IN THE HIGH COURT OF SINDH, KARACHI

Constitution Petition No.D-5578 of 2023

Date	Order with signature of Judge

Present: ***Mr. Justice Muhammad Junaid Ghaffar***
Mr. Justice Mohammad Abdur Rahman

PETITIONERS	**:**	**Nutrico Morinaga (Private) Limited & 4 others Through Mr. Arshad M. Tayebaly, Advocate alongwith Mr. Abdul Ahad, Advocate.**
RESPONDENT NOS.6&7	**:**	**Pakistan Pediatric Association & Prof. Syed Jamal Raza, Executive Director Through Mr. Abdul Moiz Jaferii, Advocate alongwith Mr. Nasir Ellahi Siddiqui, Advocate.**
Province of Sindh	**:**	**Through Mr. Abdul Jalil Zubedi, Additional Advocate-General, Sindh alongwith Ms. Deeba Ali Jafri, Asst. A.G. Sindh and M/s. Manzooran Gopang and Abdul Sattar Pathan, Law Officers on behalf of Law Department, Government of Sindh.**
Federation of Pakistan	**:**	**Through Mr. Kashif Nazeer, Assistant Attorney General.**
Dates of Hearing	**:**	**13.08.2024, 03.09.2024 & 19.09.2024**
Date of Judgment	**:**	**21.11.2024**

J U D G M E N T

Muhammad Junaid Ghaffar, J: Through this Petition the Petitioners have sought a declaration that the *"Sindh Protection and Promotion of Breastfeeding and Young Child Nutrition Act, 2023",* ("**Breastfeeding Act**") promulgated by the Province of Sindh is ultra vires to the Constitution of Pakistan, 1973, ("**Constitution**") as being oppressive, arbitrary, unreasonable and violative of the fundamental rights of the Petitioners. It has been further averred that the Breastfeeding Act has been promulgated in violation of Article 116 of the Constitution. The precise relief sought is in the following terms: -

> *A. Declare that the Sindh Protection and Promotion of Breastfeeding and Young Child Nutrition Act 2023 notified in the Gazette as Sindh Act No. XL of 2023 is ultra vires the Constitution of Pakistan 1973, having been enacted without lawful authority and is arbitrary in*

nature, patently unreasonable, oppressive and violative of the fundamental rights of the Petitioners.

B. Permanently restrain the Respondents and its functionaries from taking any coercive action against the Petitioners including but not limited to interfering in their smooth business operations and disrupting the sale, promotion and distribution of the products in the market;

C. Grant costs of the instant Petition;

D. Any other adequate and appropriate relief that this Hon'ble Court deems sufficient.

2. Mr. Arshad Tayebaly, learned counsel for the Petitioners has contended that the Petitioners before this Court are aggrieved of the Breastfeeding Act, gazetted on 20.09.2023, as it primarily affects the business operations of the Petitioners, including but not limited to, promotion (including educational material), stocking, sale and distribution of their products, as it places excessive and unreasonable prohibitions and restrictions upon the Petitioners. Per learned counsel, the impugned legislation is a matter of national policy, whereas it has been enacted without any consultation of the stakeholders and/or deliberation, whereas it has also exceeded its legislative competence, hence ultra vires to the Constitution. He has further contended that it has also infringed the fundamental guarantees and rights of the Petitioners; hence cannot be sustained. According to him, prior to enactment of this legislation and introduction of the Eighteenth Amendment in the Constitution, the issue was governed by the *"Protection of Breastfeeding and Young Child Nutrition Ordinance, 2002"*, whereas post Eighteenth Amendment, and devolution of the subject, all Provinces have enacted their respective laws to regulate the market of breast milk substitutes, such as infant formula, follow up formula, whereas, the Government of Sindh has recently legislated the Breastfeeding Act. According to him, the other provinces have enacted their respective laws and by and large are uniform in nature since they are in line with and based on International Food Standards jointly formulated by the World Health Organization and the Food & Agriculture

Organization of the United Nations; however, Breastfeeding Act in question is not. According to him, besides various other objections, the first and foremost is, that this legislation has been enacted in violation of Article 116 of the Constitution, which requires a mandatory assent to the Bill by the Governor of the Province as the Bill in question was sent to the Governor on 21.07.2023, which was returned by the Governor on 11.08.2023 with certain objections pursuant to Article 116(3) of the Constitution; however, the Provincial Assembly instead of considering the objections raised by the Governor and returning the same to him for his assent once again has enacted the Act in question on 20.09.2023 and this, according to him, has been done in violation of Sub-Articles (3) & (4) of Article 116 of the Constitution. Per learned counsel, though the Governor had returned the Bill to the Provincial Assembly with his objections after expiry of the period of ten days as provided in Article 116(1) of the Constitution; however, the delay was condonable in terms of Article 254 of the Constitution and could not have been enacted as a Law by the Provincial Assembly without considering the objections raised by the Governor and sending it back to him for his assent. According to him, the Bill could have become a Law only if on its re-presentation, the Governor had refused to give assent and only then, it could only be deemed to be assented as provided in Sub-Article (4) of Article 116 of the Constitution. He has contended that deemed assent is only applicable and covered by a situation as provided under Sub-Article (4) of Article 116, and not when the matter falls within the contemplation of Sub-Article (1) of Article 116 ibid. As to the very merits of the case and the Act in question, he has contended that the impugned legislation violates Articles 18 and 25 of the Constitution, as it has put restriction(s) upon the Petitioners' businesses in a manner, that they cannot operate anymore and be compliant with the requirements of the impugned legislation. According to him, it is now impractical for the Petitioners to ensure appropriate supplies of safe and adequate products in the market,

whereas it influences the economic and social requirement of the rest of the country, considering that the Petitioners are trans-provincial entities. He has further contended that not only before enactment of the Breastfeeding Act, but even thereafter, the Petitioners had approached all concerned; including Council of Common Interests and the Inter-Provincial Coordination Committee, but none of their efforts materialized. Per learned counsel, a bare reading of Sections 11, 12, 13 and 14 of the Breastfeeding Act would highlight the excessive restriction, which has the effect of causing a complete halt to the business of the Petitioners in the Province of Sindh and beyond, whereas no proper procedure has been provided for registration of the products with the respective authorities. According to him, the said provisions are vague and ambiguous and are creating uncertainty in the entire business industry, including but not limited to the sale, packaging and labelling of the products. Lastly, he has submitted that even the promotion and advertisements have been banned and/or restricted in respect of the Petitioners' products; hence the impugned legislation cannot be implemented and be declared as ultra vires to the Constitution and to the fundamental rights of the Petitioners. In support of his contention, he has placed reliance on[1].

3. Mr. Abdul Moiz Jaferi, learned counsel appearing on behalf of Respondents[2] has contended that insofar as compliance of Article 116 of the Constitution is concerned, it is not in dispute that in terms of Sub-Article (1) thereof, the Governor was required either to assent a Bill within ten days and if not, then to return the Bill to the Provincial Assembly with his objections and the amendments so suggested, whereas in the instant matter, the Bill was kept and retained by the Governor and was returned much after the expiry of the period of ten days, hence the objections were not to be considered by the Provincial Assembly and was a case of deemed

[1] Public Importance for Opinion of the Hon'ble Supreme Court of Pakistan [PLD 1989 SC 75].
[2] Pakistan Pediatric Association & Prof. Syed Jamal Raza

assent, therefore, the objection raised on behalf of the Petitioners is not sustainable. Per learned counsel, the assent of the Governor must be made in ten days, as the role of the Governor is otherwise ceremonial in nature, whereas the objections, if any, are to be conveyed within such period and not beyond that. He has further contended that a similar law has been enacted by the Province of Punjab and is in existence and complied with by all respective business concerns. According to him, even Article 18[3] of the Constitution is not absolute but is qualified, whereas the need for enacting Breastfeeding Act has arisen due to illicit activity which approximately takes care of about 40 to 50 per cent of the total market of formula milk, sale and production of which must be regulated. According to him, the impugned legislation has been enacted inconformity with the International Health Requirements as discussed and notified by various agencies, including United Nations and, therefore, no exception can be drawn to the said enactment. Per learned counsel, the Petitioners are engaged in deceiving the people in general by using perceived child health as a marketing tool, whereas the impugned legislation safeguards the public interest and fulfils all such requirements, which are in the benefit of the entire society. In support of his contention, he has placed reliance on various reported cases[4].

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[3] 18. Freedom of trade, business or profession. Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:
Provided that nothing in this Article shall prevent__
1. (a) the regulation of any trade or profession by a licensing system; or
2. (b) the regulation of trade, commerce or industry in the interest of free competition therein; or
3. (c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.

[4] Rana Aamer Raza Ashfaq v. Dr. Minhaj Ahmad Khan and another [2012 SCMR 6]; State of Punjab v. Principal Secretary to the Governor of Punjab and another in a Writ Petition (Civil) No.1224 of 2023 by the Supreme Court of India; Amanullah Khan Leghari v. Abid Shaikh Ahmed [PLD 2001 Karachi 415]; Al-Bakio International v. Federation of Pakistan [PLD 2021 Lahore 1]; Punjab Healthcare Commission v. Mushtaq Ahmad Chaudhary [PLD 2018 Lahore 762];Muhammad Imran and others v. Province of Sindh through Chief Secretary and others [2019 SCMR 1753]; and Abbas Haider Naqvi and another v. Federation of Pakistan and others [PLD 2022 SC 562].

4. Learned Additional Advocate-General, Sindh has contended that the Governor has no authority to withhold any Bill sent by the Provincial Assembly beyond a period of ten days and the objections, if any, are to be raised within such period, hence the belated objections were not to be considered by the Provincial Assembly. He has further contended that the mother's milk is the best option for breastfeeding and the Injunctions of Islam also requires that this should be adopted for a period of two years. In addition, he has adopted the arguments of learned counsel for the Respondents Nos.6 and 7.

5. Lastly, learned Assistant Attorney General appearing on behalf of the Federation of Pakistan has supported Respondent No.6 & 7's case to the extent that the use of words "shall" in Sub-Article (1) of Article 116 of the Constitution, makes it mandatory for the Governor, either to send the Bill within ten days or return the same with objections again within that period and if this is not done, then it is upon to the Provincial Legislature to enact the same as a Law. As to the competence to the provinces, learned Assistant Attorney General has referred to Entry No.7 of the Federal Legislative List and submits that the law in question has been enacted by the Province of Sindh for which it has the competence; hence no exception can be drawn. As to placing reliance on Article 254 of the Constitution by the Petitioners' Counsel, per learned Asst. Attorney General, same does not appear to be correct and justified as otherwise the period provided in various Articles of the Constitution would become redundant and, therefore, the Governor was required to act within ten days of the presentation of the Bill as the said provision has to be read as mandatory. He has placed reliance on the cases of ***Pakistan People's Party Parliamentarians*** and ***Muhammad Azhar Siddiqui***[5]***.***

[5] Pakistan People's Party Parliamentarians (PPPP) v. Federation of Pakistan [PLD 2022 SC 574] and Muhammad Azhar Siddiqui v. Federation of Pakistan [PLD 2012 SC 774].

6. Heard and perused the record. From the record placed before us it transpires that Petitioner No.1[6] deals in Nutrico Products in Pakistan which includes Morinaga BF-1, BF-2, BF-3, Nl033 and Morinaga Chil-School. Petitioner No.2[7] is the sole importer, distributor and marketer of Meiji Milk Products. Petitioner No.3[8] claims to be a pharmaceutical company engaged in segments of cardiovascular, cold and cough, diabetes, infant formula (Nurtigrow), probiotics and antibiotics. Petitioner No.4[9] deals in healthcare products i.e. Enfamama, Enfamil & Enfagrow. Lastly, Petitioner No.5[10] deals in infant formula, Follow-up Formula (Lactogen & Lactogrow). It appears that prior to the promulgation of the Breastfeeding Act, this line of business of the Petitioners was governed by the Sindh Protection and Promotion of Breastfeeding and Child Nutrition Act 2013, ("**The 2013 Act**"). It may be of relevance to observe that the 2013 Act, was also enacted after the Eighteenth Amendment to the Constitution, and the Petitioners were never aggrieved by the 2013 Act, therefore, the argument that the impugned Act is not in conformity with the 2002 Ordinance of the Federal Government has no merits; nor has any relevance after the Eighteenth Amendment to the Constitution. The Petitioner's business was being governed by a Provincial Law, whereas, the Petitioners were not aggrieved of such Act, hence, at this stage they cannot rely upon any of the Provisions of the 2002 Ordinance to argue that the Provincial law is in any manner, not in conformity with the earlier Federal Ordinance. Even otherwise, after devolution of the subject to the provinces pursuant to the Eighteenth Amendment to the Constitution, such a plea is without any lawful justification as it is now the Provinces who have the authority and jurisdiction to legislate and are not bound by the earlier Federal Law.

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[6] Nutrico Morinaga (Private) Limited
[7] Global Brands Marketing (private) Limited
[8] Searle Company Limited
[9] IBL Healthcare Limited
[10] Nestle Pakistan Limited

7. Coming to the argument that the Breastfeeding Act has been promulgated in violation of Article 116 of the Constitution, it appears that the Bill in question was passed by the Provincial Assembly of Sindh on 13.07.2023 and was sent to the Governor to accord his assent on 21.7.2023, which then remained pending until 11.08.2023, when it was returned by the office of the Governor with certain objections. In all it consumed 21 days in returning the bill, and thereafter, it was made an Act of the Legislature of Sindh as a deemed assent of the Governor. The petitioners contend that there was no deemed assent as the bill, though belatedly, was finally returned with objections and the process provided in sub-articles (3) & (4) of Article 116 were to be followed. It would be advantageous to refer to Article 116 of the Constitution which reads as under;

> [11][116. Governor's assent to Bills.— (1) When a Bill has been passed by the Provincial Assembly, it shall be presented to the Governor for assent.
>
> (2) When a Bill is presented to the Governor for assent, the Governor ***shall***, within [12][***ten***] days,—
>
> 1. (a) assent to the Bill; or
> 2. (b) in the case of a Bill other than a Money Bill, return the Bill to the Provincial Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.
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> [13][(3) When the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment, by the Provincial Assembly, by the votes of the majority of the members of the Provincial Assembly present and voting, it shall be again presented to the Governor and the Governor shall [1][give his assent within ten days, failing which such assent shall be deemed to have been given].
>
> (4) When the Governor has assented [2][or is deemed to have assented] to a Bill, it shall become law and be called an Act of Provincial Assembly.
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> (5) No Act of a Provincial Assembly, and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.]

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[11] Subs. by P. O. No. 14 of 1985, Art. 2 and Sch., for "Art. 116".
[12] Subs. by the Constitution (Eighteenth Amendment) Act, 2010 (10 of 2010), s. 38, for "thirty". Subs. by the Constitution
[13] (Eighth Amendment) Act, 1985 (18 of 1985), s. 15, for "clause (3)".

8. Perusal of the aforesaid provision reflects that when a Bill has been passed by the Provincial Assembly, it shall be presented to the Governor for assent and when such a Bill is presented, the Governor has two options; (i) he ***shall*** within (10) days assent to the bill; or (ii) in case of a Bill other than a Money Bill, return the Bill to the Provincial Assembly with a message "***requesting"*** that the Bill, or any specified provision thereof, be "***reconsidered"*** and that any amendment specified in the message be considered. It is imperative to observe that both these acts are to be performed by the Governor within 10 days of the presentation of the bill. Sub-Article (3) thereof which pertains to returning of a bill with objections, further provides that when the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment by the Provincial Assembly, it shall again be presented to the Governor and the Governor shall give his assent within ***"(10) ten days"***, failing which such assent shall be deemed to have been given. And finally Sub-Article (4) provides that when the Governor has assented or is *"deemed to have assented to a Bill"*, it shall become law and be called an Act of Provincial Assembly. Now the case of the Petitioners is that notwithstanding the fact that in this case the Bill was admittedly returned after 21 days with objections, until the procedure as provided in Sub-Articles (3) & (4) is exhausted, the deemed assent of the Governor will not apply in this case as it is only in respect of a situation when the matter falls within Sub-Article (4) of Article 116 of the Constitution, i.e. when the Governor fails to give his assent to a Bill when it has been ***re-presented*** to him. On the other hand, the Respondents case is that if that is accepted, then the use of the words "**shall**" in Sub-Article (2) will be redundant. Before proceeding further, it is will also be of relevance to see in what context the framers of the Constitution and thereafter, through various amendments, specially through Eighteenth Amendment, have dealt with this provision. Prior to the Eighteenth Amendment in Sub Article (2) the period provided was

(30) days. Secondly, sub-Article (3) earlier provided and used the words "***not withhold his assent therefrom***", instead of the existing words [***give his assent within ten days, failing which such assent shall be deemed to have been given***]. This deviation and the change in the use of the words which earlier may had given some authority and power to the Governor now stands curtailed or reduced in a manner, that if he holds the re-presented bill for a period of more than 10 days, then there shall be a deemed assent of the Governor in making such bill an Act of the Provincial Assembly. This impliedly means that such period is mandatory in nature as otherwise there shall be a deemed assent of the Governor. Therefore, in essence it needs to be understood that the role assigned to the Governor, post Eighteenth amendment, is not that of an office which can sit and hold the bill in a manner that would make the working of the Provincial Assembly as redundant, or hostage to the wishes of the Governor. It is in this context that one has to look into the intent of amending article 116 of the Constitution through the Eighteenth amendment to the Constitution including its sub articles, wherein, firstly the period provided to the Governor in giving assent to a bill has been reduced from 30 days to 10 days; and secondly, the concept of deemed assent has been introduced. Now what we need to reconcile and interpret is that whether, is it only in respect of a situation more aptly covered by sub-Article (3) & (4) of article 116 ibid wherein, there is a concept of deemed assent of the Governor in his failure to approve the bill once it has been ***re-presented*** to him or will it also apply to a situation when the Governor fails to act within 10 days of 1st presentation of a bill as required under Sub-Article (2).

9. We have been benefitted by way of a written Constitution, with a promise that every member of the country right from its citizens to the high constitutional functionaries must idolize the constitutional fundamentals and adhere to what has been prescribed for each of us. This duty of ours requires that as an

indispensable foundational base and as guiding force, to protect and ensure that the democratic setup promised to the citizenry remains unperturbed. Similarly, the constitutional functionaries owe a greater degree of responsibility towards this eloquent instrument for it is from this document that they derive their power and authority and, as a natural corollary, they must ensure that they cultivate and develop a spirit of constitutionalism where every action taken by them is governed by and is in strict conformity with the basic tenets of the Constitution[14]. Therefore, when a situation arises as to interpreting any of the provisions of the Constitution, it is always safe to read the words as they are, keeping in mind the purpose and intent for which they have been provided therein. For that one must also look into the intention of the Constituent Assembly, and thereafter of the Parliament while drafting and enacting any such provision. The interpretation must be holistic, purposive and a combine effort on the part of the Court to arrive at a fair and just interpretation. While doing so, it is incumbent upon the Court to protect the sense and intent of the Constitution makers. This being the solemn duty of the Court as the final arbiter is such issues. In the same note the learned Judge has further observed that;

> The task of interpreting an instrument as dynamic as the Constitution assumes great import in a democracy. The Courts are entrusted with the critical task of expounding the provisions of the Constitution and further while carrying out this essential function, they are duty bound to ensure and preserve the rights and liberties of the citizens without disturbing the very fundamental principles which form the foundational base of the Constitution. Although, primarily, it is the literal Rule which is the norm which governs the courts of law while interpreting statutory and constitutional provisions, yet mere allegiance to the dictionary or literal meaning of words contained in the provision may, sometimes, annihilate the quality of poignant flexibility and requisite societal progressive adjustability. Such an approach may not eventually subserve the purpose of a living document. The most important aspect of modern constitutional theory is its interpretation. Constitutional law is a fundamental law of governance of a politically organized society, and it provides for an independent judicial system which has the onerous responsibility of decisional process in the sphere of application of the constitutional norms. The resultant consequences do have a vital impact on the well-being of the people. The principles of constitutional interpretation, thus, occupy a prime place in the method of adjudication. In bringing about constitutional order through interpretation, the judiciary is often confronted with two propositions -- whether the provisions of the Constitution should be interpreted as it was understood at the time of framing of the Constitution unmindful of the circumstances at the time when it was subsequently interpreted or whether the

[14] Mazhar Alam Miankhel, J; in his note in Presidential Reference No 1 of 2022

> constitutional provisions should be interpreted in the light of contemporaneous needs, experiences and knowledge. In other words, should it be historical interpretation or contemporaneous interpretation.

10. The Indian Supreme while discussing the idea of "spirit of the Constitution" in ***Government of NCT of Delhi***[15] has been pleased to observe that the Court, being the final arbiter of the Constitution, in such a situation, has to enter into the process of interpretation with new tools such as constitutional pragmatism having due regard for sanctity of objectivity, realization of the purpose in the truest sense by constantly reminding one and all about the sacrosanctity of democratic structure as envisaged by the Constitution, elevation of the precepts of constitutional trust and morality, and the solemn idea of decentralization of power. It has been further observed that the aim is to see that in the ultimate eventuate, the rule of law prevails, and the interpretative process allows the said idea its deserved space, for when the rule of law is conferred its due status in the sphere of democracy, it assumes significant credibility. While elaborating about "confluence of the idea and spirit of the Constitution", the Court has observed that it celebrates the grand idea behind the constitutional structure founded on the cherished values of democracy and the canon of constitutional interpretation that glorifies the democratic concepts, lays emphasis not only on the etymology of democracy but also embraces within its sweep a connotative expansion so that the intrinsic innate facets are included. The Court has further observed that while interpreting the provisions of Constitution the safe and most sound approach is to read the words of the Constitution in the light of the avowed purpose and spirit of the Constitution so that it does not result in an illogical outcome which could have never been the intention of the Constituent Assembly or the Parliament while exercising constituent power. Therefore, a constitutional court, while adhering to the language employed in the provision, should

[15] Government of NCT of Delhi v Union of India (2018) 8 SCC01

not abandon the concept of the intention, spirit, the holistic approach and the constitutional legitimate expectation which combinedly project a magnificent facet of purposive interpretation. The Court should pose a question to itself whether a straight, literal and textual approach would annihilate the sense of the great living document which is required to be the laser beam to illumine. If the answer is in the affirmative, then the constitutional courts should protect the sense and spirit of the Constitution taking aid of purposive interpretation as that is the solemn duty of the constitutional courts as the final arbiters of the Constitution. It is a constitutional summon for performance of duty. The stress must be on changing society, relevant political values, absence of any constitutional prohibition and legitimacy of the end to be achieved by appropriate means. As to the role of elected representatives and their authority to legislate, the Court observed that Representative Governance in a Republican form of democracy is a kind of democratic setup wherein the people of a nation elect and choose their law-making representatives. The representatives so elected are entrusted by the citizens with the task of framing policies which are reflective of the will of the electorate. The main purpose of a Representative Government is to represent the public will, perception and the popular sentiment into policies. The representatives, thus, act on behalf of the people at large and remain accountable to the people for their activities as lawmakers. Therefore, representative form of governance comes out as a device to bring to fore the popular will. Democracy thrives on the belief that authority inherently resides in the people, a principle enshrined in the Constitution of every democratic nation, including ours[16]. Our Constitution is not merely a governmental blueprint but a covenant affirming the supreme role of the people in shaping their destiny[17]. Under our Constitution, while the sovereignty of the entire

[16] Mansoor Ali Shah; J; (majority opinion) dated 9.7.24 in Sunni Ittehad Council and another v Election Commission of Pakistan and others. **Civil Petitions No. 1612 to 1617 of 2024 AND**
[17] --ibid--

Universe belongs to Almighty Allah alone, the authority is to be exercised by the people of Pakistan as a "sacred trust" within the limits prescribed by him[18]. It posits that people are entrusted with the responsibility of governance, which is to be exercised through their chosen representatives[19]. The notion of a "sacred trust" elevates the responsibility of both the government and the judiciary in our Islamic republic[20]. It embeds a moral dimension into the practice of democracy, where the fidelity to this trust is seen as paramount[21]. In the context of elections, this "sacred trust" implies that all the actors in the electoral process must adhere to a higher standard of fair and honest conduct ensuring electoral integrity[22].

11. In ***State of Bihar and another v. Bal Mukund Sah and others***[23] the Indian Supreme has observed that the form of Government envisaged under a parliamentary system of democracy is a representative democracy in which the people of the country are entitled to exercise their sovereignty through the legislature which is to be elected based on adult franchise and to which the executive, namely, the Council of Ministers is responsible. The legislature has acknowledged to be a nerve center of the State activities. It is through parliament that elected representatives of the people ventilate people's grievances. In ***Supreme Court Advocates on Record Association and another v. Union of India***[24], the same Court has observed that a fortiori any construction of the constitutional provisions which conflicts with the constitutional purpose or negates the avowed object must be eschewed, being opposed to the true meaning and spirit of the Constitution and, therefore, is an alien concept.

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[18] --ibid--
[19] --ibid--
[20] --ibid--
[21] --ibid--
[22] --ibid--
[23] (2000) 4 SCC 640
[24] (1993) 4 SCC 441

12. The Supreme Court of India in ***Kalpana Mehta Kalpana Mehta and Ors. vs. Union of India***[25] held that, "*it may be desirable to give a broad and generous construction to the Constitutional provisions, but while doing so the rule of "plain meaning" or "literal" interpretation, which remains "the primary rule", has also to be kept in mind. In fact, the rule of "literal construction" is the safe rule unless the language used is contradictory, ambiguous, or leads really to absurd results*." In *Padmasundara Rao v. State of Tamil*[26]., the Supreme Court of India, while interpreting a provision, held that, "*the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of the process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary*."

13. Our Supreme Court has had almost similar approach regarding interpretation of a Constitutional provision. As in *Al-Jehad Trust v. Federation of Pakistan* (**PLD 1996 Supreme Court 324**), it was held *that, "...a written Constitution, is an organic document designed and intended to cater the need for all times to come. It is like a living tree, it grows and blossoms with the passage of time in order to keep pace with the growth of the country and its people; Thus, the approach, while interpreting a Constitutional provision should be dynamic, progressive and oriented with the desire to meet the situation, which has arisen, effectively. The interpretation cannot be a narrow and pedantic. But the Court's efforts should be to construe the same broadly, so that 'it may be able to meet the requirement of ever-changing society. The general words cannot be construed in isolation but the same are to be construed in the context in which, they are employed. In other words, their colour and contents are derived from their context."*

14. Keeping these interpretation guidelines evolved over the years in India and Pakistan, we proceed further to examine the

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[25] AIR 2006 SC 3127
[26] (2002) 255 ITR 147 (SC)

relevant Article 116 of the Constitution and the implication of Governors action in question who instead of abiding by the timeline so provided therein, acted beyond it without giving any justifiable reasons. If this Court is to agree with what the Petitioners Counsel has asserted, then perhaps the provisions of sub-Article (3) and (4) wherein certain procedure has been provided for the Governor as well as the Provincial Assembly, to act in certain manner, would become redundant and this is so because the Governor can always sit on a bill without raising any objections beyond the stipulated period of 10 days as provided in sub-articles (2) of Article 116 of the Constitution. In our considered view, if the Governor is permitted to adopt the procedure as has been done in this case, it would impliedly mean that the Governor can always stop the legislative process at his own desire and may be able to thwart the legal process as against the competence and wishes of the Provincial Legislature and the elected representatives. This can't be the intention of the framers of the Constitution. Though we are also mindful of the fact that per Constitution, the Governor has certain discretion in this regard; but at the same time, he has certain obligations as well. If he wants to raise any objections on the proposed bill, he must do so within the period provided under sub-Article (2) of Article 116 and not beyond that. His exercise of discretion is not unfettered or without any circumcision. The rider of 10 days to raise objections is what the intent of the Constitution is, and nothing beyond that, as otherwise the other sub-articles will become meaningless. The entrusted discretion must be exercised by the Governor with care and diligence in a timely manner. At the same time, we do not intend to say that the Governor has no powers in this process--he certainly has, but these are delineated by the framers of the Constitution either specifically; or by necessary implication as is the case in hand. It may also be of relevance to observe that what if there was no time limit provided in Article 116 of the Constitution for the Governor to either give his assent or even for raising objections. Could he sit on a bill for an

indefinite period. Certainly not, as then the principle of “reasonable time” will apply as the legislative process cannot be held in abeyance after passage of a bill by the legislature. One must not lose sight of the fact that once a bill has been passed by the legislature, it is in fact the will of the people and a constitutional necessity, therefore, any obstruction to it by any delaying methods must be construed strictly, without any latitude. We may also reiterate that the Governor is an unelected head of the Province / State and is entrusted with certain constitutional duties as well. However, these powers cannot be used to thwart the normal course of legislation. Therefore, if the Governor intends to withhold passage of a bill duly passed by the Provincial Legislature, his onerous responsibility is to act within the time provided to him under Article 116(2) of the Constitution. If he has any objections, he must remit the bill within 10 days of its presentation and not beyond that. In not doing so, he loses his powers of returning the Bill as provided in sub-articles (3) & (4) of Article 116 ibid. The procedure provided in Article 116 must be read as a whole and in juxtaposition to all the sub-articles. If not, then an anomalous situation can occur, and therefore, his power to raise objections must be read together with the following sub-articles (3) and (4) of Article 116. He must adopt the procedure to raise objections and then the consequential sub-articles will follow. They are not to be read and understood in isolation to each other. And this observation of ours is for the reason that if the Governor does not raises his objections withing 10 days of presentation of a bill, and if all the sub-articles are not read in juxtaposition as contended by the learned Counsel for the Petitioners, then the Governor as an unelected head of the State or Province, would virtually always be in a position to veto, the functioning of a Provincial Assembly, by not even raising objections and simply holding assent to a bill after expiry of 10 days of its presentation to him without any further recourse to any of the parties. In our considered view, endorsing any such procedure would be contrary to the fundamental principles of democracy as

enshrined in the Constitution and based on Parliamentary system of governance. The Governor is not at liberty to withhold his action on the Bills which have been placed before him as he has no other avenue but to act in a manner postulated under Article 116 of the Constitution.

15. In the Indian jurisdiction, the assent of a Bill is governed by Article 200[27] of the Indian Constitution, wherein contrary to our Article 116, there is no fixed time limit for the Governor to give assent to a Bill; rather the expression used in ***"as soon as possible"*** and the Indian Supreme Court in numerous cases has held that the role of the Governor has significant Constitutional responsibility, which must be borne in mind and the provisions must be read and understood with the importance, which has been attached to the powers of legislation and the domain of the legislature. It has been held that the Governor cannot be at liberty to keep the Bill pending infinitely without any action whatsoever. In ***S.R. Bommai***[28] a nine-judge bench of the Indian Supreme Court has held that federalism is a part of the basic structure of the Constitution and the way the role of the Governor, as a symbolic Head of State is performed is vital to safeguard this basic feature. It has been held that the exercise of unbridled discretion in areas not entrusted to the discretion of the Governor risks walking rough shod over the working of a democratically elected government at the State. It has been further held that the Courts need to strengthen the importance of institutions and their vitality to

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[27] "200. Assent to Bills.--- When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the Present :

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom :

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill."

[28] S.R. Bommai v. Union of India MANU/SC/0444/1994 : (1994) 3 SCC 1

democratic functioning, whereas federalism and democracy, both parts of the basic structure, are inseparable and when one feature is diluted it puts the other in peril. According to the Indian Supreme Court the tuning fork of democracy and federalism is vital to the realization of the fundamental freedoms and aspirations of its citizens; whenever one prong of the tuning fork is harmed, it damages the apparatus of constitutional governance. Reiterating this, in ***State of Punjab***[29], the immediate past Chief Justice[30] of India, has observed as follows;

> 19. The dispute in the present case essentially bears upon the Governor having detained four Bills which were passed by the Vidhan Sabha on 20 June 2023. Article 2003 of the Constitution postulates that when a Bill has been passed by the Legislative Assembly of a State or, in the case of a bicameral legislature, by both the Houses, it shall be presented to the Governor. The Governor has three options available when a Bill which has been passed by the State Legislature is presented for assent. The Governor "shall declare" (i) either that he assents to the Bill; or (ii) that he withholds assents therefrom; or (iii) that he reserves the Bill for the consideration of the President. The term "shall declare" implies that the Governor is required to declare the exercise of his powers. The fist proviso to Article 200 stipulates that the Governor may "as soon as possible" return the Bill. The proviso to Article 200 envisages that, as soon as possible, after the presentation to the Governor of the Bill for assent he may return a Bill, which is not a Money Bill, together with a message requesting that the House or Houses would reconsider the Bill or any specific provisions of the Bill and in particular consider the desirability of introducing such amendments which he may recommend. When a Bill is returned by the Governor, the legislature of the State is duty bound to reconsider the Bill. After the Bill is again passed by the legislature either with or without amendment and is presented to the Governor for assent, the Governor shall not withhold assent therefrom. Apart from the first proviso in the above terms, the second proviso envisages a situation where "the Governor shall not assent to, but shall reserve for the consideration of the President" those Bills that "so derogate from the powers of the High Court as to endanger the position" which the High Court is designed to fill by the Constitution.
>
> 24. The substantive part of Article 200 empowers the Governor to withhold assent to the Bill. In such an event, the Governor must mandatorily follow the course of action which is indicated in the first proviso of communicating to the State Legislature "as soon as possible" a message warranting the reconsideration of the Bill. The expression "as soon as possible" is significant. It conveys a constitutional imperative of expedition. Failure to take a call and keeping a Bill duly passed for indeterminate periods is a course of action inconsistent with that expression. Constitutional language is not surplusage. In State of Telangana v. Secretary to Her Excellency the Hon'ble Governor for the State of Telangana and Anr. MANU/SCOR/48111/2023 this Court observed that "The expression "as soon as possible" has significant constitutional content and must be borne in mind by constitutional authorities." The Constitution evidently contains this provision bearing in mind the importance which has been attached to the power of legislation which squarely lies in the domain of the state legislature. The Governor cannot be at liberty to keep the Bill pending indefinitely without any action whatsoever.

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[29] State of Punjab v Principal Secretary Governor Punjab (2024) 1 SCC 384

[30] (D.Y.Chandrachud)

16. Therefore, in the given facts, if the Governor wanted to withhold assent by raising objections to the bill, he was mandatorily required to return the bill within 10 days: or to give assent to the bill. This timeline of 10 days is a significant expression. It is not meaningless and conveys a constitutional imperative of expedition. Withholding of a bill after 10 days of its presentation and not even sending objections to the legislature within the said period is a course of action inconsistent with that expression. In our considered view, the use of the words "shall" in Sub-Article (2) of Article 116 of the Constitution is mandatory, and if a bill is not assented or returned within 10 days of its presentation with objections; there shall be a presumed / deemed assent of the Governor, and the Provincial Legislature is at liberty to enact the same an "Act", whereas if so desired, even consider the belated objections of the Governor; however, such course of action is not binding.

17. Insofar as any reliance placed on Article 254[31] of the Constitution by the Petitioners Counsel is concerned, the same also does not appear to be in line with the spirit of the cited Article. Article 254 provides that when any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period. However, this would not, always ipso facto means that if there is any violation of a given period to perform certain functions by a Constitutional body or person, it automatically stands condoned by invoking this Article. This is entirely a wrong and

[31] 254. Failure to comply with requirement as to time does not render an act invalid. When any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or other-wise ineffective by reason only that it was not done within that period.

misconceived approach. Here in this matter, admittedly, the Governor has neither provided any reasons for the delay in raising his objections; nor he has sought refuge or condonation of such delay by involving this Article. It is only the Petitioners who have supported the Governors act by relying on this Article of the Constitution. Therefore, this Article by itself cannot rescue the Governor in condoning the delay in raising his objections. Secondly, it is also imperative to observe that the object of this provision is not for exercising it without any reason or justification. May be in a case where there are justifiable reasons for invoking this Article, and non-compliance of some specified period is not fatal or has no consequences to treat the same as directory and not mandatory; then perhaps this Article can be used for condoning the delay. However, insofar as instant case is concerned, we have not been assisted in any manner as to why the mandatory period of 10 days be condoned and the objections of the Governor be treated as valid and within time. The constitutional relaxation does not extend an unqualified license or in any way dilute the importance of constitutional timelines[32]. The extension must be grounded in good cause and justified by bona fide reasons as the purpose of Article 254 of the Constitution is not to permit anyone to defeat or frustrate the Constitution, hence it is not available where the constitutional time frame is not honoured without any justifiable public interest or for oblique political ends or to override the scheme of the Constitution[33]. It is not a general 'escape', that allows the concerned constitutional authority to disregard, as it may pleases, the time limit set out in any constitutional provision; rather, it is only intended to be a backstop, when said time limit cannot be adhered to for reasons that must be constitutionally justifiable[34]. Therefore, in the given facts and circumstances, we are of the view that placing reliance on Article 254 of the Constitution to validate a delayed act

[32] Mansoor Ali Shah, J: (as his lordship then was at the LHC) Rao Naeem Sarfaraz v Election Commission of Pakistan (PLD 2013 Lahore 675)
[33] ----ibid---
[34] Pakistan People's Party Parliamentarians v Federation of Pakistan (PLD 2022 SC 574)

of the Governor in either giving assent to the bill; or raising objections in terms of Article 116 of the Constitution is misconceived; hence, not tenable.

18. As to the validity of the Breastfeeding Act in question, it appears that it has been enacted in 2023 pursuant to certain international compliances as well as guidelines of World Health Organisation to overcome the mushroom growth and production of infant formula milk and its ever-increasing usage due to several factors. The Act aims to guarantee and secure sufficient nutrition for infants and young children up to the age of 36 months by endorsing, safeguarding, and endorsing breastfeeding, as well as encouraging healthy diets to prevent obesity and non-communicable diseases. It also oversees the marketing and promotion of specified products, including breast milk substitutes, feeding bottles, valves, nipple shields, teats, and pacifiers. It further provides for establishment of Infant and Young Child Nutrition Board for framing regulations to fulfil the Act's purpose, including advising on standards and labelling of designated products, establishing effective monitoring systems, providing scientific advice, promoting breastfeeding and nutrition education, overseeing sampling procedures, handling reports of violations, collecting and analyzing relevant data, specifying penalties, and making decisions on breast milk substitute donations in emergencies. It also provides for prohibition on distribution, sale, stock or exhibit for sale any designated product that is not registered with the Provincial and Federal Government. The Act further provides for labelling instructions, information and educational material, health professional and health worker responsibilities, inspection and complaints, regulation for reporting violations and Appellate forum, and finance. All in all, it provides for a complete code and all such restrictions as objected to by the Petitioners are in fact a safety valve against any misuse and

attempt to deceive unwary mothers. In *Mohammad Imran*[35] while interpreting Article 18 of the Constitution in respect of the regulation of the Freedom of Trade Business and Profession the Supreme Court of Pakistan has held that:

> 46. According to the aforementioned judgments, the scope of Article 18 of the Constitution (and its predecessors in the earlier Constitutions) as so far laid down by the superior Courts of Pakistan can be summed up as follows:-
>
> i. Article 18 supra confers upon a citizen a right to freedom of trade, business or professions which is designed to enable the citizen to explore and adopt the best for his future, means of living and earning, and for the expression and recognition of his skills and abilities;
>
> ii. However, this right is not absolute, unqualified or unfettered, but subject to regulation and reasonable restrictions which may be imposed by law in the larger interests of the society or for public welfare;
>
> iii. The word 'qualification' has been used to confer a right upon a citizen to enter upon any lawful profession or occupation and not, to conduct any lawful trade or business;
>
> iv. The word 'lawful' qualifies the right of the citizen in the relevant field and envisages that the State can by 1aw ban a profession, occupation, trade or business by declaring it to be unlawful which in common parlance means anything forbidden by law;
>
> v. The provisions that a citizen 'possessing such qualifications, if any, as may be provided by law' and 'the regulation of any trade or profession by a system of licensing' empower the Legislature and the authorities concerned to impose restrictions on the exercise of the right;
>
> vi. Although 'reasonable restrictions' does not feature in Article 18 supra, this does not mean that imposition of unreasonable restrictions is permissible under the Constitution;
>
> vii Licensing system is itself a restraint on trade, but the Constitution empowers the Government to impose reasonable restrictions. Reasonable restrictions authorized by the Constitution do not negate the Constitutional rights of a citizen to do business unhindered, without any condition;
>
> viii A reasonable classification is always considered to be within the framework of the fundamental right;
>
> ix. The measure of reasonableness in the Constitution is provided by the concept of 'regulation', thus the restrictions should be consistent with the purpose of 'regulation' and not so unreasonable as to be in excess of it;
>
> x. Reasonable restriction does not mean prohibition or prevention completely;

[35] Mohammad Imran and others vs. Province of Sindh through Chief Secretary and others (2019 SCMR 1753)

xi. If restrictions are to be imposed to regulate such trade or business, those should not be arbitrary or excessive in nature, barring a majority of persons to enjoy such trade;

xii. The restriction must be reasonable and bear true relation to 'trade' or 'profession' and for the purposes of promoting general welfare;

xiii. By qualifying the right to business and trade, the Constitution makers wanted to create a balance between the societal needs and the rights of an individual;

xiv. Under the Constitution, a proper balance is intended to be maintained between the exercise of the right conferred by Article 18 of the Constitution and the interests of the citizen in the exercise of his right to acquire, hold or dispose of his property to carry on occupation, trade or business. In striking that balance the danger which may be inherent in permitting unfettered exercise of a right must of necessity influence the determination of the restrictions which may be placed upon the right of the citizen;

xv. The validity of the prescribed qualifications or restrictions can be examined by the superior Courts in exercise of the power of judicial review on the touchstone of other fundamental rights, including Article 18 supra and other provisions of the Constitution and the law;

xvi. It must be shown in a concrete manner as to how the restrictions imposed are in excess of the object or the actual limits of regulation; and

xvii. If the restrictions appear to be not only arbitrary but oppressive in nature and tend to deprive the citizens from enjoying the fundamental right of freedom of trade and business as per Article 18 of the Constitution, then it becomes the Court's duty to see the nature of the restrictions and procedure prescribed therein for regulating the trade and if it comes to the conclusion that the restrictions are not reasonable then the same are bound to be struck down.

To our mind a legislation that encourages and promotes breastfeeding in the manner as clarified in the 2013 Act could not be termed as violating any fundamental rights of the Petitioners as contended. The objection of the learned Counsel for the Petitioners that certain provisions of the Breastfeeding Act, are uncertain; ambiguous and place unreasonable restrictions on the Petitioners business, it will be advantageous to refer to the said provisions and their corresponding provisions in the repealed law. They read as under;

THE SINDH PROTECTION AND PROMOTION OF BREAST-FEEDING AND CHILD NUTRITION ACT, 2013	**THE SINDH PROTECTION AND PROMOTION OF BREAST FEEDING AND YOUNG CHILD NUTRITION ACT, 2023**
Section 2(g) "Complementary Food" means any food suitable as an addition to breast milk or to a breast milk substitute.	Section 2(h) "Complementary Food" means any food that is an addition to breast milk or follow-up formula, or infant or grown-up formula for infants from the age of six months (180) days up-to the age of 36 months
Section 2(o) "Infant Formula" requires meeting the normal nutritional requirements of an infant up-to the age of six months,	Section 2(u) "Infant Formula" increases meeting the normal nutritional requirements of an infant up to the age of twelve months.
Section 8(4), The Label shall- a) Not contain anything that may discourage breast feeding, b) Contain a conspicuous notice in bold characters in the prescribed height stating the following, namely: "MOTHER'S MILK IS BEST FOR YOUR BABY AND HELPS IN PREVENTING DIARRHOEA AND OTHER ILLNESS",	Section 13, Chapter IV "Labelling of Designated Product", is more detailed and has included: (i) Infant Feeding Formula shall conform to uniform preparation namely; one scoop formula powder to be mixed with 30 ml(one ounce) water, (ii) The word "Milk" shall not be mentioned on the related designated product itself or on any promotional/educational material, (iii) Labels pertaining to infant formula, follow up formula and grown up formula shall be clearly distinguishable in name and in design from each other,
In Section 10 concerning…… ……	Whereas, in Section 15 of this Bill, …… ……
An offence punishable under this Act shall be non-cognizable.	The punishments mentioned in the Bill are more comprehensive and stricter and is different for each of the persons mentioned in this Bill.
According to the Revocation or Suspension of License, etc, any person except a 'Medical Practitioner' is not allowed to contravene in any of the provisions of this Act, or the rules.	According to the "Procedure for suspension for revocation of professional license", no interference by any other person except for a 'Health Professional', is allowed to contravene in any of the provisions of this Act.
Section 21, "Repeal", states that the provisions of the Protection of Breast-Feeding and Child Nutrition Ordinance, 2002, to the extent of its application to the Province of Sindh, are hereby, repealed.	Section 30, "Repeal", states that the Protection and Promotion of Breastfeeding and Child Nutrition Act, 2013 (Sindh), but also mentioned that the standards, safety requirements and other provisions of the Repealed Act, shall continue to remain in force till the standards, etc. are prescribed under this Act. (Lack of Clarity)

From perusal of the above comparison, it appears that the objections so raised are misconceived. Section 2(g) of the new Act has just expanded the definition of Complementary Food and provides a justified restriction of age which can't be objected to by a manufacturer of any such product. Section 2(u) requires infant formula to meet the normal nutritional requirements of an infant up to the age of 12 months as against six months provided in the earlier law. Section 13 provides for labelling of designated products

in a more detailed manner and includes that infant feeding formula shall conform to uniform preparations namely; one scoop formula powder to be mixed with 30 milliliters or one ounce of water; the word “Milk” shall not be mentioned on the related designated product itself or on any promotional or educational material; it also provides that labels pertaining to infant formula, follow up formula and grown up formula shall be clearly distinguishable in name and in design from each other. The penal and punishment provisions are more comprehensive and stricter, whereas they are different for each of the persons specified in the Act. At the same time, it also provides for the procedure for suspension and revocation of a professional license. The concept of a “health professional” has also been provided in the Act. It seems that the earlier law was lacking on various issues and suffered from several inconsistencies; hence was ineffective given the continuing high rate of child mortality, wasting, malnutrition, stunting and obesity in the country. It is a matter of fact that the rate of breastfeeding in the first six months of birth in the Province of Sindh has remained at a very low level, whereas the World Health Organization advises breastfeeding exclusively until the child is 6 months old at which point supplementary solid foods could be introduced. The repealed law had a fundamental flaw, since it provided no protection to children from the age of 24 months to 36 months and the Breastfeeding Act has corrected certain vital defects by amending the required provisions as well as definitions. There have been various studies across the globe as to the benefits of breastfeeding and age restrictions before which any other form of complementary or solid food can be given to a child and apparently the impugned Act is in adherence to such international requirements as well. The provisions on which the petitioners have raised their concerns are in fact measures designed to safeguard health and well-being of infants, promoting their proper nutrition and development, whereas it provides a very apt input for other provinces to follow. It also discourages a deceptive advertisement and marketing strategy of

the manufacturers of infant baby formula milk and restricts the physicians; since it requires a stricter compliance so that these deceptive marketings and strategies are diluted. An overall examination of the impugned Breastfeeding Act leads us to the conclusion that even if there is a situation, whereby, the petitioner's business is being affected due to strict compliance as against the earlier law; but this in and of itself, cannot be a ground to strike down the impugned Act in the larger interest of the community specially children as a whole. The petitioners are required to follow the law, and in doing so, even if they have to forego some of their profits in making compliance of the new law, then it is certainly not a case of violation of any of their fundamental rights as contended on their behalf. It is needless to state that even the fundamental rights under the Constitution are always subject to law, and restrictions, if any, therefore it cannot be pleaded that the Act in question has violated their rights or any of its provisions is ultra vires to the Constitution.

19. Therefore, in our considered view, the objections raised on behalf of the Petitioners that the Breastfeeding Act, has been promulgated in violation of the any of the fundamental rights guaranteed under the Constitution, including Article 4, 8, 9, 18 and 25 is misconceived and not tenable. Accordingly, for the aforesaid reasons this Petition is ***dismissed*** with pending applications.

Dated: 21.11.2024

J U D G E

J U D G E

Farhan/PS