislation, the requirements set out in the Architects Act could not be read into the Promotion Policy 2005 which is a regulation formulated under a state legislation, namely the U.P. Industrial Area Development Act.

Submissions

10 The Council of Architecture has challenged the decision of the High Court in holding that Section 37 of the Architects Act does not prohibit individuals not registered with the Council from practicing architecture in India. According to the

[7] 2006 (1) MPLJ 238

Council, such an interpretation defeats the object and purpose of the Architects Act. It is submitted that:

(i) The object of the Architects Act is to ensure that only qualified architects are permitted to provide architectural services for the purposes of construction and building activity in India;

(ii) The Architects Act is a comprehensive legislation which regulates the qualifications, registration and disciplinary facets of architecture in India and therefore Section 37 cannot be read only as protecting against the use of the title “Architect” but it must be read to prohibit unqualified individuals from practicing architecture;

(iii) Under Section 37 of the Architects Act, only individuals registered with the appellant Council are permitted to render architectural services in India;

(iv) The High Court has construed Section 37 narrowly and such an interpretation risks allowing unqualified individuals from practicing the profession of supervising buildings and construction; and

(v) In its decision in **Mukesh Kumar Manhar** the High Court of Madhya Pradesh directed the state government to cease using the nomenclature of “Assistant Architect” or “Architect” in regard to posts where the eligibility criteria did not require appointees to hold a degree in architecture.

11 As the present controversy impacts all persons engaging in the practice of architecture in India, including thousands of individuals employed in various government departments holding posts titled “Associate Architect” or “Architect”, this Court considered it fit to issue notice to the Union of India. During the course of the hearing, Mr K K Venugopal, learned Attorney General of India appeared for the Union and submitted that:

(i) According to the Statement of Objects and Reasons of the Architects Act, the legislation aims to protect the title of architects but does not grant architects an exclusive right over the activities of designing, supervising and constructing buildings;

(ii) Section 37 of the Architects Act is titled “Prohibition against the use of title” and prohibits individuals from using the “title and style of architect”. The legal bar created is therefore limited to the use of “title” and does not prohibit the “practice” of architecture;

(iii) The Architects Act does not contain a prohibition on the practice of architecture or the designing, supervising or construction of buildings by individuals not registered with the Council; and

(iv) The definition of “architect” provided by the Architects Act is a person whose name appears on the register of Architects maintained with the Council and not individuals engaged in the design, supervision or construction of buildings in India. Therefore, the Architects Act regulates individuals registered with the Council and does not control

the practice of activities undertaken by individuals falling outside the regulatory regime applicable to registered Architects.

Scope of the present appeal

12 In the writ petitions before the High Court of Allahabad, the question before the court was whether the 2005 Promotion Policy adopted by NOIDA permitting candidates who do not hold a degree in architecture to hold the post of Associate Architect violated the provisions of the Architects Act. The answer to that question substantially turned on an interpretation of the Architects Act. Primarily, the issue is whether the Architects Act prohibits individuals not registered with the Council from holding of the title of "architect" or prohibits them from practicing the activities undertaken by architects. This is the question that we are called upon to answer. If Section 37 of the Architects Act prohibits individuals not registered with the Council from practicing the activities commonly undertaken by an architect, the 2005 Promotion Policy will violate Section 37 as it allows unregistered individuals to undertake the activities of an architect. However, if Section 37 only prohibits individuals not registered with the Council from holding the title of "architect", then the Promotion Policy 2005 is valid insofar as it permits unregistered individuals from practicing architecture and only the question of the nomenclature of the post remains to be decided. It is to this controversy that we now turn.

Decisions of the High Courts

13 Since the adoption of the Architects Act in 1972, there have been several pronouncements by High Courts on whether Section 37 should be interpreted as prohibiting individuals not registered with the Council from undertaking the activities of designing, supervising and constructing buildings in India. In **Municipal Corporation of Delhi** v **Ram Kumar Bhardwaj**[8] the respondents challenged the power of the Delhi Municipal Corporation to stipulate who a "Licensed Architect" was. It was contended by the respondents that the adoption of the Architects Act represented a comprehensive regulatory framework and the Delhi Municipal Corporation could no longer impose restrictions on who a "Licensed Architect" was in a manner contrary to the provisions of the enactment. Justice V S Deshpande (as the learned Chief Justice then was) speaking for a Division Bench of the High Court of Delhi observed:

> "2. … The Architects Act, 1972 sets out the qualification to be possessed by the persons to be registered as architects under the said Act. It also prohibits persons who do not have such registration from describing themselves as architects and also deals with disciplinary action for misconduct of architects. It is, therefore, a complete enactment the effect of which is that a person cannot call himself an architect unless he is registered under the said Act. **Of course, unlike the Advocates Act, which restricts the right to practice in courts only to the advocates qualified thereunder, the Architects Act does not restrict the practise by architects to persons registered under the said Act. Therefore, some persons who cannot call themselves architects may still be free to do the work which is ordinarily done by architects and they are not dealt with by the Architects Act.** Whether the Corporation can deal with such persons is not a question which arises before us. Our consideration is limited to the question whether the Corporation can regulate the profession and the practice of architects registered under the Architects Act, 1972 by

[8] (1980) 18 DLT 283

> insisting that the architects practising in Delhi and submitting plans for construction of buildings for the approval of the Corporation must possess licences issued by the Corporation."
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> (Emphasis supplied)

On the question of whether the Delhi Municipal Corporation could regulate architects already registered with the Council of Architecture, the Division Bench held:

> "The Architects Act, 1972 is a special law dealing with the qualifications to be possessed by persons for being registered as architects and restricting the term "architect" or "registered architects" to such persons only. Since the possession of a registration certificate under the Architects Act, 1972 is regarded by Parliament as sufficient qualification for the practice of architects and since all related questions have been dealt with in respect of architects by the said Act, it became unnecessary for the Corporation to do so thereafter."

The question before the High Court of Delhi was whether the Delhi Municipal Corporation could require that architects submitting plans for the construction of new buildings must possess a license issued by it. While answering this in the negative, the Division Bench specifically observed that unlike the Advocates Act 1961[9], the Architects Act did not restrict the practice of architecture to persons registered under the Architects Act. The High Court observed that even after the adoption of the Architects Act, there continue to exist individuals who cannot call themselves architects but are free to carry out the work which is ordinarily done by architects.

[9] "Advocates Act"

14 In **Om Prakash Mittal** v **Council of Architecture**[10] Sections 35 and 37 of the Architects Act were challenged as *ultra vires* Articles 14 and 19(1)(g) of the Constitution of India before a single judge of the High Court of Delhi. It was contended that Section 37 restricted the use of the title of "architect" to a certain category of qualified persons as distinct from other qualified persons, a distinction not supported by a rational nexus with the objects of the Architects Act. In dismissing the constitutional challenge, Justice S B Wad cited the Statement of Objects and Reasons of the Architects Act. The High Court of Delhi held:

> "Article 19(6) empowers State to make law relating to the professional or technical qualifications necessary for practising any profession laying down professional qualifications for the profession of architecture as done by the Act and prohibiting persons who do not fulfil the said qualifications from posing themselves as architects is constitutionally permissible. The restriction, if at all, is a reasonable restriction. **There is no merit in the petitioner's contention that there is no nexus with the object of the Act. The object of the Act, as stated above, is to prevent unqualified persons calling themselves as architects and undertaking the construction of buildings which are uneconomical or unsafe and who are bringing the profession of architect into disrepute. The provision is essentially in the interest of the general public and it is meant for protecting the public from unqualified persons working as architects.** The restriction imposed by Section 37 does not violate Article 14 of the Constitution.
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> (Emphasis supplied)

In dismissing the constitutional challenge, the Single Judge of the High Court of Delhi held that one of the objects of the Architects Act was to prevent unqualified persons "calling themselves as architects" which can result in untrained individuals being tasked with the critical work of construction. This may lead to unsafe buildings. Section 37 was enacted to protect citizens from being misled by

[10] AIR 1983 Del 223

untrained persons and mistakenly entrusting them with the task of construction. Even though the Single Judge undoubtedly recognised the need for trained and qualified architects, Section 37 was interpreted as creating a bar on individuals representing themselves to be qualified architects and not as creating a bar on untrained individuals practicing the tasks undertaken by architects.

15 The issue of using the nomenclature “architect” in government services has also arisen before the High Courts. In **Tulya Gogoi** v **Association of Architects**[11] an order of the Government of Assam was challenged. The said order re-named the post of “Architectural Draftsman P.W.D.” as “Junior Architect”. The individuals whose posts were to be renamed had at the time obtained a diploma certificate in Architectural Assistantship which was not recognised by either the Central Government or the Council of Architects. The order was challenged by the Association of Architects, Assam as violating Section 37 of the Architects Act as it would effectively allow the concerned individuals to hold the title of “Architect” without holding a qualification recognised by the Council. In response, it was contended that Section 37 was intended to prevent private individuals from calling themselves “Architects” and misleading the general public, but this rationale did not extend to government employees. Therefore, it was urged that the government was free to designate its posts howsoever it saw fit. In rejecting this distinction between private architects and employees of the government, Chief Justice Brijesh Kumar (as the learned judge

[11] (1999) 3 Gau LR 179

then was) speaking on behalf of a Division Bench of the High Court of Gauhati held:

> "12. It is no doubt that the argument as advanced on behalf of the appellants is attractive, but it hardly appeals us. It is true, looking into the sudden spurt in the activity of building, constructed for factories, industries, housing colonies, office complexes, etc., it was considered that the profession of architecture must be regulated. Only those who have proper education and training and are qualified to work as such may alone be permitted to work as architects. It is a legislation especially dealing with architects. Meaning of the word 'architect' has been statutorily provided under clause (a) of Section 2 where it has been provided that it means one whose name is entered in the register. … Conduct of an architect is effectively controlled by Section 30. As **a Government servant may be punished under the Government rules, but still he may practice the profession of architecture. But check is placed by Section 30 under which the name of an architect is even liable to be removed from the register disentitling him to practice. Therefore, the argument that being in Government service an architect is accountable to his employer according to the rules does not hold good since mere punishment as a Government employee may not be enough to debar him from practising as an architect which is only controlled under Sections 22, 29 and 30 of the Act, 1972.**
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> …
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> "15. … Apart from the categories as indicated above, **no other exception to the applicability of Section 37 has been provided much less on the ground that one is engaged in private profession or in Government employment**…."
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> (Emphasis supplied)

The High Court rejected the argument that the object of Section 37 to prevent misrepresentation by untrained individuals engaged in architectural activities only applied to private individuals and not government employees. The High Court observed that even where the rules of service stipulated by the government provided for the regulation of architects, the provisions of the Architects Act

allowing for the registration and de-registration of architects provided an overarching regulatory framework to protect the integrity of the architectural profession. The Act ensures that individuals who did not possess a statutorily recognised qualification cannot refer to themselves as “Architects”. Crucially, the High Court observed that Section 37 did not carve out an exception for government employees, therefore the prohibition on the use and the “title and style of architect” contained in Section 37 applied to both private individuals and government employees.

16 Both the appellant and the Union of India have relied on the decision of the Division Bench of the High Court of Madhya Pradesh in **Mukesh Kumar Manhar** and it would be pertinent at this juncture to discuss the judgement. The facts of that case were substantially similar to those before us. The petitioners before the High Court of Madhya Pradesh were employed as “Draughtsman” and “Head Draughtsman” and held architectural degrees recognised by the Architects Act. Their next promotional post was that of “Assistant Architect – Class II”. One of the pre-requisites for appointment as “Assistant Architect – Class II” was the completion of a degree in architecture. In 1991 the relevant recruitment rules were modified and the requirement of a degree in architecture was removed as a pre-requisite for appointment as “Assistant Architect – Class II”. The petitioners contended that the amendment to the recruitment rules violated the provisions of the Architects Act. According to the petitioners, the Act restricted the practice of architecture to persons possessing a degree in architecture and registered with the Council of Architects. In dismissing the petitioners’ case, Chief Justice R V

Raveendran (as the learned judge then was) speaking for a Division Bench of the High Court compared the provisions of the Architects Act to those of the Advocates Act and the Indian Medical Council Act 1956[12]. The court held:

> "10. There is a significant difference between the Architects Act 1972 dealing with the profession of Architects and enactments dealing with Medical and Legal professions. **Section 15(2) of The Indian Medical Council Act, 1956 bars any person other than medical practitioners enrolled on the State Medical Registers from practicing medicine or holding the office as 'physician' or 'surgeon' in any Government Institution or other Institution maintained by any local or other Authority. Similarly, section 29 of the Advocates Act, 1961, provides that only one class of persons are entitled to practice the profession of law, namely, advocates entered in the Roll of any Bar Council under the provisions of the Advocates Act**. Thus there is a clear bar on persons who are not enrolled with the State Medical Council or State Bar Council from practising as a Medical Practitioner or an Advocate.
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> 11. **In contrast, the Architects Act 1972 does not prohibit persons other than those who are registered as Architects from practising the profession. As noticed above, Section 37 only prohibits any person other than a registered architect using the title and style of Architect. It does not prohibit a person, who is not a registered as an Architect with the Council of Architecture from carrying on or discharging any function that can be carried on by a registered Architect**. …"
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> (Emphasis supplied)

The High Court noted that both the Indian Medical Council Act and the Advocates Act expressly restrict the practice of medicine and law to individuals registered under the two statutes respectively. When examined in juxtaposition to these two statutes, the choice of the legislature to restrict the "title and style of architect" in Section 37 of the Architects Act as opposed to the very practice of the profession is significant. Relying on this distinction, the High Court ultimately held that:

[12] "Indian Medical Council Act"

> "13. … there can be no objection for a rule providing for non-architects being promoted to a particular Class II post, which may involve planning, designing and supervision of Building constructions. **What is prohibited and what is objectionable in law is calling the persons discharging such functions related to architecture, as 'Architects' when they are not registered as Architects. … Even Engineers, who do not have a degree in Architecture (and who are not registered Architects) but having qualifications in Engineering and experience in design and supervision, may perform the function which are normally performed by an Architect. But such Engineers who are not registered Architects and posted to the Class-I or II posts, dealing with architectural aspects and designs, cannot be called as 'Architects' or 'Assistant Architects' unless they are registered Architects under the Architects Act** … A draughtsman who is a registered Architect, when promoted to Class II post, can however be called as 'Assistant Architect'.
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> 14. We recognise the freedom and choice, vested in the executive, to prescribe the qualifications for various posts. But the qualifications prescribed, should not violate any statutory provision, nor suffer from the vice of arbitrariness or mala fides. Statutory preferences should not be ignored. Architecture is a specialised technical field dealing with design and execution of buildings and structures. …"
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> (Emphasis supplied)

The High Court held that the Architects Act merely prohibited individuals not registered with the Council of Architecture from referring to themselves as "Architects" but did not prohibit unregistered persons from carrying out the practice of architecture. Even engineers, who are not registered with the Council may perform the functions of designing and supervising construction. Significantly, the High Court held that it was not open for the government to refer to such unregistered engineers or other individuals as "architects" unless they are registered under the Architects Act.

17 Similar observations were made by a single judge of the High Court of Delhi in **Premendra Raj Mehta** v **National Building Construction Corporation Limited**[13]. The dispute arose by way of a public interest litigation challenging the award of a consultancy service contract to a foreign firm not registered under the Architects Act and not having taken permission from the Central Government in accordance with the proviso to Section 37 of the Act. In response to the public interest litigation, it was contended that Section 37 only prohibits a person other than a registered architect from using the title of "architect" and any firm can bid for tenders provided they have on their rolls an architect registered under the Architects Act. In dismissing the challenge to the grant of the consultancy service contract, Justice V K Jain observed that:

> "8. **A plain reading of Section 37 of the Act which appears under the heading "Prohibition against the use of title" would show that though the aforesaid provision bars a person other than a registered architect or a firm of architects from using the title and style; it does not prohibit him from rendering architectural service so long as he does not use the expression architect and does not describe his firm, if any, as a firm of architects.** Had the legislative intent been to prevent rendering of architectural services by any person other than a person registered under the provision of the Act, Section 37 of the Act would have been worded altogether differently. For instance, Section 29 of the Advocates Act, 1961 prohibits a person unless he is enrolled as an advocate from practicing in any Court or before any authority or persons. …. Section 15(2) of the Medical Council Act, 1956 also expressly prohibits a person other than a medical practitioner registered in any State, signing or authenticating a medical or fitness certificate, giving evidence as an expert and hold office as Physician or Surgeon or any other office in the Government or any institution maintained by a local or other authority. No similar provision is, however found in the Architects Act. **The learned counsel for the petitioners contended that in my view rightly too that such an interpretation may result in unqualified persons providing services such as supervision of construction**

[13] W.P. (C) 2106 / 2012

> **of buildings and the construction supervised by such persons may not be safe and economical, but, then, the remedy lies in the Parliament amending the provision of the Act so as to prohibit unqualified persons from rendering architectural services, and not in the Court taking an interpretation which a plain reading of Section 37 does not suggest.** Moreover such an unqualified person, after coming into force of the Act cannot represent themselves to be architects though they may continue to provide services such as supervision of construction of buildings."
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> (Emphasis supplied)

The Single Judge of the High Court of Delhi observed that a plain reading of Section 37 leads to the conclusion that Section 37 merely acts as a prohibition on the use of the title "Architect" and does not prohibit individuals not registered under the Architects Act from undertaking the practice of architecture. Importantly, the Single Judge observed that although this may result in certain unregulated individuals engaging in the practice of architecture: (i) such untrained individuals cannot refer to themselves as "architects" and are thus unlikely to be entrusted with tasks requiring specialised architectural knowledge; (ii) the court cannot construe a statutory provision in a manner contrary to its plain meaning merely to address a perceived societal harm; and (iii) if the legislature is of the opinion that the risk of untrained individuals who cannot refer to themselves as "architects" engaging in the business of designing and supervising construction is real, it can always amend Section 37 to prohibit the practice of such activities by unregistered individuals as the legislature has done in the cases of the Advocates Act and the Indian Medical Council Act.

18 In **Sudhir Vohra** v **Registrar of Companies**[14] three writ petitions were filed before a single judge of the Delhi High Court. The first writ petition sought a mandamus directing the Registrar of Companies and Ministry of Corporate Affairs to prohibit the registration of any company or limited liability partnership which stated that it provided architectural services. The second writ petition sought a direction cancelling the permission granted to an architecture firm from Singapore to set up a wholly owned subsidiary in India. The third writ petition sought the quashing of a Ministry of Corporate Affairs' circular which stipulated that if a company or limited liability partnership had as one of its stated objectives the providing of architectural services, such an entity could not be incorporated without a no-objection certificate from the Council of Architecture. Justice Rekha Palli summarised the issues raised by the three writ petitions:

> "6. Thus, what emerges is that the first two writ petitions seek (i) a direction that only architects registered under the Act can provide architectural services; and (ii) no company/LLP can use the title and style of 'architect' or its derivatives.
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> 7. The third writ petition essentially seeks directions to the contrary. The main thrust of the third writ petition is that the Act only restricts the use of the title and style of 'architect', and it neither precludes companies/LLPs from rendering architectural services nor prevents them from mentioning the same as one of their objects in their MOA."

In answering the questions raised by the writ petitions, the High Court of Delhi was essentially asked to consider whether the Architects Act precludes unregistered architects (including legal entities) from providing architectural services, or alternatively whether the Act merely prohibits unregistered architects

[14] W.P. (C) 934/2012 and C.M. No. 18315/2014

and entities from using the "title and style of architect". After examining the provisions of the Architects Act, the Single Judge held:

> "40. On a careful examination of the aforesaid provisions of the Advocates Act and CA Act viz-a-viz the provisions of the Architects Act, it is apparent that the latter does not contain any prohibitory provisions similar to the ones in the former two. **The Architects Act neither prescribes that only registered architects can provide architectural services, nor contains any clause prohibiting companies and LLPs from providing architectural services. In fact, what emerges from the entire scheme of the Architects Act is that it neither defines as to who can provide architectural services nor puts any fetters on persons who wish to provide architectural services. It merely defines an architect to mean a person whose name is entered in the register maintained by the COA and lays down the mandatory qualifications for an entry in the said register.** On the other hand, the Advocates Act and CA Act include specific provisions laying down as to who can practice as an advocate or accountant.
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> 41. Thus, the Act, while clearly prescribing that unregistered persons, including juristic entities, cannot describe or style themselves as architects, does not preclude any one from providing architectural services. **Merely because the Act includes a specific provision prescribing that only a registered architect can use the title of an 'architect' or style himself/herself as an 'architect', it cannot be concluded that the Act in any manner envisages that architectural services can be rendered only by those to whom the Act applies**."
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> (Emphasis supplied)

The Single Judge concluded that the scheme of the Architects Act does not define a set of individuals who can provide architectural services. Merely because the statute stipulates that nobody other than individuals who are registered with the Council of Architects can use the title of "Architect" cannot mean that the Act restricts the practice of architecture as a whole to those registered with the Council.

Controversy at the Supreme Court

19 During the course of the present proceedings, the Learned Attorney General has placed before us a compilation of relevant material including an order dated 14 February 2017 of a two-judge bench of this Court in **Council of Architecture** v **Manohar Krishnaji Ranade**[15] ("**Manohar Ranade**"). We have extracted the relevant portion of the order below:

> "While we find no reason to interfere with the impugned judgement and order dated 29th November, 2004 passed by the Bombay High Court in Writ Petition No. 1830 of 1988 and connected matters, we are of the view that the High Court was in error in rejecting the contention of the appellant that practice under the Architects Act, 1972 is not restricted only to the architects. It is not correct to say that any one can practice as an architect even if he is not registered under the Architects Act, 1972."

Placing reliance on this order, the appellant contended that the question of whether Section 37 prohibits the practice of architecture by unregistered individuals is no longer *res integra*. It was urged that this Court has already held that the practice of architecture is limited to architects registered under the Architects Act. The order arising out of **Manohar Ranade** has been followed by a three-judge bench of this Court in an order dated 11 September 2017 in **Council of Architecture** v **Indian Institute of Architects**.[16] The order of the three-judge bench states that:

> "Having heard learned counsel for the parties and keeping in view the order dated 14th February, 2017, passed in Civil Appeal Nos. 3346-3348 of 2005, we dispose of the present appeal in similar terms. To have clarity, we reproduce the relevant passage as under: -

[15] C.A. Nos 3346-3348 of 2005
[16] C.A. No 12649 of 2017

> "While we find no reason to interfere with the impugned judgement and order dated 29th November, 2004 passed by the Bombay High Court in Writ Petition No. 1830 of 1988 and connected matters, we are of the view that the High Court was in error in rejecting the contention of the appellant that practice under the Architects Act, 1972 is not restricted only to the architects. It is not correct to say that any one can practice as an architect even if he is not registered under the Architects Act, 1972."
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> The appeal is disposed of in the above terms…"

20 The controversy in **Manohar Ranade** concerned whether the Municipal Corporation could issue licenses to individuals not registered under the Architects Act for the completion of certain tasks that are otherwise undertaken by architects. In answering this question, Justice A P Shah (sitting as a judge of the High Court of Bombay) and Justice Dharmadhikari stated:

> "7. The next issue is whether the engineers or surveyors possessing necessary qualifications can discharge functions which are also discharged by an architect under the Architects Act, 1972?
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> ,,,
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> 8. In the above circumstances **we are <u>not</u> inclined to accept the case of the petitioners that the Architects Act restricts practice of architecture to persons registered under the said Act. Therefore qualified engineers who cannot themselves call on Architects may still be free to do the work which is ordinarily done by the Architects** and it would be open for the Corporations to regulate licensing in favour of such qualified engineers."
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> (Emphasis supplied)

The High Court of Bombay rejected the contention that the practice of architecture is restricted to registered architects under the Architects Act. The High Court of Bombay held that the practice of architecture is <u>not</u> restricted to

architects registered under the Architects Act, and even qualified engineers are free to carry out the work ordinarily done by architects.

21 The order of this Court dated 14 February 2017 states that "the High Court was in error in rejecting the contention of the appellant that practice under the Architects Act, 1972 is not restricted only to the architects." The appellant was the Council of Architecture. The order is based on the premise that the contention of the Council of Architecture before the High Court of Bombay was that the "practice under the Architects Act, 1972 is not restricted only to architects." The order stated that the High Court was wrong in rejecting this contention. Therefore, the order of this Court dated 14 February 2017 clearly sought to lay down the proposition that the "practice under the Architects Act, 1972 is not restricted only to architects." Having laid down this proposition, it would appear that the use of the word "not" in the next line is inadvertent. In the previous sentence the court expounded the position that the practice of architecture cannot be restricted to registered architects under the Architects Act. Hence, it would be an incorrect interpretation of the order to hold that in the very next line, the court would have laid down a contrary proposition. Therefore, the effect of the order as a whole is to lay down the principle that individuals can practice as architects even if they are not registered under the Architects Act. The subsequent order of this Court dated 11 September 2017 which quotes and follows the earlier order should also be read in this light. Therefore, the two orders of this Court do not further the case urged by the appellant but support the position set out by the Union of India, succinctly advanced in the submissions of the learned Attorney General.

Regulatory Scheme of the Architects Act

22 Before embarking on our analysis of whether the Architects Act prohibits the practice of architecture by individuals not registered with the Council of Architects, it is pertinent to examine the scheme of the Architects Act in its entirety. The Architects Act is a special legislation creating an exhaustive regulatory regime applicable to the profession of architecture. Clause (a) of Section 2 of the Architects Act defines an architect as follows:

> "(a) "architect" means a person whose name is for the time being entered in the register;"

The "register" is further defined as:

> "(e) "register" means the register of architects maintained under section 23;"

Section 3 of the Architects Act brings into existence the Council of Architecture. Under Section 14 of the Act, only qualifications included in the Schedule to the Act or notified under Section 15 of the Act shall be recognised as valid qualifications for the purposes of enrolling in the register under the Architects Act. Clause (2) of Section 14 permits any authority in India which grants architectural qualifications not already included in the Schedule of the Act to apply to the Central Government to have such qualification recognised as a valid architectural qualification for the purposes of registration under the Architects Act. Section 17 of the Architects Act states that:

> "**17. Effect of recognition**.— Notwithstanding anything contained in any other law, but subject to the provisions of this Act, any recognised qualification shall be a sufficient qualification for enrolment in the register."

The import of Sections 14, 15 and 17 is that if an individual wishes to be a registered architect under the Architects Act, they must receive an educational qualification that is recognised as a valid qualification by virtue of its inclusion in the Schedule to the Architects Act or a notification under Section 15. The Schedule to the Architects Act contains a list of qualifications that are recognised in law as sufficient to warrant the holder of the qualification being enrolled as a registered architect. Thus, by creating a system of statutorily recognised educational qualifications, the Architects Act regulates those individuals who are eligible to be registered architects under the Act.

23 Section 23 of the Architects Act provides that:

> "**23. Preparation and maintenance of register**.—*(1)* The Central Government shall, as soon as may be, cause to be prepared in the manner hereinafter provided a register of architects for India.
>
> (2) The Council shall upon its constitution assume the duty of maintaining the register in accordance with the provisions of this Act.
>
> (3) The register shall include the following particulars, namely:—
>
> (a) the full name with date of birth, nationality and residential address of the architect;
>
> (b) his qualification for registration, and the date on which he obtained that qualification and the authority which conferred it;
>
> (c) the date of his first admission to the register;
>
> (d) his professional address; and
>
> (e) such further particulars as may be prescribed by rules."

Section 23 provides for the maintenance of a register of architects in India. As the term “architect” itself is defined to mean an individual registered under the Architects Act, the effect of registration of an individual under the Act is firstly to maintain a list of individuals who have a statutorily recognised educational qualification in the field of architecture and secondly to bring such individuals within the regulatory regime of the Architects Act. Section 29 sets out the procedure for the removal of individuals from the register, including on the ground of such individuals having misrepresented material facts at the time of registration, being undischarged insolvents, or having been convicted of offences involving moral turpitude. Section 30 provides the procedure for inquiries into misconduct by architects and Section 31 provides for the surrender of certificates by registered architects. Section 35 of the Architects Act stipulates that:

> “**35. Effect of registration.**—*(1)* Any reference in any law for the time being in force to an architect shall be deemed to be a reference to an architect registered under this Act.
>
> (2) After the expiry of two years from the date appointed under sub-section (2) of section 24, a person who is registered in the register shall get preference for appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in any institution recognised by the Central or State Government.”

The consequence of Section 35 is that, where a statute refers to an “architect” such reference shall be deemed to mean a registered architect under the Architects Act. Clause (2) of Section 35 creates a statutory preference in favour of registered architects with respect to the appointment of candidates by the Central or state governments or local bodies or institutions which receive state aid.

24 Lastly, we may refer to the provision at the heart of the present controversy, Section 37 of the Architects Act which states:

> "**37. Prohibition against use of title.**—(1) After the expiry of one year from the date appointed under sub-section (2) of section 24, **no person other than a registered architect, or a firm of architects shall use the title and style of architect**:
>
> Provided that the provisions of this section shall not apply to—
>
> (a) practice of the profession of an architect by a person designated as a "landscape architect" or "naval architect";
>
> (b) a person who, carrying on the profession of an architect in any country outside India, undertakes the function as a consultant or designer in India for a specific project with the prior permission of the Central Government.
>
> *Explanation.*—For the purposes of clause (a),—
>
> (i) "landscape architect" means a person who deals with the design of open spaces relating to plants, trees and landscape;
>
> (ii) "naval architect" means an architect who deals with design and construction of ships."
>
> (Emphasis supplied)

Clause (2) of Section 37 states that any person who contravenes the prohibition created in clause (1) of Section 37 shall be punishable on first conviction with a fine that may extend to five hundred rupees and on subsequent convictions with imprisonment which may extend up to six months or a fine not exceeding one thousand rupees or both.

Questions before this Court

25 The present case raises two questions that this Court must answer:

(i) **Question 1:** Does Section 37 of the Architects Act prohibit individuals not registered as architects under the Architects Act from practicing the activities undertaken by architects, including the design, supervision and construction of buildings; and

(ii) **Question 2:** Whether a post titled "Architect", "Associate architect" or any other similar title using the term or style of "Architect" can be held by a person not registered as an architect under the Architects Act.

Question 1

26 In answering the first question we must begin with the text of Section 37. The provision uses the phrase "no person shall … use the title and style of architect". Therefore, on a plain reading of the section, the legal prohibition created is on the use of the "title and style of architect". Title and style are distinct from practice. While a prohibition on the use of a title merely restricts an individual from attaching the said title to their name in referring to or representing themselves to others, a prohibition on practice creates a bar on the actual undertaking of specific actions. The most compelling evidence that the two concepts are materially distinct is the varied usage of the two phrases by the legislature. For example, clause (2) of Section 15 of the Indian Medical Council Act states:

> "(2) Save as provided in section 25, no person other than a medical practitioner enrolled on a State Medical Register,—
>
> (a) shall hold office as physician or surgeon or any other office (by whatever designation called) in Government or in any institution maintained by a local or other authority.
>
> (b) shall **practice** medicine in any State; …"
>
> (Emphasis supplied)

In setting out the legal bar applicable to individuals not registered on the State Medical Register, the Indian Medical Council Act clearly uses the term "practice" as distinct from "hold office" or "style and title". Similarly, Section 29 of the Advocates Act provides that:

> "29. **Advocates to be the only recognised class of persons entitled to practise law.**—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to **practice** the profession of law, namely, advocates"
>
> (Emphasis supplied)

In making a distinction between individuals registered under the statute and those not registered, the Advocates Act clearly stipulates that unregistered individuals cannot "practice" the profession of law. This stands in stark contrast to the text of the Architects Act which merely states that unregistered individuals cannot "use the title and style of architect". Therefore, a plain reading of Section 37 clearly supports the proposition that the Architects Act prohibits individuals not registered with the Council of Architecture from using the title and style of "Architect" and does not prohibit unregistered individuals from practicing the activities undertaken by architects such as the design, supervision and construction of buildings.

27 It has been contended that one of the objects and purposes of the Architects Act is to prevent untrained individuals from designing, supervising and constructing buildings. It has further been contended that registration under the Architects Act forms an essential part of the regulatory regime for architects as it ensures that architects possess adequate educational qualifications. Therefore, it is urged that Section 37 must be read in a manner which prohibits unregistered individuals from practicing the profession of architecture and cognate activities in order to prevent the harms arising from unqualified individuals providing critical architectural services. These submissions are ultimately premised on the argument that even if a plain reading of Section 37 does not support the argument of a prohibition on “practice” this Court must nonetheless read the provision to include a prohibition on practice in order to avoid defeating the object and purpose of the Architects Act.

28 It is well settled that the first and best method of determining the intention of the legislature is the very words chosen by the legislature to have the force of law. In other words, the intention of the legislature is best evidenced by the text of the statute itself. However, where a plain reading of the text of the statute leads to an absurd or unreasonable meaning, the text of the statute must be construed in light of the object and purpose with which the legislature enacted the statute as a whole. Where it is contended that a particular interpretation would lead to defeating the very object of a legislation, such an interpretative outcome would clearly be absurd or unreasonable. To determine whether the interpretation arrived at on a plain reading of the provision truly defeats the object of the statute

as a whole, we may briefly delve into the legislative history of the Architects Act. To answer the question whether reading Section 37 as a prohibition merely on the use of the title and style of "Architect" by unregistered individuals would in truth defeat the object and purpose of the Architects Act this Court may examine the reasons behind the enactment as a whole.

29 The "Statement of Objects and Reasons" given by the legislature in passing the Architects Act have been extracted below:

> "Since independence and more particularly with the implementation of the Five-Year Plans, the building construction activity in our country has expanded almost on a phenomenal scale. A large variety of buildings, many of extreme complexity and magnitude like multi-storeyed office buildings, factory buildings, residential houses, are being constructed each year. **With this increase in the building activity, many unqualified persons calling themselves as Architects are undertaking the construction of buildings which are uneconomical and quite frequently are unsafe**, thus bringing into disrepute the profession of architects. Various organisations, including the Indian Institute of Architects, have repeatedly emphasised the need for statutory regulation to protect the general public from unqualified persons working as architects. **With the passing of this legislation, it will be unlawful for any person to <u>designate himself</u> as 'architect' unless he has the requisite qualifications and experience and is registered under the Act**.
>
> …
>
> 3. **The legislation protects the title "architects" but does not make the design, supervision and construction of buildings as an exclusive responsibility of architects. Other professions like engineers will be free to engage themselves in their normal vocation in respect of building construction work provided that they do not style themselves as architects.**"
>
> (Emphasis supplied)

The Statement of Objects and Reasons of the Architects Act makes it evident that the legislature was undoubtedly concerned with the risk of unqualified persons undertaking the construction of buildings leading to costly and dangerous buildings. In guarding against this risk, the legislature first set out a minimum standard of statutorily recognised qualifications to be met before an individual is designated as an architect under the Architects Act. This is done by Sections 14, 15 and 17 of the Act. Next, the legislature created two classes of individuals: the first class consisted of registered architects satisfying these minimum qualifications and a second class of unregistered individuals who did not satisfy these minimum qualifications. This is the effect of Sections 2(a), 17, 23 and 35 of the Architects Act. Crucially, the legislature chose to define an "architect" as an individual registered under the Architects Act and not as an individual practicing architecture or any cognate activities. Thus, the legislature limited the regulatory regime created by the Architects Act to the first class of individuals. In protecting the public from the risk of the second class, untrained individuals, the legislature had two options: first it could bar this second class of individuals from engaging in the profession altogether (as it had done with physicians and advocates); or alternatively it could prevent this second class of individuals from calling themselves "Architects". The Statement of Objects and Reasons makes it clear that the legislature chose the second option and in fact went to great lengths to clarify that choice. The legislature stated that with the passing of the legislation, it shall be unlawful for an unregistered individual to "designate himself" as an architect. Further, it is expressly stated that the legislation protects the "title" of architect but does not grant registered architects

an exclusive right to undertake the design, supervision and construction of buildings. Other cognate professions or unregistered individuals may continue to carry out these activities provided that they do not refer to themselves as “Architects”.

30 It is evident that the legislature did not intend to create a prohibition on the practice of architecture and associated activities by unregistered individuals. As opposed to the case of physicians or surgeons under the Indian Medical Council Act or advocates under the Advocates Act, the legislature consciously chose to employ a less stringent measure in the case of architects, merely prohibiting unregistered individuals from using the “title and style” of architect. It is not for this Court to delve into why the legislature made this choice. However, during the course of these proceedings a cogent and pragmatic reason for this choice has been placed before this Court, by the learned Attorney General of India and by way of the erudite opinion of Chief Justice Raveendran in the decision in **Mukhesh Kumar Manhar** to which we may briefly advert.

31 The profession of architecture involves a wide range of activities including *inter alia*:

(i) Taking instructions from clients and preparing designs;

(ii) Site evaluation and analysis;

(iii) Site design and development;

(iv) Structural design;

(v) Design of sanitary, plumbing, sewage, drainage, and water supply structures;

(vi) Design and structural integration of electrical and communications systems;

(vii) Incorporation of heating, air-conditioning, ventilation and other mechanical systems including fire detection and prevention systems; and

(viii) Periodic inspection and evaluation of construction work.

These activities are undertaken by architects but are also carried out by architects in concert with a range of other actors including draughtspersons, builders, engineers, and designers. If the legislature were to impose an absolute prohibition against unregistered individuals from 'practicing architecture' there would be considerable confusion as to what activities formed the practice of architecture and what did not. It may have resulted in a host of other legitimate professionals being barred from engaging in the design, supervision and construction of buildings merely because they were not registered under the Architects Act. Further, as the learned Attorney General of India brought to our attention, these varied professions form essential cogs in the overall machinery of construction in India and the design, supervision and construction of new structures cannot be done by architects alone. It would be unreasonable from a regulatory perspective to ask all professions touching upon the construction of new structures to obtain a degree in architecture.

32 Architecture undoubtedly constitutes a highly specialised profession requiring the possession of minimum educational qualifications. However, architects are by and large engaged by means of a contract for services. In other words, architects provide a set of specialised services towards the larger goal of construction. Architects are not embarking on construction independently of other actors. By virtue of the Architects Act, anybody engaging the services of an individual calling themselves an "Architect" is assured that such an individual possesses statutorily recognised educational qualifications and is competent to complete the task at hand. It is in this manner that the legislature protects the common person from untrained individuals.

33 For the above reasons, we affirm the decision of the High Court of Allahabad on the first question and hold that Section 37 of the Architects Act does not prohibit individuals not registered under the Architects Act from undertaking the practice of architecture and its cognate activities.

Question 2

34 The second question before this Court is whether a post titled "Architect", "Associate architect" or any other similar title using the term or style of "Architect" can be held by a person not registered as an architect under the Architects Act. On this question, the High Court of Allahabad held that the "mere nomenclature" of a particular post will not violate the prohibition on the use of "title and style" of architect under Section 37. In other words, even an individual not registered as an architect under the Architects Act can hold a post titled "Architect" or

"Associate Architect" because the name of the post amounted to "mere nomenclature".

35 While we have held that Section 37 does not prohibit the practice of architecture by unregistered individuals, it certainly does prohibit unregistered individuals from using the "title and style" of architect. Under the scheme of the Architects Act, only individuals possessing the statutorily recognised minimum educational qualifications can apply for registration as an "Architect" under the Act. Registration as an architect under the statute is thus a guarantee of possessing certain minimum educational qualifications. Section 37 prohibits unregistered individuals from designating themselves or referring to themselves as "architects". The consequence of this regulatory regime is that when an individual is called an "Architect" a reasonable person would assume that they are a registered architect under the Architects Act and as a consequence possess the requisite educational qualifications and specialised knowledge associated with architects.

36 If an individual is appointed to a post titled "Associate Architect", "Architect" or "Senior Architect", they undoubtedly refer to themselves and are referred to by others as "Architects". Holding a post using the term "Architect" has the real-world consequence of being referred to as an architect. This is not a matter of mere nomenclature. As noted above, architecture is a specialised field of study. Crucially, the scheme of the Architects Act provides a direct nexus between the minimum educational qualifications required to be obtained, registration as an

architect under the Act and the prohibition against the use of the title of "Architect" by those not registered under the Act. If a government post is titled "Architect" or "Associate Architect", such a person certainly uses the title and style of "architect" and consequently there is a reasonable assumption that such a person is registered under the Architects Act and holds a degree in architecture recognised by the Act. This assumption finds statutory backing in Section 35 of the Architects Act which provides that any reference to an architect in any other law shall be deemed to mean an architect registered under the Architects Act. To promote an individual who does not possess a degree in architecture recognised by the Act to a post titled "Architect", "Associate Architect" or of a similar style using the title or style of "architect" would effectively violate the prohibition on the use of title contained in Section 37 of the Architects Act.

37 In the present case, we recognise the power of NOIDA to provide and modify the minimum eligibility criteria for promotion of candidates to the posts of Associate Town Planner and Associate Architect. We further recognise that the authority has significant discretion in how it chooses to title the various posts under its supervision. However, to permit NOIDA to continue to title a post that includes individuals who are not registered architects under the Architects Act as "Associate Architect" would result in a violation of Section 37 of the Architects Act. In the case of **Tulya Gogoi** the High Court of Gauhati expressly held that the prohibition on the use of title and style of architect contained in Section 37 of the Architects Act applies to both private individuals and government employees. The reasoning of the High Court on this issue commends itself for our acceptance.

The text of Section 37 makes no distinction between government employees and private individuals.

38 The U.P. Industrial Area Development Act provides NOIDA with the power to make rules for the management of its internal affairs. In exercise of this power, NOIDA formulated the Service Regulations of 1981. Rule 16 of the Service Regulations sets out the 'Sources of Recruitment' for posts under NOIDA's authority. By clause (iv) of Rule 16 NOIDA has the power to modify the sources of recruitment for posts under its supervision. It is in exercise of this power that NOIDA formulated the Promotion Policy of 2005 which sets out the sources and qualifications for recruitment in its various departments. It is well established that delegated legislation is susceptible to invalidity on the grounds of being *ultra vires* its parent legislation but also *ultra vires* other primary legislation. Where the provisions of a primary legislation (the Architects Act) are contradictory to the provisions of a delegated legislation (the Promotion Policy 2005), the provisions of the primary legislation must prevail. This principle is well established and has received articulation by this Court on several occasions. In **Indian Express Newspapers** v **Union of India**[17] Justice Venkataramiah speaking for a three-judge Bench of this Court stated:

> "75. A piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent Legislature. Subordinate legislation may be questioned on any of the grounds on which plenary legislation is questioned. In addition, it may also be questioned on the ground that it does not conform to the statute under which it is made. **It may further be questioned on the ground that it is contrary to some other statute.**

[17](1985) 1 SCC 641

> **This is because subordinate legislation must yield to plenary legislation.** It may also be question on the ground that it is unreasonable, unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary. …"
>
> (Emphasis supplied)

The distinction made by the Allahabad High Court, that the Promotion Policy 2005 was passed under a state legislation, namely the U.P. Industrial Area Development Act, and thus did not need to comport with the terms of the Architects Act as a central legislation is incorrect.

39 For the reasons stated above, in response to the first question we affirm the decision of the High Court of Allahabad and hold that Section 37 of the Architects Act does not prohibit individuals not registered under the Architects Act from undertaking the practice of architecture and its cognate activities. In response to the second question we disapprove of the view of the High Court of Allahabad and hold that NOIDA cannot promote or recruit individuals who do not hold a degree in architecture recognised by the Architects Act to a post that uses the title or style of "architect". However, the authority is free to change the nomenclature of the post to any alternative as long as it does not violate the provisions of the Architects Act by using the style and title of "architect" in its name.

40 The appeals are partly allowed in the above terms. There shall be no order as to costs.

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

……..…..…....…….....J.
[Dr Dhananjaya Y Chandrachud]

…..…..…..….....…….....J.
[Ajay Rastogi]

New Delhi;
March 17, 2020.