

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

#### COMMENT

*Explanation.*—An "Explanation", generally speaking is intended to explain the meaning of certain phrases and expressions contained in a statutory provision. There is no general theory as to the effect and intendment of an Explanation except that the purposes and intendment of the "Explanation" are determined by its own words. An Explanation, depending on its language, might supply or take away something from the contents of a provision.<sup>1</sup>

<sup>2</sup>[14-A. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.]

<sup>3</sup>[15. *Offences to be cognizable and triable summarily.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said Code.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence of abetment except with the previous sanction—

(a) of the Central Government, in the case of a person employed in connection with the affairs of the Union; and

(b) of the State Government in the case of a person employed in connection with the affairs of a State.

**15-A. Duty of State Government to ensure that the rights accruing from the abolition of "untouchability" may be availed of by the concerned persons.**—(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of "untouchability" are made available to, and are availed of by, the person subject to any disability arising out of "untouchability".

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include—

(i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;

1. *Keshavji Ravji and Co. v. Commissioner of Income Tax*, A.I.R. 1991 S. C. 1806 at p. 1818.

2. *Ins. by Act 106 of 1976, Sec. 16 (w.e.f. 19th November, 1976).*

3. *Sibs. by Sec. 17, ibid, for Sec. 15 (w.e.f. 19th November, 1976).*

(ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(iii) the setting up of Special Courts for the trial of offences under this Act;

(iv) the setting up of committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;

(v) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Government in pursuance of the provisions of this section.]

**16. Act to override other laws.**—Save as otherwise expressly provided in this Act the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any Court or other authority.

#### COMMENT

*Offence under the Act if compoundable.*—It is clear that the Protection of Civil Rights Act, 1955, is a special Act and Sec. 16 of the same lays down that it overrides other laws. Now, the question is whether the conviction could be compounded in law. Having regard to the peculiar facts of this case and the circumstances set out this is a fit case for the Court to interfere and record the settlement arrived at between the parties. The preamble to the Protection of Civil Rights Act reads that the Act was intended to punish the preaching of and practice of untouchability, and for the enforcement of any disability arising therefrom. When the parties themselves have voluntarily and willingly come forward to settle their differences, there cannot be any legal impediment in permitting the same since it is not contrary to the spirit of the Act, when the affected parties under the Protection of Civil Rights Act themselves come before Court and are prepared to compound the offence, there is no reason why the Court should not accept the same, since the Act itself will be better implemented if compounding of such offences is permitted.<sup>1</sup>

<sup>2</sup>[16-A. *Probation of Offenders Act, 1958, not to apply to persons above the age of fourteen years.*—The provisions of the Probation of Offenders Act, 1958 (20 of 1958), shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

#### COMMENT

This section specifically bears the application of the provisions of the Probation of Offenders Act, 1958, to be accused above the age of fourteen years.

1. *Dhanraj v. State*, 1986 Cr. L.J. 284 at p. 285 (Mad).

2. *Ins. by Act 106 of 1976, Sec. 18 (w.e.f. 19th November, 1976).*