IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.02.2022

DELIVERED ON : 21.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4150 of 2022

L.Ponnammal .. Petitioner

Vs

1 Union of India,
rep. by its Secretary,
Department of Investment and Public Asset Management,
Ministry of Finance,
Block No.14, CGO Complex,
Lodhi Road, New Delhi-11.

2 Union of India,
rep. by its Secretary,
Ministry of Law and Justice,
4th Floor A-Wing, Shastri Bhawan ,
New Delhi-110 001.

3 Life Insurance Corporation of India,
rep. by its Chairperson, M.R.Kumar,
Central Office, Yogakshema Building,
Jeevan Bima Marg, Post Box No- 19953,
Mumbai, Maharashtra-400 02 ..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of declaration to (i) Declare sections 128 to 146 of the Finance Act, 2021 as ultra vires Article 110 of the Constitution of India or (ii) Alternatively declare Section 5(9) of the LIC Act 1956 and Section 128 to 130 Section 132 to 146 of the Finance Act, 2021 as ultra vires Article 110 of the Constitution of India or (iii) Alternatively declare section 140 of the Finance Act, 2021 as ultra vires Article 110 of the Constitution of India.

For the Petitioner : Mr.Abhishek Jebaraj
for Mr.S.G.Arul Mozhi Selvan

For the Respondents : Mr.N.Venkataraman
Additional Solicitor General
for Mr.Prasad Vijayakumar
for respondents 1 and 2

: Mr.Satish Parasaran
Senior Counsel
for Mr.B.Deepak Narayanan
for 3rd respondent

ORDER

THE HON'BLE CHIEF JUSTICE

By this writ petition a challenge is made to Sections 128 to 146 of the Finance Act, 2021 [for brevity, "*the Act of 2021*"], with an alternative prayer to declare Section 5(9) of the Life Insurance

Corporation Act, 1956 [for brevity, "*the Act of 1956*"] and Sections 128 to 130 and Sections 132 to 146 of the Act of 2021 as *ultra vires* Article 110 of the Constitution of India. An alternative prayer is also made to declare Section 140 of the Act of 2021 as *ultra vires* Article 110 of the Constitution of India.

2. Learned counsel submits that the petitioner is a policyholder of the Life Insurance Corporation (for brevity, "*the LIC*") and being aggrieved by Sections 128 to 146 of the Act of 2021, as also Section 5(9) of the Act of 1956, she has filed this writ petition. It is mainly on the premise that the provisions aforesaid were introduced by a Money Bill under Article 110 of the Constitution of India, though the amendment does not fall in the category of Money Bill.

3. Coming to the facts of the case, it is submitted that every participating policyholder was entitled to a minimum of 90% of the surplus arising from non-participating policies, but the amendment under challenge has reduced their entitlement to nil and, therefore, being a policyholder, she has challenged Sections 128 to 146 of the

Act of 2021, apart from Section 5(9) of the Act of 1956.

4. Narrating the facts further, it is submitted that by virtue of Part III of Chapter VI of the Act of 2021, the Parliament has amended the Act of 1956 and made substantial changes to various facets of the LIC. The amendment by way of the Act of 2021 was brought after the Finance Bill, 2021 was classified by the Speaker of the House of the People under Article 110 of the Constitution of India as a Money Bill. The certificate for it was issued by the Speaker of the House of the People under clause (4) of Article 110 of the Constitution of India and has been appended along with the writ petition. The Speaker of the House of the People has issued the certificate even though the Finance Bill, 2021 contained matters other than those specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India. The challenge to the amendments has been made primarily on the ground that the subject-matter therein does not fall in the specified matters given under Article 110 of the Constitution of India and it would otherwise result in reduction in the share of surplus allocated to participating

policyholders.

5. Learned counsel for the petitioner, referring to the constitutional provisions, submitted that there are different types of Bills under the Constitution of India which are as under:

(a) Ordinary Bills governed by Article 107 of the Constitution of India;

(b) Financial Bills governed by Article 117 of the Constitution of India; and,

(c) Money Bills governed by Article 109 of the Constitution of India.

6. Referring to the features of the Money Bill in reference to Articles 109 and 110 of the Constitution of India, it is submitted that definition of "Money Bills" has been given under Article 110 of the Constitution of India and under Article 110(1) of the Constitution of India, a bill shall be deemed to be a Money Bill if it contains "*only*" provisions dealing with all or any of the subject-matters given therein.

7. It is submitted that the amendment under challenge does not fall under any of the matters given under sub-clauses (a) to (f) of Article 110(1) of the Constitution of India. Therefore, the certificate was wrongly issued by the Speaker of the House of the People under Article 110(4) of the Constitution of India.

8. Learned counsel elaborating the arguments submitted that the Act of 2021 and amendments to the Act of 1956 do not pertain to imposition, abolition, remission, alteration or regulation of any tax; or the regulation of the borrowing of money or giving of any guarantee by the Government of India. It is not even for the custody of the Consolidated Fund of India or the Contingency Fund of India, or for the payment of moneys into or the withdrawal of money from any such fund, and even appropriation of moneys out of the Consolidated Fund of India. The provision under challenge even does not pertain to declaration of expenditure to be expenditure charged on the Consolidated Fund of India, etc., so as to take it under the realm of Article 110 of the Constitution of India.

The Finance Bill, 2021 was certified to be a Money Bill, though none of the subject-matters under the Act of 2021 contain any of the matters given under Article 110 of the Constitution of India.

9. Referring to the Act of 1956, it is submitted that initially the President of India promulgated the Life Insurance (Emergency Provisions) Ordinance, 1956 to vest management of all life insurance business in Central Government pending nationalization in the backdrop of alleged mismanagement of the affairs of number of insurance companies. The Parliament converted the aforesaid Ordinance to an Act and enacted the Life Insurance (Emergency Provisions) Act, 1956, followed by the Act of 1956. The Act of 1956 provides for regulation, management, audit and control of the affairs of LIC, apart from other subject-matters. The amendments to the Act of 1956 were made from time to time and the last amendment prior to the amendment by the Act of 2021 was in the year 2011 by the Life Insurance Corporation (Amendment) Act, 2011. The amendment now made does not fall in any of the subject-matters of Money Bill.

10. The amendment made in the year 2021 by insertion of Sections 5(4), 5A(1) and 5A(2) in the Act of 1956, would enable the Central Government to sell up to 49% of ownership in the LIC. Prior to the aforesaid amendment, i.e., till the year 2021, the entire ownership of the LIC vested with the Central Government, but now 49% of share can be liquidated having a serious affect on the policyholders, as stated earlier.

11. The amendment to the Act of 1956 would even be taking away the rights guaranteed under Section 28 of the Act of 1956. As per the pre-amended provisions of the Act of 1956, 90% or more of surplus from life insurance business was to be allocated to or reserved for the life insurance policyholders of the Corporation, but by virtue of the amendment, the rights guaranteed under Section 28 of the Act of 1956 have been taken away. Therefore, in reference to Section 28 of the Act of 1956 also a challenge to the amendment has been made.

12. Referring to the amendment to Section 5(9) of the Act of 1956, it is submitted that the aforesaid amendment does not fall under any of the matters given under Article 110 of the Constitution of India. By virtue of the amendment under Section 5(9) of the Act of 1956, a reservation to the extent up to 10% of public issue has been made on competitive basis in favour of the LIC policyholder as one of the reserved categories, whereas earlier a policyholder was entitled to get 90% of the surplus amount.

13. Learned counsel for the petitioner has made reference to the amendment to Securities and Exchange Board of India Act, 1992 and given reference of other facts, but are not relevant because challenge is made to the Act of 2021 for amendment in the Act of 1956 in reference to Article 110 of the Constitution of India. Thus, issue for consideration would be as to whether provisions of the Act of 2021 fall under any of the subject-matters of Article 110 of the Constitution of India.

14. Per contra, the writ petition has been vehemently

contested by learned Additional Solicitor General of India appearing for the Union of India and learned Senior Counsel appearing for the LIC.

15. Learned counsel for the respondents prayed for dismissal of the writ petition at the threshold, as it failed to satisfy the triple test for challenge to the provision on any of the following grounds: (i) constitutional bar; (ii) constitutional illegality; and, (iii) constitutional fraud.

16. It is submitted that any inclusion or interference to the implementation of a public interest policy by way of a legislation should be eschewed, as it directly impacts the economic growth and prosperity of the nation and the welfare of the general public.

17. The Union is empowered to carry on any trade or business as per Article 298 of the Constitution of India and the decision of the Central Government was duly approved by the Parliament to trade 5% of its shareholding in LIC through Initial Public Offering

"IPO" under the procedure of "Offer for Sale" as per the SEBI norms and, therefore, the amendment is valid and there is no constitutional bar in bringing out IPO.

18. It is next submitted that the amendments have been brought in to allow the Central Government to float the IPO and receive the money into the Consolidated Fund of India and it is not the case of the petitioner that the amendments to the Act of 1956 or other Acts are standalone amendments, independent and distinct. It is added that the process and procedure for certifying the Finance Bill as a "Money Bill" have been duly complied and, therefore, there is no constitutional illegality.

19. Placing reliance on the decisions of the Apex Court in ***Justice K.S.Puttaswamy (Retd.) and another v. Union of India, (2019) 1 SCC 1*** and ***Rojer Mathew v. South Indian Bank Limited and others, (2020) 6 SCC 1***, it is submitted by learned counsel for the respondents that the expression "Money Bill" cannot be construed in a restrictive sense and that the wisdom of

the Speaker of the Lok Sabha must be valued, save where it is blatantly violative of the scheme of the Constitution.

20. Qua the interpretation of the word "only", learned counsel for the respondents referring to the judgment of the Apex Court in the case of ***Rojer Mathew***, supra, argued that prima facie the word "only" is not restrictive of the scope of the general terms and if a Bill substantially deals with the imposition, abolition, etc. of a tax, then the mere fact of the inclusion in the Bill of other provisions which may be necessary for the achievement of the objective of the particular Bill, cannot take away the Bill from the category of Money Bill.

21. It is further submitted that when the Parliament endowed with plenary powers had passed the Bill and the Standing Committee on budget after scrutiny and due diligence had approved it, it cannot be pleaded that there was fraud on the Constitution.

22. In addition, it is submitted that when the Finance Bill was

introduced on 1.2.2021 and the same received assent of the President of India on 28.3.2021 and was notified in the Central Government Gazette on 29.6.2021 giving effect to the Finance Act of 2021 from 30.6.2021, the petitioner has approached this court after almost eight months when IPO is going to be issued and, therefore, the writ petition suffers from laches on the facts of this case. Learned Additional Solicitor General has made elaborate arguments on the issue which would be taken up by this court while dealing with the issues raised by the petitioner to avoid repetition.

23. Before adverting to the merits of the rival contentions, it would be appropriate to refer to the legislative developments; amendments to provisions of the Act of 1956 introduced by way of Money Bill; and, the executive developments, as given by learned Additional Solicitor General.

(A) LEGISLATIVE DEVELOPMENTS:

24.1. On 1.2.2020, the Union Government of India announced that the Government proposes to sell a part of its holding in the LIC

by way of IPO. The Finance Minister's Speech during the Union Budget 2020-2021 on the proposal is extracted as under:

> *"Disinvestment*
>
> *105. Listing of companies on stock exchanges discipline a company and provides access to financial markets and unlocks its value. It also gives opportunity for retail investors to participate in the wealth so created.* ***The government now proposes to sell a part of its holding in LIC by way of Initial Public Offer (IPO).****"*
>
> *[emphasis supplied]*

24.2. Subsequently, while presenting the Union Budget for the year 2021-22, the Finance Minister stated that: "***In 2021-22 we would also bring the IPO of LIC for which I am bringing the requisite amendments in this Session itself.***"

24.3. Accordingly, the Finance Bill, 2021 was introduced in the Lok Sabha carrying out the appropriate amendments to the Act of 1956 to give effect to the proposal for bringing the IPO. Clauses 119 to 137 of the Finance Bill, 2021 sought to amend/insert/

substitute various provisions of the Act of 1956.

24.4. On 23.03.2021, the Speaker of the House of the People certified that the Finance Bill, 2021 would be passed as a Money Bill under Article 110 of the Constitution. The Bill was also returned by the Rajya Sabha without any comments or recommendations. The Finance Bill, 2021 received the assent of the President on 28.03.2021. Part III of Chapter VI (Sections 128-146) of the Act of 2021 deals with the amendments to the Act of 1956. Vide Gazette Notification dated 29.06.2021, the Central Government notified that Part III of the Act of 2021 would come into force from 30.06.2021. The Central Government framed the Life Insurance Corporation (Amendment) Rules, 2021 to carry out the amendments to the Act of 1956.

(B) AMENDMENTS TO THE PROVISIONS OF THE ACT OF 1956 INTRODUCED BY WAY OF MONEY BILL:

25.1. The amendment/substitution of Section 5 of the Act of 1956 is the core provision introduced by Section 131 of the Finance Act, 2021. Relevant portions of Section 5 are reproduced herein for

ready reference:

"***5. Capital of Corporation.—***

(1) The authorised share capital of the Corporation shall be twenty five thousand crore rupees, divided into two thousand and five hundred crore shares of ten rupees each:

Provided that the Central Government may, by notification, increase the authorised share capital or reduce the authorised share capital to such amount not less than the amount of the paid-up equity capital of the Corporation immediately before the coming into force of section 131 of the Finance Act, 2021, as it may deem fit:

Provided further that the Corporation may, with the previous approval of the Central Government, consolidate or reduce the nominal or face value of the shares, divide the authorised share capital into equity share capital or a combination of equity and preference share capital, and divide the nominal or face value of shares into such denomination as the Corporation may decide.

(2) The Corporation shall, with the previous approval of the Central Government, issue equity shares to the Central Government in consideration for the paid-up equity capital provided by the Central Government to the Corp,oration as it stood before the coming into force of section 131 of the Finance Act, 2021.

...

(4) The Corporation may from time to time increase its issued share capital, with the previous approval of the Central Government, whether by public issue or rights issue or preferential allotment or private placement or issue of bonus shares to existing members holding equity shares, or by issue of shares to employees pursuant to share based employee benefits schemes, or by issue of shares to life insurance policyholders of the Corporation, or otherwise:

Provided that the Central Government shall, on a fully diluted basis hold, —

(a) at all times, not less than fifty-one per cent. of the issued equity share capital of the Corporation;

(b) during a period of five years from the

date of first issue of shares to any person other than the Central Government, not less than seventy-five per cent. of the issued equity share capital of the Corporation:

Provided further that no shares shall be issued other than by way of rights issue unless authorized by a special resolution, except in the circumstances where the provisions of the second and third provisos to sub-section (1) of section 23A apply:

Provided also that issue of shares to life insurance policyholders of the Corporation shall not be by preferential allotment or private placement.

...

(9) Notwithstanding anything contained in any other law for the time being in force--

(a) regarding various categories of persons in favour of whom an issuer may make reservations on a competitive basis, in relation to a public issue, the Corporation may, at any time during the period of five years from the commencement of section 131 of the Finance Act, 2021, ***make a reservation on a competitive basis, to an***

extent of up to ten per cent out of the issue size, in favour of its life insurance policyholders as one of the reserved categories for such public issue:

Provided that the value of the allotment of equity shares to such a policyholder shall not exceed two lakh rupees, or such higher amount as the Central Government may by notification specify:

Provided further that, in the event of under-subscription in the policyholder reservation portion, the unsubscribed portion may be allotted on a proportionate basis, in excess of the value referred to in the first proviso, subject to the total allotment to a policyholder not exceeding five lakh rupees or such higher amount as the Central Government may by notification specify:

Provided also that the policyholders in favour of whom reservation is made under this sub-section may be offered shares at a price not lower than by more than ten per cent. of the

price at which net offer to public is made to other categories of applicants;

(b) regarding ineligibility for computation of minimum promoter's contribution, in relation to a public issue by way of an initial public offer, all equity shares of the Corporation held by the Central Government, including all shares acquired during the period of three years preceding the opening of such public offer, resulting from a bonus issue or otherwise, shall be eligible for such computation;

(c) requiring the holding of paid-up equity shares by the sellers for a minimum holding period as a condition for offering such shares for sale to the public, in relation to a public issue by way of an initial public offer, all fully paid-up equity shares of the Corporation held by the Central Government shall be eligible for such an offer for sale: Provided that and subject to any regulation made by the Securities and Exchange Board, no shares issued by the Corporation against revaluation of assets or by utilisation of revaluation reserves or from unrealised profits shall be

eligible for computation of minimum promoter's contribution and for offer for sale in relation to a public issue by way of initial public offer.

Explanation. —Words and expressions used in this sub-section but not defined either in this Act or in the Insurance Act or in the Companies Act shall have the meanings respectively assigned to them in regulations made by the Securities and Exchange Board regarding issue of capital and disclosure requirements, to the extent not repugnant with the provisions of this Act.

(10) The Corporation may issue other securities, including bonds, debentures, notes, commercial paper and other debt instruments, for the purpose of raising funds to meet its business requirements."

[emphasis supplied]

25.2. Section 5 of the Act of 1956 has been substituted to provide for LIC's capital, issue of equity shares to the Central Government in consideration for paid-up equity capital provided by

the Central Government to LIC prior to coming into force of the new section, increase or reduction of share capital by the Central Government, making of reservation, issuing of other securities by LIC for raising funds to meet its business requirements and etc. In the Notes on Clauses, these amendments to Section 5 of the Act of 1956 are stated to have been made to "***enable issue of shares to the Central Government against paid-up capital invested by it in LIC as well as issue of bonus shares to the Central Government, which could be offered for sale by way of an initial public offer, with resultant receipt of money into the Consolidated Fund of India.***"

25.3. To summarize, it can be reasonably stated that the core provision and essence of Section 5 of the Act of 1956 is to enable the listing of LIC on recognised stock exchanges and making of an IPO through which Government may sell its shares in LIC, resulting in the receipt of money into the Consolidated Fund of India. The other amendments are incidental to the core provision. It was brought to support the core provision to receive money into the

Consolidated Fund of India.

25.4. Section 2 of the Act of 1956 has been amended vide Section 129 of the Act of 2021 to introduce new clauses to define the expressions "Board of Directors", "Chairperson", "Director", "Financial Statement", "Independent Director", "Member", etc. The new clauses are consequential to the other amendments proposed to the Act of 1956. Some of the newly inserted clauses are reproduced hereunder:

> *"2(1b) "Board of Directors" or "Board" means the collective body of the directors appointed or nominated or deemed as such under section 4.*
>
> *2(1c) "Chairperson" means the Chairperson referred to in clause (a) of subsection (2) of section 4.*
>
> *2(4a) "director" means a director appointed or nominated or deemed as such under section 4.*
>
> *2(7) "member" means every person holding shares of the Corporation and whose name is entered in the register of members maintained under clause (a) of*

sub-section (1) of section 5B."

25.5. Section 4 of the Act of 1956, substituted vide Section 130 of the Act of 2021, provides for vesting of the general superintendence and direction of the affairs and business of LIC in its Board of Directors. Section 4 of the Act of 1956 further provides for the composition of the Board of Directors, the appointment or nomination of directors, conditions to be fulfilled for appointment or nomination and deeming of members constituting LIC immediately before the coming into force of this section as directors to enable the IPO. Relevant portions of Section 4 are reproduced hereunder for easy reference:

> *"**4. Board of Directors.—***
> ***(1) The general superintendence and direction of the affairs and business of the Corporation shall vest in its Board of Directors, which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation and are not by this Act expressly directed or required to be done by the Corporation in general meeting.***

(2) The Board of Directors of the Corporation shall consist of the following directors, not exceeding eighteen, of whom at least one shall be a woman, namely:—

(a) a Chairperson of the Board, to be appointed by the Central Government, who shall,—

(i) during the initial period, be a whole-time director of the Corporation; and

(ii) after the initial period, be from amongst the non-executive directors nominated or to be nominated by the Central Government;

(b) after the initial period, a Chief Executive Officer and Managing Director, who shall be a whole-time director of the Corporation to be appointed by the Central Government:

Provided that where no Chief Executive Officer and Managing Director is appointed before expiry of the initial period, the individual holding office as Chairperson shall be deemed to have been appointed as the Chief Executive Officer and Managing Director on and from the date of such expiry;

(c) Managing Directors, not exceeding four,

to be appointed by the Central Government, who shall be whole-time directors of the Corporation;

(d) an officer of the Central Government not below the rank of a Joint Secretary to the Government of India, to be nominated by the Central Government;

(e) an individual to be nominated by the Central Government, who has special knowledge or practical experience in actuarial science, business management, economics, finance, human resources, information technology, insurance, law, risk management, or any other field the special knowledge or practical experience of which would be useful to the Corporation in the opinion of the Central Government or who represent the interests of policyholders;

(f) where the total holding of members other than the Central Government in the paid-up equity capital of the Corporation is—

(a) not more than ten per cent., one individual;

(b) more than ten per cent., two individuals, who shall be elected by and from amongst

such members and in such manner as may be specified by regulations, to be appointed by the Board; and

(g) such number of independent directors, not exceeding nine, to be recommended by the Nomination and Remuneration Committee and appointed by the Board.

...

(5) Before an individual is appointed or nominated as a director under sub-section (2), the Central Government or the Nomination and Remuneration Committee, as the case may be, shall satisfy itself that such an individual as a director shall have no financial or other interest as is likely to affect prejudicially the exercise or performance by him of the functions of a director:

Provided that the Board shall satisfy itself from time to time with respect to every director other than a director nominated under clause (d) of subsection (2) that he has no such interest:

Provided further that, for the purposes of this sub-section, any individual who is, or whose appointment or nomination or election is proposed and who has consented to be a director, shall furnish such

information as the Central Government or the Nomination and Remuneration Committee or the Board, as the case may be, may require.

(6) Notwithstanding anything contained in sub-section (2), on and from the appointed date, an individual appointed under section 4 who is eligible to be or remain a director under section 4A and who, immediately before such appointed date, held the office of a member of the Corporation—

(i) in the capacity as the Chairman of the Corporation, shall be deemed to be a director and the Chairperson under sub-clause (i) of clause (a) of subsection (2);

(ii) in the capacity as a Managing Director of the Corporation, shall be deemed to be a director and a Managing Director under clause (c) of subsection (2);

(iii) and is an officer of the Central Government not below the rank of a Joint Secretary to the Government of India in the Department of Financial Services, shall be deemed to be a director nominated under clause (d) of sub-section (2);

(iv) and has been in office for a duration which is the longest amongst members other than members referred to in clauses (i), (ii) and (iii), shall be deemed to be a director nominated under clause (e) of sub-section (2):

Provided that every such individual shall hold office until expiry of the term, if any, specified at the time of his appointment as a member of the Corporation, or until a director appointed or nominated, as the case may be, under sub-section (2) in place of such an individual assumes office:
Provided further that any act or proceeding of the collective body of members constituting the Corporation under section 4 before the appointed date, shall be deemed to be an act or proceeding, as the case may be, of the Board…".

[emphasis supplied]

25.6. The newly inserted Sections 4A, 4B, 4C and 4D of the Act of 1956, vide Section 130 of the Act of 2021, provide for

disqualifications to be a director; disclosure of interest by a director and senior management; bar on LIC from entering into any contract or arrangement with a related party; and, adjudication of penalties for contravention or violation under the Act of 1956, respectively. Those provisions were incorporated to bring the provisions relating to corporate governance in alignment with IPO listing requirements.

25.7. Sections 5A, 5B, 5C, 5D, 5E and 5F have been inserted in the Act of 1956, by way of Section 131 of the Act of 2021, to provide respectively for transferability of shares, voting rights, maintenance of register of members, declaration in respect of beneficial interest in shares, deeming of LIC's shares to be securities and rights of registered shareholders to nominate. The purpose of the introduction of these sections has been indicated in the Notes on Clauses as follows: "***in order to bring the provisions relating to share transfer, rights of shareholders including voting in shareholder meeting, disclosure of beneficial interest in securities and recognition of securities as shares in alignment with the requirements under the Securities***

Contract (Regulation) Act, 1956 and listing requirements." It is again a provision to match the core provision and consequential to the IPO which may require provision for transfer of share.

25.8. Section 19 of the Act of 1956, substituted by Section 132 of the Act of 2021, provides for the constitution of an Executive Committee of the Board, the composition thereof and the functions of the Committee. Section 19 of the 1956, pursuant to the amendment, reads as under:

> *"19. Executive Committee.—*
> *(1) The Board may constitute an Executive Committee of the Board, consisting of—*
> *(i) the Chief Executive;*
> *(ii) Managing Directors;*
> *(iii) the director referred to in clause (d) of sub-section (2) of section 4; and*
> *(iv) four directors nominated by the Board from amongst the directors referred to in clauses (e), (f) and (g) of sub-section (2) of section 4.*
> *(2) The Executive Committee of the Board shall exercise such powers as the Board may entrust to it."*

25.9. Sections 19A, 19B, 19C and 19D of the Act of 1956, amended by Section 132 of the Act of 2021, provide for the constitution of various committees of the Board, namely, Investment Committee; Nomination and Remuneration Committee; Audit Committee and Other Committees (as the Board may deem fit to constitute to render advice to it).

25.10. Section 23A of the Act of 1956, inserted by Section 135 of the Act of 2021, provides for the holding of annual general meeting and other general meetings of registered shareholders of LIC to be held every financial year.

25.11. Section 24 has been substituted in the Act of 1956, vide Section 136 of the Act of 2021, to provide for LIC having a multiplicity of funds, establishment of reserves and maintenance of separate funds for participating and non-participating policyholders of LIC. Section 24 has been reproduced herein for easy reference:

"24. Funds of the Corporation.—

(1) The Corporation shall have its own fund or funds, and all receipts of the Corporation shall be credited thereto and all payments of the Corporation shall be made therefrom:

Provided that the Board may, in relation to any of the funds of the Corporation or otherwise, establish reserves which may or may not be allocated for a specific purpose, and such sums as the Board may determine, may be transferred to or from such reserves.

(2) The Board shall, for every financial year after the financial year in which the provisions of section 136 of the Finance Act, 2021 come into force, cause to be maintained—

(a) a participating policyholders fund, to which all receipts from participating policyholders shall be credited and from which all payments to such policyholders shall be made; and

(b) a non-participating policyholders fund, to which all receipts from nonparticipating policyholders shall be credited and from which all payments to such policyholders shall be made:

Provided that the members, by resolution in a general meeting, may exempt maintenance of such funds for one financial year at a time up to two financial years."

25.12. The newly inserted Sections 24A, 24B and 24C of the Act of 1956, vide Section 136 of the Act of 2021, make the preparation/maintenance of proper Books of Accounts, Financial Statements and Board's report mandatory, while Section 24D thereof prescribes the penalties for non-compliance of these provisions.

25.13. Section 25 of the Act of 1956, as substituted by Section 137 of the Act of 2021, deals with the Appointment of Auditors. Sections 25A, 25B, 25C and 25D of the Act of 1956 provide for the removal and resignation of auditor, powers and duties of auditor and auditor's report, internal auditor and special auditor, respectively. In the Notes on Clauses these provisions have been amended/inserted with the "***object of bringing the provisions relating to LIC's audit, accounting standards and compliance***

with law and relevant standards in alignment with listing requirements." It is again a consequence of the core provision of Section 5 of the Act of 2021 to introduce a provision with ultimate goal to get money into the Consolidated Fund of India.

25.14. Section 28 of the Act of 1956, substituted by Section 140 of the Act of 2021, stipulates the manner in which the surplus from life insurance business should be utilized. The provision is reproduced hereunder for easy reference:

> *"28. Surplus from life insurance business, how to be utilized.—*
>
> *(1) If as a result of any investigation undertaken by the Board under section 26, any surplus emerges, —*
> *(a) for every financial year previous to the financial year for which the funds referred to in subsection (2) of section 24 are to be maintained, and for any subsequent financial year for which members may exempt the maintenance of such funds,—*
> *(I) ninety per cent., or such higher percentage as the Board may approve, of such surplus shall be allocated to or reserved for the life insurance*

policyholders of the Corporation; and

(II) such percentage of the remaining surplus as the Board may approve, shall be allocated to or reserved for members and may either be credited to a separate account maintained by the Corporation or be transferred to such reserve or reserves as the Board may specify;

(b) for every financial year other than that referred to in clause (a),—

(i) in respect of participating policyholders,—

(I) ninety per cent., or such higher percentage as the Board may approve, of surplus relating to such policyholders, shall be transferred to the participating policyholders fund, and shall be allocated to or reserved for the life insurance participating policyholders of the Corporation; and

(II) such percentage of the remaining surplus as the Board may approve, shall be allocated to or reserved for members and may either be credited to a separate account maintained by the Corporation or be transferred to such reserve or reserves as the Board may specify;

(ii) in respect of non-participating policyholders, one hundred per cent. of surplus relating to such policyholders shall be allocated to or reserved for

members and may either be credited to a separate account maintained by the Corporation or be transferred to such reserve or reserves as the Board may specify.

(2) The remaining surplus referred to in sub-clause (ii) of clause (a) of subsection (1) or in item (ii) of sub-clause (i) of clause (b) of sub-section (1), as the case may be, and the surplus referred to in sub-clause (ii) of clause (b) of sub-section (1), and the profits allocated to or reserved for the members under section 28A, shall be utilised for such purposes as the Board may approve, including for the purpose of declaration or payment of dividend, the issue of fully paid-up bonus shares to members and crediting any of the reserves that the Board may create for any purpose.

(3) The Corporation shall, with the approval of the Board, publish on its website its surplus distribution policy at least once in five years, or such shorter period not less than three years as the Board may deem fit, and such policy shall specify, among other things, the percentages referred to in subsection (1)."

Thus, Section 28 of the Act of 1956 provides for the allocation to or

reservation of 100% of the surplus relating to non-participating policyholders in every financial year's surplus for registered shareholders, in addition to up to 10% of the surplus relating to the participating policyholders as against a maximum of 10% of the total surplus under Section 28 as it stood prior to the amendment. The Notes on Clauses addresses this amendment as "***representing enhancement in money receivable into the Consolidated Fund of India on account of such increased allocation or reservation.***"

25.15. The amendment to Section 28A of the Act of 1956 brought in vide Section 141 of the Act of 2021 provides for the allocation to or reservation of balance profits from other businesses to its members after making provision for reserves and other matters.

25.16. Sections 28B and 28C of the Act of 1956 have been newly inserted vide Section 142 of the Act of 2021 to make provisions regarding the declaration of dividend and crediting of

unclaimed and unpaid dividend amount to an Unpaid Dividend Account.

25.17. Section 46 of the Act of 1956 amended vide Section 143 of the Act of 2021 declares that defects in the constitution of the Board and committees thereof, or in appointment or nomination of directors, will not invalidate their acts or proceedings, which are matters incidental to the proposed creation of the Board and its committees under the new Sections 4, 19, 19A, 19B, 19C and 19D.

25.18. Section 47 of the Act of 1956 has been substituted vide Section 143 of the Act of 2021 to provide protection to any director or employee of LIC against prosecution for any action taken under the Act of 1956. However, a director who is not a whole time director can be held liable subject to Section 47(2) of the Act of 1956.

25.19. Section 48(2) of the Act of 1956 has been amended vide Section 144 of the Act of 2021 to provide the Central

Government with the power to make rules relating to various matters that are incidental to other amendments.

25.20. Section 49 of the Act of 1956 amended vide Section 145 of the Act of 2021 vests a power on the Board of LIC to make regulations relating to the functioning of LIC.

25.21. Sections 50 and 51 of the Act of 1956, newly inserted vide Section 146 of the Act of 2021, deal with the form, manner, etc. for companies to apply with modifications to LIC and the power of the Central Government to remove difficulties by order published in the Official Gazette. The provisions referred to above are incidental to the core provision, thus covered by sub-clause (g) to Article 110(1) of the Constitution of India, as otherwise necessary to match the core provision.

(C) EXECUTIVE DEVELOPMENTS:

26. Since the coming into force of the Act of 2021 on 30.06.2021, various necessary steps have been taken towards the

listing of the shares through an IPO as follows:

a) The Chairperson, Managing Directors and Government Nominee Director of LIC were designated on 01.07.2021. Subsequently, the Central Government also appointed the Book Running Lead Managers and legal advisors for the IPO.

b) On 08.09.2021, 100% holding in LIC/6,32,49,97,701 equity shares of LIC was transferred/allotted to the President of India. The LIC has also sought certain exemptions from the Securities and Exchange Board of India (SEBI) with respect to compliance of certain provisions of the SEBI Act and its allied Regulations.

c) On 11.02.2022, the President of India has approved an Offer for Sale of up to 31,62,49,885 equity shares of LIC. The Board of LIC has also authorized the IPO.

d) On 13.02.2022, the Government filed the Draft Red Herring Prospectus with the SEBI for the IPO.

Money markets have predicted that the IPO would raise up to Rs.65,000-Rs.70,000 crores.

e) As on 26.02.2022, it has been submitted that the Union Cabinet has approved the proposal to amend the FDI policy to permit FDI of up to 20% in LIC.

27. The issue that requires consideration is as to whether the amendments fall within the realm of the subject-matters under Article 110 of the Constitution of India. It would be appropriate to refer to Articles 109 and 110 of the Constitution of India, which are reproduced hereunder:

"109. Special procedure in respect of Money Bills.

(1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the

House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in

which it was passed by the House of the People."

"110. Definition of 'Money Bills'.-

(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) ***the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund;***

(d) the appropriation of moneys out of the Consolidated Fund of India;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the

Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill."

[emphasis supplied]

28. The challenge to the amendments brought in by the Act of 2021 is on the ground that the subject-matter would not fall within the definition of "Money Bills" and, therefore, Article 110 of the Constitution of India was not attracted.

29. The aforesaid was clarified by learned Additional Solicitor General stating that the purpose of amendment is to receive money in the Consolidated Fund of India to be used for the development of the country and, accordingly, the Act of 2021 falls within the realm of Article 110 of the Constitution of India, i.e., Money Bill.

30. A serious contest on the aforesaid was made by learned counsel for the petitioner in reference to the amendment in Section 5(9) of the Act of 1956 because there was no nexus in reference to the Consolidated Fund of India for making amendment therein and there are few more amendments of similar nature which do not

attract the purpose for which the Act of 2021 has been brought as Money Bill.

31. In reply, learned Additional Solicitor General has clarified that the main object of the amendment was to receive money into the Consolidated Fund of India for the development of country and other amendments are incidental to what has been specified under sub-clauses (a) to (f) of Article 110(1) of the Constitution of India and, therefore, would also fall within the definition of "Money Bills." The amendments brought in by the Act of 2021 are to float IPO to part with 49% of shareholding in LIC, so as to receive money into the Consolidated Fund of India and, thereby, all other amendments in reference to it would fall under sub-clause (g) of Article 110(1) of the Constitution of India, as they are incidental to the matters specified under sub-clauses (a) to (f) of Article 110(1) of the Constitution of India. Thus, all the amendments are saved by sub-clause (g) of Article 110(1) of the Constitution of India.

32. A perusal of the Notes on Clauses gives reasons for

amendments. The amendments were brought in for receipt of money into the Consolidated Fund of India, thus fall under Article 110 of the Constitution of India. All other amendments are saved by sub-clause (g) of Article 110(1) of the Constitution of India, as they are incidental to the matter specified under sub-clause (c) of Article 110(1) of the Constitution of India.

33. The issue in this regard was considered by the Apex Court in the case of ***Justice K.S.Puttaswamy (Retd.)***, supra, and ***Rojer Mathew***, supra. It was held that Money Bill cannot be construed in a restrictive sense and that the wisdom of the Speaker of the Lok Sabha must be valued, save where it is blatantly violative of the scheme of the Constitution. While answering the issue formulated as to whether the Aadhaar Act could be passed as "Money Bill" within the meaning of Article 110 of the Constitution of India, in ***Justice K.S.Puttaswamy (Retd.)***, supra, it was held as under:

> *"515.2. ... Insofar as Section 7 is concerned, it makes receipt of subsidy, benefit or service subject to*

establishing identity by the process of authentication under Aadhaar or furnish proof of Aadhaar, etc. ***It is also very clearly declared in this provision that the expenditure incurred in respect of such a subsidy, benefit or service would be from the Consolidated Fund of India.*** *It is also accepted by the petitioners that Section 7 is the main provision of the Act. In fact, introduction to the Act as well as Statement of Objects and Reasons very categorically record that the main purpose of the Aadhaar Act is to ensure that such subsidies, benefits and services reach those categories of persons, for whom they are actually meant.*

....

515.5. On examining of the other provisions pointed out by the petitioners in an attempt to take it out of the purview of Money Bill, ***we are of the view that those provisions are incidental in nature which have been made in the proper working of the Act.*** *In any case, a part of Section 57 has already been declared unconstitutional. We, thus, hold that the Aadhaar Act is validly passed as a "Money Bill"."*

[emphasis supplied]

34. Further, the Apex Court, in the case of ***Justice K.S.Puttaswamy (Retd.)***, supra, while answering another issue formulated, held as under:

> *"904. A condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, has been provided by Section 7 i.e. undergoing of an individual to an authentication.* ***The Preamble of the Act as well as Objects and Reasons as noticed above also indicate that the Act has been enacted to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto. Thus, the theme of the Act or main purpose and object of the Act is to bring in place efficient, transparent and targeted deliveries of subsidies, benefits and services, which expenditure is out from the Consolidated Fund of India. Thus, the above***

provision of the Act is clearly covered by Articles 110(1)(c) and (e)."

[emphasis supplied]

35. The relevant paragraphs of the judgment in ***Rojer Mathew***, supra, which has considered the former judgment in ***Justice K.S.Puttaswamy (Retd.)***, supra, are quoted hereunder:

> *"103.* ***The majority opinion in K.S. Puttaswamy (Aadhaar-5 J.) v. Union of India, (2019) 1 SCC 1 by examining whether or not the impugned enactment was in fact a "Money Bill" under Article 110 without explicitly dealing with whether or not certification of the Speaker is subject to judicial review, has kept intact the power of judicial review under Article 110(3). It was further held therein that the expression "Money Bill" cannot be construed in a restrictive sense and that the wisdom of the Speaker of Lok Sabha in this regard must be valued, save where it is blatantly violative of the scheme of the Constitution. We respectfully endorse the view in Puttaswamy and are in no doubt that Mohd. Saeed Siddiqui v. State of***

U.P., (2014) 11 SCC 415 and Yogendra Kumar Jaiswal v. State of Bihar, (2016) 3 SCC 183 insofar as they put decisions of the Speaker under Article 110(3) beyond judicial review, cannot be relied upon.

104. It must be emphasised that the scope of judicial review in matters under Article 110(3) is extremely restricted, with there being a need to maintain judicial deference to Lok Sabha Speaker's certification. ***There would be a presumption of legality in favour of the Speaker's decision and onus would undoubtedly be on the person challenging its validity to show that such certification was grossly unconstitutional or tainted with blatant substantial illegality. Courts ought not to replace the Speaker's assessment or take a second plausible interpretation. Instead, judicial review must be restricted to only the very extreme instance where there is a complete disregard to the constitutional scheme itself. It is not the function of constitutional courts to act as appellate forums, especially on the opinion of the Speaker, for doing so would invite the risk***

of paralysing the functioning of Parliament."

[emphasis supplied]

36. The word "only" used under Article 110 was also considered by the Apex Court in the case of ***Rojer Mathew***, supra. The relevant paragraph of the judgment is quoted hereunder for ready reference:

> *"111. In the context of Article 110(1) of the Constitution, use of the word "only" in relation to sub-clauses (a) to (f) pose an interesting, albeit a difficult question which was not examined and answered by the majority judgment in K.S. Puttaswamy (Aadhaar-5 J.). While it may be easier to decipher a Bill relating to imposition, abolition, remission, alteration or regulation of any tax, difficulties would arise in the interpretation of Article 110(1) specifically with reference to sub-clauses (b) to (f) in a Bill relating to borrowing of money or giving of any guarantee by the Government of India, or an amendment of law concerning financial obligation.* ***In the book, Practices and Procedures of Parliament by Kaul and Shakdher, it is opined that unless the word***

"only" is interpreted in a right manner, Article 110(1) would be a nullity. A liberal and wide interpretation, on the other hand, possibly exposits an opposite consequence. *Relevant portion of the opinion by Kaul and Shakdher reads:*

> *"Speaker Mavalankar observed as follows:"Prima facie, it appears to me that* ***the words of Article 110 (imposition, abolition, remission, alteration, regulation of any tax) are sufficiently wide to make the Consolidated Bill a Money Bill. A question may arise as to what is the exact significance or scope of the word "only" and whether and how far that word goes to modify or control the wide and general words 'imposition, abolition, remission, etc.' I think, prima facie, that the word "only" is not restrictive of the scope of the general terms. If a Bill substantially deals with the imposition, abolition, etc. of a tax, then the mere fact of the inclusion in the Bill of other provisions which may be necessary for the administration of that tax or, I may say, necessary for the***

achievement of the objective of the particular Bill, cannot take away the Bill from the category of Money Bills. One has to look to the objective of the Bill. Therefore, if the substantial provisions of the Bill aim at imposition, abolition, etc. of any tax then the other provisions would be incidental and their inclusion cannot be said to take it away from the category of a Money Bill. Unless one construes the word "only" in this way it might lead to make Article 110 a nullity. *No tax can be imposed without making provisions for its assessment, collection, administration, reference to courts or tribunals, etc, one can visualise only one section in a Bill imposing the main tax and there may be fifty other sections which may deal with the scope, method, manner, etc. of that imposition. Further, we have also to consider the provisions of clause (2) of Article 110; and these provisions may be helpful to clarify the scope of the word "only", not directly but indirectly." "*

[emphasis supplied]

37. It is, however, submitted that the judgment in ***Rojer Mathew***, supra, has been referred to a Larger Bench of Seven-Judges, as is evident from paragraph 117 thereof, which is reproduced hereinunder:

> *"117. Given the various challenges made to the scope of judicial review and interpretative principles (or lack thereof), as adumbrated by the majority in K.S. Puttaswamy (Aadhaar-5 J.) and the substantial precedential impact of its analysis of the Aadhaar Act, 2016, it becomes essential to determine its correctness. Being a Bench of equal strength as that in K.S. Puttaswamy (Aadhaar-5 J.),* ***we accordingly direct that this batch of matters be placed before the Hon'ble the Chief Justice of India, on the administrative side, for consideration by a larger Bench.****"*
>
> *[emphasis supplied]*

38. It is now settled law that mere reference to a Larger Bench does not stop operation of the judgment till it is reversed by the

Larger Bench and, thereby, the judgments of the Apex Court in the cases of ***Justice K.S.Puttaswamy (Retd.)***, supra, and ***Rojer Mathew***, supra, remain operational and binding on this court. The view aforesaid is fortified by the judgment of the Supreme Court in the case of ***Ashok Sadarangani v. Union of India, (2012) 11 SCC 321***, wherein it has been held that a mere reference of an issue to a Larger Bench would not make the judgment inoperative. The relevant paragraph of the judgment is quoted hereunder:

> *"29. As was indicated in Harbhajan Singh v. State of Punjab, (2009) 13 SCC 608,* ***the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference****. The reference made in Gian Singh case, (2010) 15 SCC 118, need not, therefore, detain us.* ***Till such time as the decisions cited at the Bar are not modified or altered in any way, they continue to hold the field****."*
>
> *[emphasis supplied]*

39. In ***Manager, National Insurance Company Ltd. v. Saju P. Paul, (2013) 2 SCC 41***, the Apex Court emphatically held that mere pendency of certain questions before a Larger Bench would not mean that the particular course that was followed in earlier judgments could not be followed.

40. In ***P. Sudhakar Rao v. U. Govinda Rao, (2013) 8 SCC 693,*** the Apex Court held that pendency of a similar matter before a Larger Bench does not prevent the Court from dealing with the issue on merits. The relevant paragraph of the said judgment is quoted hereunder:

> *"55.* ***Be that as it may, the pendency of a similar matter before a larger Bench has not prevented this Court from dealing with the issue on merits.*** *Even on earlier occasions, the pendency of the matter before the larger Bench did not prevent this Court from dealing with the issue on merits. Indeed, a few cases including Pawan Pratap Singh, (2011) 3 SCC 267, were decided even after the issue raised in Asis Kumar Samanta, (2007) 5 SCC 800,*

was referred to a larger Bench. ***We, therefore, do not feel constrained or precluded from taking a view in the matter.***"

[emphasis supplied]

41. In view of the aforesaid, the judgments of the Apex Court in the cases of ***Justice K.S.Puttaswamy (Retd.)***, supra, and ***Rojer Mathew***, supra, can be applied to the present case. It is, however, necessary to deal with this case even independent to the judgments, cited supra, because the Notes on Clauses to the amendments elaborates the reason to bring in the amendment. It has been stated that the amendment is brought in to allow the Central Government to float the IPO and receive the money into the Consolidated Fund of India. In view of the above, the reason for amendment is to bring the money into the Consolidated Fund of India and all other amendments were required as a consequence thereof and are saved by Article 110(1)(g) of the Constitution of India, because payment of moneys into the Consolidated Fund or the Contingency Fund of India is covered by Article 110(1)(c) of the Constitution of India. We are, therefore, of the view that the

amendment in the case on hand falls within the purview of Article 110 of the Constitution of India.

42. The word "only" used in the definition of Money Bills given under Article 110 of the Constitution of India has to be read along with Article 110(1)(g) of the Constitution of India. If the word "only" is meant to govern only the subject-matters falling in any of the categories given under sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India, then it would make Article 110(1)(g) of the Constitution of India redundant, as Article 110(1)(g) of the Constitution of India provides for any matter incidental to any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India. Therefore, the word "only" has to be read in conjunction with Article 110(1)(g) of the Constitution of India. To fall in the category of Article 110(1)(g) of the Constitution of India the pre-requisite would be that the main subject-matter should be governed by any of the sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India and if once the requirement aforesaid is satisfied, then any matter

incidental to what has been specified under sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India would be governed by Article 110(1)(g) of the Constitution of India. In view of the above, we are unable to accept the argument of learned counsel for the petitioner to give a narrow meaning to the word "only" referred to under Article 110 of the Constitution of India. The view expressed above is independent to the judgments of the Supreme Court, referred to above.

43. At this stage, it would be appropriate to refer to the mandate of Article 110(3) of the Constitution of India which has been reproduced in the preceding paragraph. The bare reading of the said provision makes it amply clear that qua the issue as to whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon is final. In the instant case, certification has been made by the Speaker of the House to bring the Act of 2021 as Money Bill. The petitioner has enclosed the certification by the Speaker of the House of the People along with the writ petition, but he has not chosen to challenge the same. The

decision of the Speaker is final as per Article 110(3) of the Constitution of India. If the judicial review is permissible under Article 226 of the Constitution of India, it pre-supposes challenge to the certification. In the absence of challenge to the decision of the Speaker of the House of the People, it became final in view of Article 110(3) of the Constitution of India and if challenge to the amendment is accepted, then we would be going against the mandate of Article 110(3) of the Constitution of India with a challenge to the certification by the Speaker of the House of the People. The Bill was otherwise returned by the Rajya Sabha without any comments or objections.

44. We are unable to accept the argument that the certificate given by the Speaker of the House of the People could not have been challenged by the petitioner and if it cannot be, the question would be in reference to the consequence of Article 110(3) of the Constitution of India, which has not been addressed by learned counsel for the petitioner while raising the argument. It is more so when the issue of judicial review has been kept open by the Apex

Court, yet the challenge to the decision of the Speaker of the House of the People has not been made.

45. In any case, the petitioner, who is a policyholder having a policy worth Rs.50,000/-, is questioning the receipt of money approximately in the range of Rs.65,000 to Rs.70,000 crores into the Consolidated Fund of India on account of the IPO, which is to be used for the development of the country. The intrusion or inference to the implementation of a public interest policy by way of legislation should be eschewed, as it directly impacts the economic growth of the country and interference therein may have far-reaching consequences, because the receipt of money into the Consolidated Fund of India is to be used for the development of the country. The challenge to the Finance Bill, 2021 otherwise is in the hands of a policyholder having policy worth Rs.50,000/-. The Union is otherwise empowered to carry on any trade or business as per Article 298 of the Constitution of India and the decision to pass the Act of 2021 as Money Bill for that purpose was approved by the Parliament of India to trade 5% of its shareholding in LIC through

an IPO.

46. We further find that the process and procedure for certifying the Finance Bill as a Money Bill have been duly complied and, therefore, there is no constitutional illegality therein, as has been alleged. It is not a case where allegation of constitutional fraud has been made and otherwise we do not find constitutional bar or illegality in the Act of 2021. It is more so when the Parliament endowed with plenary powers had passed the Bill and the Standing Committee on budget after scrutiny and due diligence had approved it.

47. Thus, even if it is assumed that the judgments of the Apex Court in the cases of ***Justice K.S.Puttaswamy (Retd.)***, supra, and ***Rojer Mathew***, supra, may not be applied, we find that independent to the said judgments, we have given reasons for not causing interference to the amendment on a challenge made by the petitioner referring to Article 110 of the Constitution of India.

48. The challenge to the certification by the Speaker of the House of the People has not even been made. The aforesaid aspect was made known to counsel for the petitioner to find out whether he wants to amend the writ petition to challenge the certification. Learned counsel submitted that without challenge to the certificate of the Speaker of the House of People, he wants to press the writ petition. It was in view of the fact that for challenge to the certificate issued by the Speaker of the House of People, he needs to implead the Speaker as party respondent, though he cannot be a party to the litigation. We do not intend to comment on the aforesaid aspect, however in the absence of challenge to the certificate issued by the Speaker of the House of People, the challenge to the Act of 2021 cannot be accepted. The decision of the Speaker of the House of the People is to be treated as final as per Article 110(3) of the Constitution of India, if judicial review of it is not prayed for.

49. Taking into consideration the overall conspectus of the case, we find that the petitioner has challenged the amendment in

reference to Article 110 of the Constitution of India without challenging the certificate issued by the Speaker of the House of the People, though his decision is taken as final as per Article 110(3) of the Constitution of India. Moreover, as recorded in the previous paragraphs, when the petitioner was asked as to whether he would challenge the certificate issued by the Speaker of the House of the People, he answered in the negative and this shows that the challenge is made to the amendment ignoring the constitutional mandate under Article 110(3) of the Constitution of India.

50. At this stage, we reiterate that the challenge was made to the amendment when the process to float the IPO was taken by the Government of India and it is at an advanced stage. If the petitioner was aggrieved by the Act of 2021 amending the Act of 1956, he could have filed a writ petition forthwith. Though the intervening period may be of eight months, in a given case it may be hit by laches, albeit we would not be dismissing the writ petition on the aforesaid ground, but on merits. The issue of laches has been referred to find out the bona fides of the petitioner in

approaching the court at the eleventh hour.

51. For all the reasons given hereinabove, we find no merits in the writ petition to challenge the Act of 2021 in reference to the amendment in the Act of 1956. Accordingly, the writ petition is dismissed. However, there will be no order as to costs. Consequently, W.M.P.No.4285 of 2022 is closed.

(M.N.B., CJ) (D.B.C., J.)
21.03.2022

Index : Yes
sasi

To

1 The Secretary,
Union of India,
Department of Investment and Public Asset Management,
Ministry of Finance,
Block No.14, CGO Complex,
Lodhi Road, New Delhi-11.

2 The Secretary,
Union of India,
Ministry of Law and Justice,
4th Floor A-Wing, Shastri Bhawan ,
New Delhi-110 001.

3 The Chairperson,
Life Insurance Corporation of India,
Central Office, Yogakshema Building,
Jeevan Bima Marg, Post Box No- 19953,
Mumbai, Maharashtra-400 02.

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARHY, J.

(sasi)

in W.P.No.4150 of 2022

21.03.2022