

THE LAW OF CLUBS AND SOCIETIES IN INDIA (2nd Ed. 2001). By Prof. V. Narayana Swamy. Lawyers' Law Book, Bangalore. Pp.lxxiii + 1311. Price Rs. 775/-.

THE TWENTIETH century has been one of unionism. In pluralist societies, people come together and form multiple unions for specific objects including social, political, economic, charitable, entertainment, scientific, spiritual, sports, housing, education and the like. Emerging capitalism and material affluence owe much to the growth of business entities like companies and corporations, partnership firms and business guilds. Incorporation of these entities by legal fiction, procedural and other advantages conferred by law witnessed their mushroom growth and resultant expansion of trade and commerce. In the past, some of these entities like East India Company became empire builders. Even today, the economic might of the MNCs belittle even the traditional ascendancy and sovereignty of smaller states.

The variety, diversity and complexity of associations and clubs today is too well known a reality. Association registered or unregistered, corporated or incorporated, legal and sometimes even illegal e.g. gambling clubs, prostitutes associations, mafias have their own structure, objectives, rules and practices for their internal working, financial arrangements and even disputes settlement mechanisms. Initially, law tolerated them, later recognized and finally provided them with incorporation and a distinct legal status. However, legal interventions traditionally have been minimal, limited to laying down of broad policy parameters in terms of what activities they could carry on lawfully.

Although the Societies Registration Act was enacted in 1860, the law relating to this important area has been in a state of long hibernation. The Act is just inadequate to address the complexities of modern day societies, clubs and associations. It provides only the basic procedural formalities for registration of variety of associations. The author rightly observes in preface to the second edition that even "the Law Commission appears to be blind to the growing needs of the country in the (this) field of Law. It has been hanging to the English jurisprudential system (p-ix). Even the list of clubs in litigation (pp. xvii-l-ii) is indicative of the multiplication of litigation in areas for which the Act hardly contains any provisions".

The present work is very exhaustive and the main text of the book covers some 1266 pages. The plan of study follows the traditional pattern



- section wise commentary, with relevant state notifications, case law and explanatory comments. In consequence, the book has become a bulky one, which would serve as a good reference book for professional lawyers. Those who look for conceptual analysis of the subject with requisite depth would find the work a bit mundane. Massive eclectic effort has gone into the collection and collation of the subject matter.

One would wish if the author had planned the work differently. After expositional treatment of the nature, status, kinds and objectives of diverse associations and clubs and the problems of their internal working and management, the author could have identified the areas of immediate concern like constitutional policy-postulates, regulation and control of activities of the associations and clubs in public interest, their accountability and civil, criminal and tortious liabilities including tax liabilities with suggestions for expansion and consolidation of law relating to societies and clubs. Today, such societies are not only vicariously liable for tortious acts but also bear criminal liability for frauds, misappropriations and other malpractices. The misuse of the façade of legal personality by such associations has been controlled by judicial response through application of the doctrine of lifting the veil. Such a treatment would have enriched the work considerably.

The book is a detailed collection and presentation of all the relevant provisions from state amendments, to the Constitution (pp. 1181-1266). In this part, important judgments of the Supreme Court on various aspects of clubs and societies have been analyzed although, here to, the effort that has been made is a bit disjointed and principle of logical connectivity of themes and sub-themes has not been adhered to.

In the commentary on the Societies Registration Act, 1860, the author explains the objectives and scope of the Act. He observes that "the term society has a wider connotation than the scope of its meaning in the Act. It's meaning is limited (by the Act) to institutions, call it by whatever name under Act" (p-8). Thus, society also includes a club. The list of kinds of societies that can be registered under the Act is fairly exhaustive but it is nevertheless illustrative. The state amendments made from time to time have expanded the ambit of this provision. Like all other fundamental rights, right to form association vide article 19 (ii) of the Constitution is available to all citizens and is subject to reasonable restrictions. Thus a society of foreign nationals cannot be registered under the Act. Every society acquires, on registration under the Act, a distinct legal personality with all its attendant advantages.

One important aspect of the book under review is that the history, literature, kinds, functions and legal status of different clubs have been discussed in details. Tracing the history of societies and clubs, the author rightly concludes "the Law of Associations was regulated from



the time of Manu. Several smritikars have written in commentaries on various aspect like formation, management, administration, disputes, general body punishments for disobedience etc. of Associations” (p.13). Most of the material on history of association, clubs including gambling clubs in ancient India has been taken from the famous work by Mr. Justice Rama Jois entitled “*Legal and Constitutional History of India*”.

Again in ancient Greece, the “Helaeria” and in Rome, the “solidatas” may be regarded as the earliest examples of modern type of clubs (p. 724). The Roman political clubs, societies and association in the medieval and modern times in England, U.S.A. and Japan. Terms like society, clubs, association or union are generic terms with open texture and these terms are more or less used as interchangeable. The author rightly observes that in the United States of America, the societies are called associations whether incorporated or not. It is strictly speaking a body of persons acting together without a charter but upon the methods and forms used by incorporated bodies (pp. 33-38).

Clubs, societies, associations, unions have a wide variety and thus classification could be on different grounds in terms of whether they are incorporated or unincorporated, proprietary and non-proprietary, changeable or commercial, sócial, political, religious, humanitarian cultural, sports, spiritual or temporal and the like. The author has identified a lot of them in terms of their objectives (pp. 706-728). The relevant case law multiple facts have been commented upon at relevant places.

The present book is a welcome addition to the scanty literature available on societies and clubs. However, section-wise commentary on Societies Registration Act, 1860, with details of state amendments and the case law has affected to some extent the precision and focus on conceptual content of the subject. The commentary could have been arranged subject and topic-wise like conceptual analysis of societies, unions, associations and clubs, their different kinds, objects, mode of registration, advantages or registration, regulation of their internal working, finances, functions and their civil, criminal and tax liabilities etc. Obviously, the present book is more of a lawyers’ reference book rather an academic work. At places the author has been repetitive (pp. 52-104) and (pp 706-728) in classification, objects and legal status of club and societies. The book should find a place in library of every professional lawyer. Those who plan to establish and run clubs and societies would find the book useful because in part-III (pp 967-1091) the guidelines as to how to register a society under the Act and the model forms are given. All the relevant laws and provisions of the Constitution have been extracted in part-IV and V.

Quality of printing and paper is good and typographical errors are almost non-existent. Being a lawyer, the author has rendered a yeoman’s



service to his professional fraternity by writing an authentic and comprehensive book, on hitherto less known and rather neglected subject of club and societies.

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BOOKS RECEIVED FOR REVIEW

M.Y. PYLEE, *Constitutional Amendments in India* (2003). Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Ansal's Dikhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. xliii + 909. Price Rs. 850/-.

S.A. KADER, *Goyle's Law of Specific Performance* (2003). Eastern Law House Pvt. Ltd., 54, Ganesh Chunder Avenue, Kolkata – 700 013. Pp. 69+464. Price Rs.395/-.

M.R. MALLICK, *Mitra's Co-ownership & Partition* (2003). Eastern Law House Pvt. Ltd., 54, Ganesh Chunder Avenue, Kolkata – 700 013. Pp. 85+553. Price Rs. 575/-

P.K. DAS, *International Law Documents* (2003). Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Ansal's Dikhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. liii + 634. Price Rs.495/-.

SUBASH C. KASHYAP, *The Citizen & Judicial Reforms under Indian Polity* (2003). Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Ansal's Dikhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. x + 270. Price Rs. 350/-.

B.L. WADEHRA, *Public Interest Litigation - A Handbook* (2003). Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Ansal's Dikhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. xxix + 390. Price Rs. 295/-.

JUSTICE V.R. KRISHNA IYER, *Legally Speaking* (2003). Universal Law Publishing Co. Pvt. Ltd., C-FF-1A, Ansal's Dikhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. viii+349. Price Rs. 395/-.

G. SAIBABA & K. SREENIVASA RAO (Ed.), *Structural Adjustment and Implications of Human Rights* (2003). Serial Publications, 4, B.S.S. Hall, Khyber Dass Market, Civil Lines, Delhi – 110 054. Pp. xviii + 259. Price Rs. 650/-.