

Supreme Court Constitution Bench March 2023| Two verdicts delivered; Maharashtra's political battle reserved and commences matter pertaining to Doctrine of Group of Companies

SCC sconline.com/blog/post/2023/04/01/supreme-court-constitution-bench-march-2023-two-verdicts-delivered-maharashtras-political-battle-reserved-and-hearing-pertaining-to-doctrine-of-group-of-companies-in-indian-jurisprudence-vis-a

April 1, 2023



Judgments Delivered

Anoop Baranwal v. Union of India, [2023 SCC OnLine SC 216](#)

Judgment Delivered: 02-03-2023.

Coram: K.M. Joseph, Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy and C.T. Ravikumar, J.J.

Abridgment: The Constitution Bench settled the dispute revolving around appointment of members of the Election Commission of India and had held that the Chief Election Commissioner and Election Commissioners shall be appointed by the President on the advice of a 3-member committee consisting of:

1. The Prime Minister of India

2. The leader of opposition in Lok Sabha or in case, there is no such Leader, the Leader of the largest Party in the Opposition in the Lok Sabha having the largest numerical strength; and
3. The Chief Justice of India

The Court made clear that this norm will continue to hold good till a law is made by Parliament.

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Union of India v Union Carbide Corporation, [2023 SCC OnLine SC 264](#)

Judgment delivered: 14-03-2023.

Coram: Sanjay Kishan Kaul, Sanjiv Khanna, Abhay S. Oka, Vikram Nath and J.K. Maheshwari, J.J.

Abridgement: The Constitution Bench dismissed the curative petition seeking enhancement of compensation for the victims of the world's largest industrial disaster-the Bhopal Gas Tragedy. The present petition was filed by the Union of India ('UoI') in 2010 as *parens patriae* of victims on the direction of Union Cabinet to claim enhanced compensation alleging that the quantum of damages payable had vitiated the Court's affirmation under *Union Carbide Corporation. v. Union of India*, (1989) 3 SCC 38 ('settlement judgment') and *Union Carbide Corporation. v. Union of India*, (1991) 4 SCC 584 ('review judgment').

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Judgment Reserved

Subhash Desai v. Governor of Maharashtra, Civil Writ Petition No. 493 of 2022

Judgment Reserved: 16-03-2023.

Coram: Dr. D.Y. Chandrachud C.J., and M.R. Shah, Krishna Murari, Hima Kohli and P.S. Narasimha, J.J.

Abridgement: The Constitution Bench reserved its judgment dated 16-03-2023 in a batch of petition pertaining to the split within the Shiv Sena party between Eknath Shinde and Uddhav Thackeray factions, which led to a gigantic political crisis in Maharashtra leading to a change in the State government in the year 2022. Petitions were filed from both sides of the faction over multiple issues.

1. The first being filed by Eknath Shine challenging the notices issued by the then Deputy Speaker against the rebels under the 10th schedule of the [Constitution of India](#) over the alleged act of defection.

2. The Thackeray faction filed petitions over the decision of the Maharashtra Governor to call for a trust vote, the alleged illegal swearing-in of Eknath Shinde as the Chief Minister of the State, the proposal of election of new Speaker etc.

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Matters Heard

Cox and Kings Limited v SAP India Private Limited, Arbitration Petition 38 of 2020

Last Date of Hearing- 28-03-2023

Next Date of Hearing- 11-04-2023

Coram: Dr. Dhananjaya Y. Chandrachud C.J., Hrishikesh Roy, Pamidighantam Sri Narasimha, J. B. Pardiwala and Manoj Misra, J.J.

Abridgement: The Constitution Bench commenced the hearing of Cox and Kings Limited v SAP India Private Limited, pertaining to the issue of:

1. Whether the Group of Companies Doctrine exists in Indian jurisprudence, independent of statutory provision?
2. Whether the same can be read into Section 8 of the **Arbitration and Conciliation Act, 1996** ('Arbitration Act')?
3. Whether it should continue to be invoked on grounds of a single economic reality principle?
4. Whether it should be construed as a means of interpreting the implied intent or consent to arbitrate between the parties?

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