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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1415 OF 2026

EDWIN LUCIO FERNANDES

... Petitioner

Versus

UNION OF INDIA THR.

LAW SECRETARY OF INDIA,

MINISTRY OF LAW AND JUSTICE

... Respondents

AND 2 ORS.

WITH

MISC. CIVIL APPLICATION NO. 2994 OF 2026 (F)

MISSION POLITICAL RESERVATION FOR

SCHEDULED TRIBES OF GOA

REPRE BY PRESIDENT

ADV. JOAO FERNANDES

... Applicant

Versus

UNION OF INDIA THR LAW SECRETARY

OF INDIA, MINISTRY OF LAW AND

JUSTICE AND 2 ORS.,

... Respondents

Mr. Naushad Engineer, Senior Advocate with Mr. Pralhad Paranjape, Ms. Sneha Prabhu, Mr. Yohan Limathwalla and Mr. Vithal Naik, Advocates for the Petitioner.

Mr. Pravin Faldessai, Deputy Solicitor General of India with
Ms. Swizel Falcao, Advocate for Respondent No. 1.

Mr. Gaurish Agni with Mr. Madhav Cuncoiencar, Mr. Yash
Naik and Mr. Clive Fernandes, Advocates for Respondent
No. 2.

**CORAM : VALMIKI MENEZES &
AMIT S. JAMSANDEKAR, JJ.**

DATED : 29TH OCTOBER, 2026

P.C.:

1. This order shall dispose of the Petitioner's prayer for interim relief prayed in Prayer Clauses 'C' and 'D' of the Petition.

2. The Petition challenges the vires the Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025 (the Act), seeking a declaration that the said Act is unconstitutional and ultra vires Articles 330 and 332 of the Constitution of India; apart from seeking the striking down of this

enactment, the Petitioner has also sought the declaration that Section 3 and 4 of the Act are unconstitutional and unenforceable, being contrary to the Explanation appended to Articles 330 and 332 of the Constitution of India.

The Petitioner, on the apprehension that the Census Commissioner, acting in pursuance of powers vested in it under Sub-section 1 and 2 of Section 3 of the Act, may issue a notification in terms of Sub-Section 3 thereof declaring the schedule tribe population figures for the State of Goa, ascertained or estimated by it; the Petitioner has expresses apprehension that if such notification is issued, under Sub-Section 4 of Section 3 of the Act, the same attains finality and cannot be called in question in any court. It is in this background that the Petitioner has pressed for interim relief in terms of Prayer clause 'C' and 'D' of this Petition.

3. This Petition was listed on 12.10.2026, when the learned Deputy Solicitor General of India, Mr. Pravin Faldessai, appearing for Respondent No. 1 and learned Advocate Mr. Gaurish Agni appearing for Respondent No. 2 waived service and put in appearance. Considering the urgency in hearing the parties on interim relief, notice was issued to Respondent No.3 the Census Commissioner returnable on 27.10.2026 through E-mail to be effected by

the Registry of this Court and also by private service; considering that the petition threw a challenge to the vires of the Act, notice was also issued to the Attorney General of India, which was accepted by the deputy Solicitor of General. The Respondents were directed to file their Affidavit in reply by 26.10.2026. On 27.10.2026 the Petitioner filed his Affidavit of service which records that service on Respondent No.3 vide email was effected on 15.10.2026 and service through private notice was effected on Respondent No. 3 on 22.10.2026. However, since no appearance was put in by Respondent No. 3 on 27.10.2026, on our request the Learned Advocate Mr. Pravin Faldessai, Deputy Solicitor General of India sought time to seek instructions as to whether the Respondent No.3 would be filing an Affidavit in reply in view of the petitioner pressing for interim relief. It was also noted by us that the matter was called out twice on the same day with no appearance being put in by Respondent No. 3. The petition was adjourned to the next day i.e. on 28.10.2026, for arguments on grant of interim relief and fresh notice was issued to Respondent No. 3 through the Registry of this Court, returnable today.

Today i.e. on 28.10.2026, when the matter was called out, Mr. Pravin Faldessai, learned Deputy Solicitor General

of India put in appearance for Respondent No. 3 and on receiving instructions, placed on record Communication dated 10.09.2026 issued by the Census Commissioner; further, on instructions, he has made a statement that no notification under Section 3 of the Act has been issued till date. We have heard the learned Counsel for the Petitioner and the Respondents.

4. Mr. Naushad Engineer, learned Senior Advocate for the Petitioner, advanced the following submissions:

a) He has taken us through the scheme of the Act, highlighting that the same was enacted on 13.08.2025, but was brought into force only on 06.08.2026. The learned Counsel has also taken us to the provisions of Article 170(3) and its proviso and Article 332 of the Constitution of India, to content that these provisions bar readjustment of reserved seats for Assembly or Lok Sabha Elections until the first Census is completed after the year 2026. It was submitted that the provisions of Section 3 of the Act and the entire scheme of the Act is in contravention of Article 332 and Article 170 of the Constitution of India, since it confers uncanalised powers in the Census Commissioner. It was further submitted that the

provisions of Sub Section 1 of Section 3 confers a power under Census Commissioner to ascertain or estimate, based on the last Census, the population of the Schedule Tribe in the State of Goa and also estimate or ascertain the proportion of such population of ST to the total population of the State, and to notify such population figures in terms of Sub Section 3 thereof. According to the learned Counsel, publication of such Notification of estimated or ascertained figures shall be final and cannot be called in question in any Court. It was the learned Counsel arguments that this Court, based on the material before it, does not restrain the Census Commissioner from notifying such population figures, the entire challenge in the petition would be rendered infructuous, as such Notification is not justiciable.

5. The learned Senior Advocate then submitted that a similar question was dealt with by this Court in ***Shri Prasad Gaonkar and Ors v/s ECI and Ors***¹; it was submitted that after three more Communities of Kunbi, Gauda and Velip were declared by the Schedule Tribe Commission as Schedule Tribes for the State of Goa, the Petitioners therein

¹ 2022 SCC OnLine Bom 118

sought directions to the Election Commission to implement reservations for Schedule Tribe candidates in the Assembly Elections by conducting a further delimitation exercise and reserve additional seats. It was submitted that this Court, after considering the amendments to Articles 330 and 332 of the Constitution of India has specifically held that further delimitation/reservation cannot be made until the completion of the first Census after 2026, as is mandated by Article 170 and Article 332 of the Constitution of India. He further contends that the Act now under challenge is in direct conflict with the interpretation of this Court in ***Prasad Gaonkar*** (supra), in that it permits the Census Commissioner to estimate on the basis of the 2001 Census or the last available Census, the Schedule Tribe population in Goa, and on that basis to notify the population figures, on the basis of which the Election Commission would be empowered to readjust seats by making amendments in the Delimitation order.

6. The learned Senior Counsel has also taken us through a subsequent Judgment of the Hon'ble Supreme Court in ***K.Purushottam Reddy v/s Union of India and Ors.***², which was considering whether a fresh Delimitation process of

² (2025) 9 SCC 722

constituencies, on the bifurcation of the State of Andhra Pradesh, reorganized into two States of Andhra Pradesh and Telangana was permissible prior to completion of the first Census after 2026. Taking us through the aforementioned Judgment, it was submitted that the Supreme Court, having held that the constitutional mandate under Article 170(3) of the Constitution of India acts as bar on any Delimitation exercise in any State, the attempt to conduct a Delimitation process prior to completion of the first population Census after 2026 was impermissible. It is the Petitioner's submission that the impugned act and any attempt of the Census Commissioner at estimating or ascertaining the operation of Schedule Tribe in the State of Goa would be an exercise in blatant contravention of the aforementioned ruling and the mandate under Article 170(3) and Article 332 of the Constitution of India.

7. The learned Counsel, has taken us through the communication dated 10.09.2026 of the Assistant Registrar General, Census Commissioner, addressed to the Ministry of Law and Justice, communicating the stage at which the process of estimating/ascertaining the Schedule Tribe population, after Kunbi, Gauda, and Velip communities were declared as Schedule Tribes in the State of Goa. It was

contended that the Census Commissioner acting in pursuance of powers vested under Section 3 of the Act has expressed, after considering the Census of 2002 and of 2011 that as on date since no population figures of the State was available, there was no means of estimating the current population of any category in the State. The communication records that the proportion of Schedule Tribes to the total population of State of Goa was 9.9 % in the 2001 Census and could be reasonably presumed that the proportion may be reasonably the same as on date. It was the learned Counsel's submission that based upon this communication, the Census Commissioner has clearly recorded that it could neither estimate or ascertain the Schedule Tribe population for the State of Goa to notify the same in terms of Section 3 of the Act, and contrary to Section 3 itself, has on absolutely no basis or data, proceeded to "presume" the Schedule Tribe population to be 9.9 % of the total population. It was submitted that if a notification is allowed to be published under Section 3 on the basis of a presumption, founded upon no data, it would not only be contrary to Section 3 of the Act, but certainly contrary to Article 170(3) and 332 of the Constitution of India. According to the Petitioner, the documents placed by the Census Commissioner before this Court, themselves would make out a prima facie case for

grant of an interim relief to restrain the Census Commissioner from publishing the population figures.

8. Opposing these submissions, Shri. Pravin Faldessai, learned Deputy Solicitor General of India submits that the act was enacted by the Parliament specifically for the State of Goa and brought into the force before the next Assembly Election, which is likely to take place by February, 2027, with an object to provide for enabling provisions to empowers the Election Commissioner of India to make amendments in the Delimitation in the Assembly and Parliamentary Constituencies; he submitted that since the Census of 2027 is not yet complete, a need was felt to provide for a legislation containing enabling provisions to permit the Election Commission to readjust the seats in the Legislative Assembly in the State of Goa for Schedule Tribes, on the basis of existing population known under the Census of 2002 and 2011. According to the learned Deputy Solicitor General, since the legislation was brought into the force after the Judgments referred to by the Petitioner, the object of the Act cannot be defeated by staying the operation of the Act or interfering with the process of publishing the population figures ascertained or estimated by the Census Commission.

CONSIDERATIONS:

9. Article 170 of the Constitution of India provides that, subject to the provisions of Article 333, the State shall be divided into territorial constituencies, in such manner that the ratio between the population of each constituency and number of seats allotted to it shall be the same throughout the State. The explanation to Sub Section 2 defines the expression “population” to mean the population ascertained at the last preceding Census, while the proviso to the explanation further clarifies that the word “last preceding Census” would be the Census of 2001 and for the purpose of the explanation. Sub Section 3 thereof requires that upon completion of each Census, the total number of seat in the Legislative Assembly of the Sate and their division in the constituencies shall be readjusted in such a manner that the parliament by law may determine. The third proviso to Sub Section 3 mandates that until the relevant figures for the first Census taken after the year 2026 have been published, it shall not be necessary to readjust the total number of seats in the Legislative Assembly in the State and the division of the State into constituencies may be readjusted only on the basis of the 2001 Census.

10. Factually, for the State of Goa, under the Delimitation Act, 2002, the process of delimitation of constituencies and their readjustment was done way back in 2008. The three communities of Kunbi, Gauda and Velip were declared by the State's Schedule Tribe Commission as Schedule Tribes and were included in the schedule on 08.01.2003 on the basis of the Census of year 2001. The refusal of the Election Commissioner by communication dated 22.07.2021 issued to the Petitioners in **Prasad Gaonkar** (supra), to make further reservations by way of a fresh delimitation process to the Assembly Constituencies to the State prior to the 2022 Elections came to be challenge before this Court and after considering the scheme of Article 170(3), 230 and 232 of the Constitution of India and the object of the 84th Amendment Act of 2002, this Court rejected the contention that delimitation prior to completion of the first Census 2026 was permissible.

11. The relevant paragraphs of Prasad **Gaonkar** (supra) are quoted below:

“11.The learned ASG specifically referred to Articles 81, 82, 170, 32, 328, 329, 330 and 332 of the Constitution. He also specifically referred to Sections 4, 8, 9 and 10 of the Delimitation Act as also Section 7 of the Representation of Peoples Act, 1950 (for short Representation of

Peoples Act), to claim that the mandate of reserving seats for Schedule Castes and Schedule Tribes in the Parliament and Legislative Assemblies, could be implemented only as per the scheme manifested under the aforesaid provisions of the Constitution and the said statutes. The learned ASG emphasized that Articles 81, 82 and 170 of the Constitution, provided for the division of each State into territorial constituencies based on the census of the year 2001) further specifying that the census of the year 2001 would continue to be the basis of such constituencies until relevant figures for the first census taken after the year 2026 are published. It was brought to the notice of this Court that although Article 330 of the Constitution pertains to reservation of seats for Scheduled Castes and Scheduled Tribes in the House of People of the Parliament and Article 332 pertains to the reservation for the same categories in the Legislative Assemblies in the State, Explanation to Article 330 along with the Proviso thereto, covered Article 332 in their sweep. By referring to the said explanation and proviso to Article 330 of the Constitution, it was emphasized that the expression "population" means the population as ascertained in the census of the year 2001, until relevant figures for the first census taken up after the year 2026, have been published. By emphasizing upon the same, the learned ASG submitted that the use of the expression "population" in Article 332(3) of the Constitution ought to be read with the said Explanation and Proviso appended to Article 330 of the Constitution. On this basis, it was submitted that the impugned was based on a proper communication dated 22.07.2021, understanding of the Constitutional scheme.

20 .The scheme emerging from a conjoint reading of the aforesaid provisions, is that there

has to be reservation of seats for Scheduled Tribes in the Legislative Assembly of each State under Article 332 of the Constitution, in proportion to the population of the Scheduled Tribes in the State as compared to the total population of the State. There can be no doubt that as per the mandate of the aforesaid provision of the Constitution, seats have to be reserved for Scheduled Tribes in the Legislative Assembly of the State, but the number of such seats would have to be determined in terms of the scheme that emerges from proper application of the other provisions of the Constitution read with the provisions of the Delimitation Act. In this context, the true purport of the expression "population" used in Articles 330 and 332 of the Constitution, assumes great significance. The true purport of the said expression is found in the Explanation and the Proviso appended to Article 330 of the Constitution. The said Explanation and Proviso are relevant for both, Articles 330 and 332 of the Constitution. A proper reading of the same shows that the number of seats to be reserved for Scheduled Tribes in the Legislative Assembly of a State, shall bear as nearly as may be the same proportion to the total number of seats in the Assembly as the "population" of the Scheduled Tribes bears to the total population of the State. The crucial aspect in this regard is as to the reference point concerning population to be taken into consideration while determining the number of seats to be reserved for Scheduled Tribes.

21. *The Explanation and Proviso appended to Article 330 of the Constitution, which is applicable to Article 332 also, specifically lays down that the expression "population" means the population as ascertained in the 2001 census until the relevant figures for the first census taken after the year 2026 have been published. Thus, for the purpose of determining the number of seats to be reserved for Scheduled Tribes in the Legislative Assembly of a State, the relevant figures of population of the 2001 census are to be the basis.*

22. *This is also evident from Article 170 of the Constitution, which pertains to the composition of Legislative Assemblies. It provides that each State shall be divided into territorial constituencies in such manner that the ratio of the population of each constituency and the number of seats allotted to it, shall be the same throughout the State, so far as it is practicable. Here again, the Explanation and Proviso appended to Article 170(2) of the Constitution, specifying "population" means the population as ascertained in the 2001 census, until the relevant figures for the first census taken after the year 2026 have been published. This applies even to readjustment of territorial constituencies as per Proviso to Article 170(3) of the Constitution.*

23. *The Constitution (Eighty Fourth Amendment) Act, 2002, substituted the figures 2026 in place of the figures "2000" and the aforesaid substitution was also made in Articles 330 and 332 of the Constitution. The relevant portion of the statement of objects and reasons*

for making such substitution under the Constitution (Eighty Fourth Amendment) Act, 2002, reads as follows:

STATEMENT OF OBJECTS AND REASONS

1. Proviso to articles 82 and 170(3) of the Constitution provides that no fresh readjustment of constituencies can be undertaken until the figures of the first census taken after the year 200 are published. These provisos were inserted by the Constitution (Forty -second Amendment) Act, 1976 as a measure to boost family planning norms. Since the first census to be taken after the year 2000 has already begun, the constitutional embargo on undertaking fresh delimitation will lapse as soon as the figures of this census are published.

2. There have been consistent demands, both for and against undertaking the exercise of fresh delimitation. Keeping in view the progress of family planning programmes in different parts of the country, the Government, as part of the National Population Policy strategy, recently decided to extend the current freeze on undertaking fresh delimitation up to the year 2026 as a motivational measure to enable the State Government to pursue the agenda for population stabilisation."

24. A perusal of the above-quoted portion shows that there were consistent demands both for and against undertaking a fresh exercise of delimitation and it was thought fit to extend the freeze of undertaking fresh delimitation up to the year 2026, as part of the National Population

Policy strategy and as a motivational measure to enable the State Governments to pursue the agenda for population stabilization. Thus, the freeze on delimitation by substituting the figures "2026" in the aforesaid Articles of the Constitution, is based on specific objects and reasons as stated above.

36. Thus, it becomes clear that under the scheme envisaged as per the aforesaid provisions of the Constitution and the provisions of the Delimitation Act, the delimitation of constituencies, readjustment of Seats and reservation of seats for Scheduled Tribes in Legislative Assemblies was to be undertaken as per figures of the 2001 census. This exercise was indeed carried out by the Delimitation Commission and the Delimitation of Parliamentary and Assembly Constituencies Order was published in the Gazette of India in the year 2008. In the said delimitation order, for the State of Goa, one seat was reserved in the Legislative Assembly for Schedule Castes and no seat was reserved for the Scheduled Tribes. This Order was published by the Delimitation Commission in the year 2008, after carrying out the elaborate exercise of organizing sittings, inviting objections and conducting hearings. It is significant that the Order issued by the Delimitation Commission for the State of Goa records that the population of Schedule Tribes in the State of Goa as per the 2001 census was only 566. This is an admitted position on record

37. The Petitioners themselves have placed on record relevant portion of the Second Schedule

to the Representation of the Peoples Act, 1950, as per Section 7 thereof. It states the total number of seats In the Legislative Assemblies of various States, including Goa, with break-up of the seats reserved for the Scheduled Castes and the Scheduled Tribes categories. In the said Schedule also, it is specifically recorded that in the State of Goa, no seat is reserved for the Schedule Tribes. This is also an admitted position on record and it is also an admitted position that at no point in time was the Delimitation Order of the year 2008 challenged and the entry in the Schedule to the Representation of Peoples Act, 1950, was also not challenged before any forum.

38. The learned Counsel appearing for the Petitioners has contended that the material on record shows that by the issuance of the Schedule Castes and Scheduled Tribes Order Amendment Act. 2002 three new Communities were added to the list of Scheduled Tribes for the State of Goa According to the Petitioners, this clearly resulted in an increase in the population of the Scheduled Tribes in the State of Goa, even if the numbers of 2001 census were to be considered. It was claimed that as a consequence of addition of the three new communities as Scheduled Tribes in the State of Goa, the population of the Scheduled Tribes in the State of Goa had gone up to about 12% of the entire population. On this basis, it was submitted that a direction was warranted against the Respondents herein for considering the case for reservation of seats for Schedule

Tribes in the Legislative Assembly of the State of Goa

39. *This Court finds that cogent material is not placed on record to support the claim that in pursuance of addition of three new communities in the list of Scheduled Tribes for the State of Goa, the population of Scheduled Tribes had increased to 12% of the total population of the State. Even if the Respondents were called upon to verify the said claim of the Petitioners, the only forum available under the aforementioned scheme as per the provisions of the Constitution and the Delimitation Act, for raising such an issue, was the Delimitation Commission constituted under the provisions of the Delimitation Act. It is claimed on the basis of some documents by the Petitioners that there were indeed representations made to the Delimitation Commission after the year 2003 in respect of the said issue and even the State Government of Goa had sought reservation of seats for Scheduled Tribes, in the wake of inclusion of the aforesaid communities in the list of Scheduled Tribes for the State of Goa. But, evidently, none of this led. to the Delimitation Cr the state holding in its Order published in the Gazette of India that seats ought to be reserved for the Scheduled Tribes in the State of Goa. A reference is already made to the Delimitation Order pertaining to the State of Goa Issued in the year 2008, whereby only one seat was reserved for the Scheduled Castes category and no seat was reserved in the Legislative Assembly for the Scheduled Tribes category. As noted above, the said Order of the Delimitation*

Commission is law in terms of the provisions of the Constitution and under Article 329(a) of the Constitution and Section 10(2) of the Delimitation Act, such law, upon being published in Gazette of India has the force of law and cannot be called in question in any Court. It is also clear that the next exercise of delimitation is to be undertaken after the first census to be conducted after the year 2026. Thus, the contention of the Petitioners that the question of reservation of seats for Scheduled Tribes in the Legislative Assembly for the State of Goa ought to be considered by including the three new communities added in the list of Schedule Tribes, cannot be accepted.

40. Even otherwise, it is an admitted position that in the present Petition, there is no challenge to the Order passed in the year 2008 by the Delimitation Commission, quite apart from the fact that it could not have been challenged in any Court. Although the learned ASG argued on the question of delay on the part of the Petitioners in raking up the issue, we are not considering the said aspect of the matter, for the simple reason that such an Order being law, cannot be challenged in a Court of law. It is also significant that the Petitioners have nowhere challenged the bar imposed by Article 329(a) of the Constitution and Section 10(2) of the Delimitation Act and there is no contention raised on behalf of the Petitioners that the said provisions are unconstitutional. In the absence of any challenge to the said provisions, the same apply in full force. In fact, as noted above, in the case of Jammu and Kashmir National Panthers

Party v. Union of India (supra), the Supreme Court has categorically held that any such challenge cannot be entertained by any Court, including the Supreme Court itself.

45. Upon appreciation of the said position of law, it becomes clear that the Respondent-Election Commission of India was justified in issuing communication dated 22.07.2021 to the Petitioner no. 1. It is stated in the said communication that the delimitation of constituencies and reservation of seats for Scheduled Tribes, cannot be changed till the next delimitation exercise is undertaken, which in normal circumstances is due to be taken up after the first census after the year 2026. The Respondent no. 1 has specifically referred to Articles 82, 170, 330 and 332 of the Constitution. We are of the opinion that the said communication is based on the position of law as it obtains in terms of the said Articles of the Constitution, read with the provisions of the Delimitation Act and the aforementioned Judgments of the Supreme Court. Therefore, the Petitioners are not justified in contending that relief can be granted to them because they are not seeking delimitation of constituencies but they are seeking implementation of reservation in accordance with the already existing delimitation and already existing census. We are of the opinion that the Petitioners are actually seeking a direction from this Court against the Respondents for carrying out an exercise, which under the aforesaid scheme of the Constitution has to wait till the next exercise of delimitation is undertaken in terms of the provisions of the

Constitution and the Delimitation Act i.e. after the first census after the year 2026. None of the Respondents have disputed the fact that the Constitution does provide for reservation of seats for Scheduled Tribes in Legislative Assemblies of the States. But they have highlighted before this Court the aforesaid scheme under the Constitution as regards the manner in which such reservation is to be implemented and the position of law laid down in the Constitution Bench Judgment of the Supreme Court in the case of Meghraj Kothari v. Delimitation Commission (supra), which is consistently followed till date.”

12. We take note that in the aforementioned case, it was argued on behalf of the Union, as recorded in para 11 of the Judgment that on the basis of Article 170(3) and 332, reserving seats on the basis of Schedule Tribes and Schedule Cast could be implemented only after the first Census taken after the year 2026 was published. It was also emphasised on behalf of the Government of India in that case that the expression “population” means the population as ascertained in the Census of 2001, and until the first Census after 2026 is published, no further delimitation on the basis of any other population figures obtained prior to that date could be effected. The Judgment also clearly holds that Article 170(3) read with Article 332 mandates that no further delimitation or exercise of powers under the

Delimitation Act, 2002 was permissible in the State of Goa till completion of the next Census after the year 2026.

13. In ***K. Purshottam Reddy (supra)***, the Supreme Court was considering a case where the legality of a notification of the Union of India, to conduct the delimitation exercise in the State of Jammu & Kashmir, excluding similar exercise in the newly formed States of Andhra Pradesh and Telangana (pursuant to a Reorganisation Act) was challenged. After considering the scope of Article 170(3) and its provisos, it has held that this provision unequivocally provides that it shall not be necessary to readjust the allocation of seats in the Legislative Assembly of the State into constituencies, until the population figures are ascertained from the first Census taken after the year 2026. The relevant considerations of the Supreme Court are quoted below:

“24. The proviso to Article 170(3) unequivocally and overarchingly provides that it shall not be necessary to readjust the allocation of seats in the Legislative Assembly of each State, including the division of each State into territorial constituencies, until the relevant figures for the first census taken after the year 2026 have been published. The petitioner(s)' reliance on Section 26 of the A.P. Reorganisation Act is misplaced, as the provision is not self-executing; it does not, by itself, mandate delimitation but merely declares a legislative

framework for it, subject to the peremptory control of Article 170 of the Constitution.

25. The petitioner(s) have not placed on record any legal or factual basis to show how the constitutional precepts can be outbalanced, waived, or read down in the context of Andhra Pradesh and Telangana, especially when such an exception would amount to impermissible classification in the face of a uniform constitutional command applicable to all States.

26. What is even more compelling is the inevitable consequence that would follow if the reliefs sought in these writ petitions were to be granted. It would open the floodgates to similar demands from other States, each seeking early delimitation on the ground of parity or administrative convenience. Granting such relief in contravention of the constitutional timeline provided under Article 170(3) of the Constitution would not only destabilise the uniform electoral framework envisaged by the Constitution but also blur the clear demarcation between constitutional prescription and political discretion.

30. In view of the foregoing analysis, we hold that the constitutional mandate under Article 170(3) of the Constitution serves as a bar on any delimitation exercise concerning the States of Andhra Pradesh and Telangana, for any other State. The demand for immediate delimitation in Andhra Pradesh and Telangana runs contrary to both the letter and spirit of the constitutional design. The challenge, therefore, fails to establish any legally sustainable ground for intervention by this Court.

F. Conclusion and directions

46. In light of the foregoing discussion, it is evident that the exclusion of the States of Andhra

Pradesh and Telangana from the purview of the delimitation process under the impugned notifications does not suffer from the vice of arbitrariness or discrimination. The distinction drawn is firmly anchored in the constitutional structure, particularly the proviso to Article 170(3), which expressly bars any readjustment in the total number of seats in the Legislative Assemblies of States until the first census after the year 2026. The legislative and constitutional framework thus provides a clear and rational basis for such tailored administrative distinction.”

14. In conclusion, the Supreme Court, has held that the proviso to Article 170(3) expressly bars readjustment in the total numbers of seats in the Legislative Assembly of the State until the first Census after 2026 is completed, and such bar on any delimitation exercise concerning any State would be in contravention of the constitutional scheme.

We would have to examine the validity of the Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025, which is under challenge in this petition (the Act having been enacted on 13.08.2025 about two weeks after the Judgment in ***K. Purshottam Reddy*** (*supra*), was rendered) in the light of the pronouncement of this Court and the Supreme Court in the aforementioned Judgments. For that purpose, we have issued Rule in the petition as there is an

arguable case made out by the Petitioner that justifies a final hearing in challenge to the vires.

15. The Respondents and more specifically Respondent No. 3, i.e. the Census Commission has chosen not to file any Affidavit for the time being and has produced before us the following four documents:

(a) Gazette Notification dated 31.10.2013 issued by the Registrar General and Census Commissioner of India in pursuance of Sub Section 3 of Section 3 of the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Third) Ordinance, 2013 notifying the population figures in respect of Schedule Tribe in the State of Goa.

(b) Gazette Notification dated 06.08.2026 issued under Sub Section 2 of Section 1 of the Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025 appointing 06.08.2026 as the date on which the provisions of the Act were brought into force, since its enactment on 13.08.2025.

(c) Communication dated 10.09.2026 issued by the Assistant Registrar General, Census Commissioner, addressed to the Ministry of Law and Justice.

(d) Gazette Notification dated 05.09.2026 in pursuance of Section 3 of the Census Act, 1948, declaring the conduct of Census of the population for the State of Goa to be undertaken.

16. From the aforementioned documents, we may draw certain conclusions. The Act under challenge was brought into force on 06.08.2026 though enacted on 13.08.2025. The first Census for the State of Goa, after the year 2026 as referred to in Article 170(3) of the Constitution of India, will commence on 05.01.2027. As of date, the only Census available for reckoning the provisions of Article 170(3) is the 2001 Census, at which time, the three new communities of Kunbi, Gauda and Velip had not been declared as Schedule Tribes. These three communities were declared as Schedule Tribes on 08.01.2003.

17. The Census Commissioner, in exercise of powers vested under Sub Section 1 of Section 3 of the Act, had attempted to ascertain or estimate the population of the Schedule Tribe as at the last Census i.e. the 2002 Census or

the 2011 Census, and had recorded in its communication dated 10.09.2026, issued to the Ministry of Law and Justice that it is unable to either estimate or to ascertain from the available data, either the current population or the population under any category (including Schedule Tribe) in the State of Goa. The letter further goes on to state that the proportion of Schedule Tribe to total population in the year 2001 was 9.9%. On that basis, it stated that it could be reasonably presumed that this proportion may be merely the same as on date, since there is no addition to the Schedule Tribe after the last addition in 2002.

18. From this communication, it is therefore quite clear that the Census Commissioner is either unable to estimate or ascertain, on the basis of the 2002 Census or 2011 Census, the Schedule Tribe population in Goa as on date; the communication therefore reflects clearly that the Census Commissioner is unable to comply with and provide figures in terms of Sub Section 2 of Section 3 of the Act. This, of course, is the position, without entering into the question of challenge to the vires of the Act, and the argument pitched forth by the Petitioner, that the powers vested in the Census Commissioner under Section 3 are totally uncanalised,

unguided and the exercise of ascertaining or estimating population, referred to therein are totally arbitrary.

What is even more surprising is that the Census Commissioner has now, after accepting that it is neither possible to estimate or ascertain the population figures, gone on to record, on the basis of the 2001 Census, that it could be “reasonably presumed” that 9.9 % of the population, being the proportion of the Schedule Tribe community, to the total population of the State, has remained constant. In our opinion, there is absolutely no basis to the statement made in the communication. If there was no manner for the Census Commissioner to be able to even ascertain or estimate the population figures as are required by Section 3, before publishing the same, there could be no justification for presuming the proportion of population of Schedule Tribe Community to the population of the State being 9.9 % at present, when the figure pertains to the year 2001 Census. Release of any notification reflecting these to be the population figures, would not only be contrary to the mandate of Article 170(3) and Article 332 of the Constitution of India, as held in *Prasad Gaonkar* (supra) and *K. Purushottam Reddy* (supra) but would also be contrary to the requirement of Sub Section 2 and Sub

Section 3 of Section 3 of the Act itself. Considering these facts, a prima facie case for restraining the Census Commissioner from issuing any notification or from notifying in the Gazette of India the figures referred to in its Communication dated 10.09.2026 to the Ministry of Law and Justice or any other population figures either ascertained or estimated on any basis other than on the basis of the first Census after 2026 (which is yet to commence from 05.01.2027).

19. We also take note of the fact that if the Census Commissioner notifies any of the population figures referred to in the communication or in a manner contrary to Article 170(3) and Article 332 of the Constitution of India, under Sub Section 4 of Section 3 of the Act, the population figures so notified shall replace any figure previously published and on notifying the same, they would be final and cannot be called in question in any Court. It would be even more imperative in the aforesaid circumstances noted by us, that there must be an order of restraint issued against the Census Commission to notify such population figures, since that notification would not be justiciable after publication. That would render the entire petition being infructuous, on the basis of population figures notified,

which are per se contrary to the scheme of the Constitution. The balance of convenience, in these circumstances, would lie in favour of the Petitioner.

20. For all the aforesaid reasons, we grant interim relief to the Petitioner in the following terms:

(a) Pending disposal of this petition, the Respondent No. 3, Census Commissioner, is hereby restrained from issuing any notification or notifying in the Gazette of India the figures referred to in its Communication dated 10.09.2026 to the Ministry of Law and Justice or from notifying any other population figures either ascertained or estimated on any basis other than on the basis of the first Census after 2026.

(b) There shall also be an interim relief in terms of Prayer Clauses (C) and (D) of the petition.

AMIT S. JAMSANDEKAR, J. VALMIKI MENEZES, J.