

**FEBRUAR
2024**



LAW Grid

(a monthly Legal compendium)



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LAW GRID

DISTRIBUTOR NOT AGENT, INDEPENDENT CONTRACTOR': SUPREME COURT ELABORATES LAW ON AGENCY

“ CONTEXT

The Supreme Court of India clarified the legal distinctions between agents and independent contractors, specifically in the context of distributor agreements. This clarification came while addressing the liability of cellular mobile service providers to deduct tax at source under Section 194-H of the Income Tax Act, 1961. The Court outlined several factors to consider when determining if a principal-agent relationship exists, emphasizing the legal and operational autonomy of distributors as independent contractors rather than agents.

LEGAL OUTLOOK

A distributor is generally regarded as an independent contractor, buying goods on their account and selling them within their territory, distinct from an agent who creates or communicates relationships between the principal and third parties. The essential characteristics of an agency include the agent's legal power to alter the principal's legal relationships with third parties and the principal's corresponding liability.

The degree of control exercised by the principal over an agent is less than that over a servant and differs from the dynamics in a principal-to-principal or independent contractor relationship. An independent contractor is not required to render accounts of the business to the employer, as the business belongs to the contractor, not the employer. The Court distinguished between "power" and "authority," noting that agency involves granting authority to affect the principal's legal relationships with third parties.

HCS & SC SHOULD REFRAIN FROM FIXING TIME-BOUND SCHEDULES FOR CASE DISPOSAL IN OTHER COURTS ORDINARILY: SUPREME COURT

LEGAL OUTLOOK

The Supreme Court clarified that it cannot issue directives under Article 142 for the automatic expiration of interim orders due to the lapse of time. Constitutional courts are advised to refrain from fixing time-bound schedules for case disposal in other courts, except under exceptional circumstances. The judgment acknowledges the importance of judicial discretion and the local awareness of judges in prioritizing cases. Only the legislature can mandate that cases of a particular category be decided within a specific timeframe, and such provisions are usually considered directory. The Supreme Court emphasized the principle of judicial independence, stating that no court is inferior to another within the judicial hierarchy, and the prioritization of cases should be left to the discretion

“ CONTEXT

The Supreme Court of India, in a landmark decision, reversed its 2018 Asian Resurfacing judgment, stating that the apex court under Article 142 of the Constitution cannot issue directives for the automatic expiration of interim orders after a set period. The ruling emphasized that constitutional courts should ordinarily avoid imposing time-bound schedules for the disposal of cases in other courts, except in exceptional circumstances.



tion of the concerned courts unless there are extraordinary circumstances.

DISTRIBUTOR NOT AGENT, INDEPENDENT CONTRACTOR': SUPREME COURT ELABORATES LAW ON AGENCY

The Supreme Court confirmed that Rule 24(4) of the Rajasthan Police Subordinate Service Rules, 1989, is constitutional. The rule's objective to promote family planning was deemed a valid and non-discriminatory basis for disqualification. The Court dismissed the appeal of an ex-serviceman who was disqualified based on this rule, affirming the High Court's decision.

The Supreme Court referenced its earlier judgment in Javed vs. State of Haryana to support its decision, highlighting consistency in the application of such rules across different contexts. The plea that the rule does not apply to ex-servicemen was rejected, emphasizing that recruitment to the Rajasthan Police is governed by the specific rules of 1989, which include this disqualification criterion.

“ CONTEXT

The Supreme Court upheld the Rajasthan Government's rule disqualifying candidates from applying for a police constable post if they have more than two children. The Court found that Rule 24(4) of the Rajasthan Police Subordinate Service Rules, 1989, which sets this criterion, is non-discriminatory and aligns with the Constitution. This decision was based on the objective to promote family planning and follows precedents set in similar cases.





LAWYERS FUNCTION IN AN ENVIRONMENT BEYOND THEIR CONTROL: SCAORA URGES SUPREME COURT TO NOT APPLY CONSUMER PROTECTION ACT TO ADVOCATES

“ CONTEXT

The Supreme Court Advocates-on-Record Association (SCAORA) argued before the Supreme Court against including lawyer's services under the Consumer Protection Act of 1986. Senior Advocate Jaideep Gupta, representing SCAORA, highlighted that unlike other professions, lawyers operate in an environment controlled by judges, which impacts their ability to deliver services. This argument is part of a broader debate on whether legal services should fall under the Consumer Protection Act, sparked by a 2007 National Consumer Disputes Redressal Commission judgment.

SCAORA presented arguments against the application of the Consumer Protection Act to legal services, emphasizing the unique environment in which lawyers operate. The Supreme Court was reminded of the principle that lawyers' services, due to their nature and the judicial environment, should not be assessed under the Consumer Protection Act. The discussion included references to previous judgments and the inherent differences between the legal profession and others, such as the medical field, where stan-

dards of care can be more clearly defined. The debate also touched on ethical considerations and duties of lawyers towards their clients, the court, the opposing party, and the public, which could conflict with the application of consumer protection laws. The Supreme Court's decision on this matter could redefine the accountability and expectations from legal professionals in terms of consumer protection.

WHY RANGE OF RATES FOR HOSPITAL SERVICES NOT SPECIFIED? SUPREME COURT SLAMS CENTRE, WARNS COURT MIGHT APPLY CGHS RATES

LEGAL OUTLOOK

The Supreme Court highlighted the failure of the Central Government to enforce Rule 9 of the Clinical Establishment (Central Government) Rules, 2012, which requires hospitals to display and adhere to standardized rates for services.

The Union Government's defense, citing lack of response from states, was rejected by the court, emphasizing that healthcare is a fundamental right and the Centre cannot evade its responsibility. The court ordered the union health secretary to convene a meeting with state counterparts to come up with a concrete proposal for notifying standard rates. The court warned that if the Centre fails to present a solution, it might consider applying the rates applicable to CGHS-empanelled hospitals as an interim measure. The matter has been directed to be re-listed for further hearing after six weeks.

“ CONTEXT

The Supreme Court criticized the Central Government for not specifying the range of rates for services provided by private hospitals and clinical establishments, despite having a rule framed twelve years ago under the Clinical Establishment (Central Government) Rules, 2012. The rule aimed to ensure hospitals and clinical establishments display rates for services and charge fees within a range determined by the Centre in consultation with state governments. The case was brought to the court by the NGO 'Veterans Forum for Transparency in Public Life' through a PIL.



STATE OF TN MUST TRAIN POLICE OFFICERS ON PROCEDURE TO OBTAIN CERTIFICATE UNDER S.65B INDIAN EVIDENCE ACT: SUPREME COURT

LEGAL OUTLOOK

The Supreme Court observed the lack of awareness among police officers regarding the procedure to obtain a certificate under Section 65B of the Evidence Act for electronic evidence. It highlighted the necessity for the state government to ensure that police officers re-

ceive appropriate training on this aspect. The court's observation came in the backdrop of a criminal appeal case where the absence of a Section 65B certificate led to the exclusion of crucial electronic evidence. The judgment underscores the importance of procedural compliance in the handling of electronic evidence in legal proceedings.

“ CONTEXT

The Supreme Court emphasized the need for the Tamil Nadu state government to provide proper training to police officers on the procedure for obtaining a certificate for electronic evidence as required under Section 65B of the Indian Evidence Act. This observation was made during a criminal appeal where the High Court had dismissed phone call evidence due to the absence of the necessary certificate under Section 65B.



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INTERIM ORDER RESTRICTING ZOOS/ SAFARIS WITHIN FORESTS WILL OPERATE ONLY TILL FINAL JUDGMENT OF COORDINATE BENCH, CLARIFIES SUPREME COURT

“ CONTEXT

The Supreme Court clarified that the interim order led by Chief Justice of India Chandrachud, which restricts the establishment of zoos and safaris within forest areas, will remain in effect only until a final judgment is issued by a coordinate bench led by Justice BR Gavai. This interim order was issued in response to writ petitions challenging the Forest Conservation (Amendment) Act 2023, while Justice Gavai's bench had reserved orders on the same issue.

LEGAL OUTLOOK

The interim order to restrict the establishment of zoos and safaris within forest areas is temporary and will last only until the coordinate bench led by Justice Gavai issues its final judgment. The Supreme Court emphasized the need for prior permission from the Court for any proposal for the establishment of zoos and safaris in forest areas, as referred to in the Wildlife Protection Act 1972. States and Union Territories must comply with the definition of "forest" in the 1996 judgment

in T.N Godavarman Thirumalpad v. Union of India during the identification process as per the 2023 amendment to the Forest (Conservation) Act. The bench led by Justice Gavai had previously expressed disapproval of the practice of setting up zoos in tiger safaris and restrained authorities from making any constructions within the core areas of national parks, wildlife sanctuaries, and tiger reserves. The final judgment by the coordinate bench will ultimately govern the regulations regarding the establishment of zoos and safaris within forest areas.

MERE DEMAND FOR RANSOM AFTER KIDNAPPING WON'T AMOUNT TO S.364A IPC OFFENCE IF THERE'S NO DEATH THREAT: SUPREME COURT

“ CONTEXT

The Supreme Court acquitted an individual charged under Section 364A of the Indian Penal Code (IPC), which pertains to kidnapping for ransom, due to the prosecution's failure to prove an immediate threat of death or harm to the kidnapped individual from the accused. The Court highlighted that for an offense under Section 364A to be established, there must be evidence of a threat to cause death or harm, which was not present in this case.

LEGAL OUTLOOK

The Supreme Court found that the prosecution did not provide sufficient evidence to establish the second ingredient of Section 364A IPC, which requires a threat to cause death or harm. The case involved a demand for ransom following a kidnapping, but the Court determined that the prosecution failed to connect the accused to the alleged demand and threat. The Court clarified that for a conviction under Section 364A IPC, it must be proven that the kidnapping or abduction was coupled with a threat to cause death or harm.

Although the Supreme Court set aside the conviction under Section 364A, it upheld the conviction for the lesser offense of kidnapping under Section 361 IPC, punishable under Section 363 IPC. The accused were directed to be released as they had already served the maximum sentence for the offense punishable under Section 363 IPC.



STATE IS NOT DOING ANY CHARITY BY PAYING COMPENSATION TO CITIZEN WHOSE LAND WAS ACQUIRED: SUPREME COURT

The Supreme Court underscored that the Right to Property, though not a fundamental right, is still a constitutional right under Article 300A of the Constitution of India. It criticized the state's delay in compensating citizens for land acquisition, stating that depriving a citizen of their constitutional right to use the land for 20 years and then portraying the payment of compensation as a gracious act is unacceptable.

The court observed that the state and its instrumentalities cannot claim to be doing a favor by compensating citizens for acquired land. The Supreme Court dismissed the contempt petition but granted liberty to the petitioners to challenge the award and associated proceedings according to the law. The court directed that any attempt by the GDA or its officers to prolong proceedings should be met with the pos-

“ CONTEXT

The Supreme Court criticized the approach of the state in handling land acquisition cases, emphasizing that paying compensation to a citizen for acquired land is not an act of charity. The court made these remarks while addressing a contempt petition against the Ghaziabad Development Authority (GDA) for failing to compensate petitioners as per a previous Supreme Court order. The case highlighted issues related to the delay in compensation and the misclassification of land type in compensation calculations.

sibility of adverse inference by the court or authorities, who should decide the proceed-

ings within six months from the date of institution.



WIFE'S SUICIDE WITHIN 7 YEARS OF MARRIAGE WON'T RAISE PRESUMPTION OF HUSBAND'S ABETMENT IF THERE'S NO EVIDENCE OF CRUELTY: SUPREME COURT

“ CONTEXT

The Supreme Court acquitted a husband charged with abetment of his wife's suicide under Section 306 of the IPC, clarifying that the presumption under Section 113A of the Evidence Act does not automatically apply just because the suicide occurred within seven years of marriage. The Court emphasized the need for cogent evidence of harassment or cruelty to establish such a charge.

The Supreme Court stated that for the presumption under Section 113A of the Evidence Act to apply, the prosecution must first establish evidence of cruelty or harassment. The Court highlighted the necessity of cogent and convincing proof of incitement to the commission of suicide, which should be proximate to the time of occurrence. It was observed that mere demand of money or the fact that the wife died within 7 years of marriage, without more, does not constitute cruelty or harassment sufficient

to charge the husband under Section 306 IPC for abetment of suicide. The Court clarified that the presumption under Section 113A is discretionary and not mandatory, unlike the presumption regarding dowry death under Section 113B of the Evidence Act. The Supreme Court acquitted the appellant, underscoring that the prosecution failed to establish the guilt beyond a reasonable doubt and lamented the time taken for the justice system to reach this conclusion.

REGISTRY SHOULDN'T EXERCISE JUDICIAL FUNCTION, CAN'T REFUSE CURATIVE PETITION SAYING REVIEW WAS DISMISSED IN OPEN COURT: SUPREME COURT

LEGAL OUTLOOK

The Supreme Court emphasized that the Registry

does not have the authority to decide on the merits of a curative petition based on the manner of dismissal of the review petition (open court hearing vs. circulation).

It was clarified that the dismissal of a review petition in open court does not preclude the filing of a curative petition. The Court outlined the proper procedure for handling curative petitions arising from review petitions dismissed after an open court hearing, including the necessity of an application seeking exemption from compliance with certain averments.

The Supreme Court provided guidance on the process to be followed when a review petition is dismissed by circulation, detailing the roles of

“ CONTEXT

The Supreme Court set aside an order by its Registrar refusing to register a curative petition on the grounds that the underlying review petition was dismissed after an open court hearing. The Court clarified that such a decision is a judicial exercise and should be made by a Bench, not the Registry, as it contradicts the Supreme Court Rules, 2013.

the Registry and the Chamber Judge in such cases. Ultimately, the Court found no grounds to entertain the appellant's curative plea and did not remand the matter back for reconsideration, citing the passage of substantial time since the initiation of the curative petition.

NOT UNTOUCHABILITY': KERALA HIGH COURT UPHOLDS CONDITION THAT SABARIMALA MELSHANTHI (CHIEF PRIEST) MUST BE MALAYALI BRAHMIN

The Division Bench clarified that the right protected under Article 25(2)(b) of the Constitution is the right to enter a temple for worship and does not extend to performing services that are reserved for archakas (priests). The court found no merit in the contention that specifying Malayala Brahmins as eligible for the Melshanthi position amounts to untouchability, as abolished under Article 17 of the Constitution.

The court refrained from delving into the interplay between fundamental rights and religious rights due to lack of proper pleadings and noted that these issues are pending before the Supreme Court in the Sabarimala reference. It was emphasized that the duties of the Travancore Devaswom Board and its members are administrative in nature, aimed at ensuring traditional rites and ceremonies are conducted according to prevalent practices.

“ CONTEXT

The Kerala High Court dismissed petitions challenging the appointment criteria that only Malayala Brahmins hailing from Kerala can be appointed as Melshantis (chief priests) at Sabarimala Devaswom and Malikappuram Devaswom. The court ruled that this requirement does not amount to untouchability and is not in violation of Article 17 of the Constitution.

The court dismissed the petitions, stating that the eligibility criteria issued by the Devaswom Commissioner cannot be challenged due to lack of pleadings and that

appointments of Melshantis are to be governed by guidelines framed by the High Court and the Supreme Court until statutory rules are enacted.



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SALE AGREEMENT WITH MINOR VOID, NOT ENFORCEABLE IN LAW: SUPREME COURT

“ CONTEXT

The Supreme Court held that a sale agreement entered into by a minor is void and not enforceable under law, affirming the High Court's decision that deemed such a contract void ab initio. This judgment came in a case where a minor, through her mother, sought specific performance of a sale agreement for immovable property, which was contested on the grounds of the minor's incapacity to contract.

LEGAL OUTLOOK

The Supreme Court reiterated that contracts entered into by minors are void and not enforceable under the law, aligning with the provisions of the Contract Act, 1872.

The Court dismissed the appellant's (minor's) argument that a contract in favor of a minor is enforceable, emphasizing that parties must be competent to contract, which minors are not.

It was clarified that a sale agreement involving a minor as one of the parties is void from the outset, regardless of

the nature of the agreement or the intentions behind it.

The Supreme Court referenced its decision in *Mathai Mathai vs. Joseph Mary Alias Marykutty Joseph* (2015), which stated that a mortgage or any contract in the name of a minor is invalid unless represented by a natural guardian or a guardian appointed by the court.

The appeal filed by the minor against the High Court's order was dismissed, with the Supreme Court finding no infirmity in the High Court's judgment that upheld the void nature of the sale agreement entered by the minor.

FOOD SAFETY AND STANDARDS ACT OVERRIDES INDIAN PENAL CODE; SIMULTANEOUS PROSECUTION UNDER BOTH ACTS NOT POSSIBLE: SUPREME COURT

“ CONTEXT

The Supreme Court clarified that the Food Safety and Standards Act, 2006 (FSSA) has an overriding effect over the Indian Penal Code, 1860 (IPC) in matters of food adulteration. Consequently, if a case is registered under the IPC for food adulteration, proceedings under the IPC cannot continue due to the overriding effect of Section 89 of the FSSA.

The Supreme Court reversed the High Court's decision, which had refused to quash criminal proceedings against an accused under the IPC for food adulteration, stating that FSSA overrides IPC provisions.

It was observed that simultaneous prosecution under both the IPC and FSSA is not possible because Section 89 of FSSA gives overriding effect to its provisions over those in the IPC, specifically Sections 272 and 273.

The Court highlighted that Section 59 of FSSA, which deals with unsafe food, is more stringent than the IPC sections on food adulteration because it does not require the presence of intention for the offense to be made out.

The Supreme Court quashed the pending criminal case against the appellant under

the IPC but mentioned that authorities are free to act against the appellant as per the provisions of the FSSA.

The judgment underscores the FSSA's comprehensive approach to food safety and standards, ensuring that its provisions take precedence over any other law in matters related to food.

SUPREME COURT ASKS BOMBAY HC TO DECIDE BAIL APPLICATIONS EXPEDITIOUSLY, SAYS NOT DECIDING MATTERS OF PERSONAL LIBERTY VIOLATES ARTICLE 21

LEGAL OUTLOOK

The Supreme Court requested the Chief Justice of the Bombay High Court to instruct judges exercising criminal jurisdiction to decide bail and anticipatory bail applications promptly.

This request came in light of a specific case where the Bombay High Court directed an accused, who had been in custody for over seven years, to approach the trial

court for bail instead of deciding the matter on its merits.

The Supreme Court criticized the practice of not deciding bail matters on merits and finding excuses to defer or avoid decisions, highlighting that such practices deprive individuals of their right to liberty under Article 21.

The Court noted instances where bail applications were not decided for extended periods, including a case where

“ CONTEXT

The Supreme Court expressed concern over the delay in deciding bail and anticipatory bail applications by the Bombay High Court, emphasizing that such delays violate the fundamental right to liberty under Article 21 of the Constitution. The Court requested the Chief Justice of the Bombay High Court to ensure that bail matters are decided expeditiously.

an anticipatory bail application remained undecided for more than four years.

The Supreme Court directed its Registrar (Judicial) to communicate the order to the Reg-

istrar (Judicial) of the Bombay High Court for further action, underscoring the importance of expeditious decision-making in matters affecting personal liberty.



GYANVAPI: ALLAHABAD HIGH COURT DISMISSES PLEA CHALLENGING VARANASI COURT'S ORDER ALLOWING 'PUJA' IN 'VYAS TEHKHANA'

“ CONTEXT

The Allahabad High Court dismissed a plea by the Mosque committee challenging the Varanasi Court's order that allowed Hindu 'Puja' in the 'Vyas Tehkhana' within the Gyanvapi Mosque premises. The Mosque committee contended that the Vyas Tehkhana was part of the Mosque and that the Vyas family or others had no right to worship there. The Varanasi District Judge had earlier directed the District Magistrate to make arrangements for Hindu worship in the Tehkhana.

The Allahabad High Court upheld the Varanasi District Judge's order allowing Hindu worship in the Vyas Tehkhana of the Gyanvapi Mosque.

The Mosque committee's argument that the Vyas Tehkhana was under their possession and that no puja had been conducted there since 1993 was rejected.

The Court noted that the question of possession could only be decided after framing issues, indicating that the le-

gal process regarding the dispute was ongoing.

The Hindu plaintiffs argued that their religious practices in the Tehkhana never ceased, even after the CRPF took possession in 1993.

The District Judge's order was based on the application by Plaintiff Shailendra Kumar Pathak Vyas, seeking worship of Shringar Gauri and other deities in the Gyanvapi mosque's cellar, with the District Magistrate appointed as the receiver of the property.

NEW CRIMINAL LAWS REPLACING IPC, CRPC & EVIDENCE ACT TO COME INTO FORCE FROM JULY 1, 2024

“ CONTEXT

The Union Government has announced that the new criminal laws, namely Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, will replace the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act, respectively, from July 1, 2024. These laws were passed by Parliament on December 21, 2023, and received Presidential assent on December 25, 2023. However, the implementation of a specific provision under Section 106(2) of Bharatiya Nyaya Sanhita related to causing death by rash and negligent driving has been put on hold due to widespread protests.

The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam will officially replace the IPC, CrPC, and the Indian Evidence Act from July 1, 2024.

The implementation of Section 106(2) of Bharatiya Nyaya Sanhita, concerning death caused by rash and negligent driving, has been postponed due to protests from truckers.

These new laws aim to modernize and consolidate India's criminal justice system, reflecting contemporary societal values and legal practices.

The laws were enacted following Parliamentary approval and Presidential assent in December 2023 but were set to come into effect at a later date specified by the Union Government.

SUPREME COURT | HOMEMAKER'S DEEMED INCOME CAN'T BE LESS THAN MINIMUM WAGES FOR DAILY WAGERS

The Supreme Court recognized the role of a homemaker as invaluable and of high order, equating it to that of a family member with a tangible source of income.

The Court corrected factual and legal errors in the impugned order regarding the deceased's age, dependency of appellants on the deceased, and the mode of transport in which the deceased was traveling at the time of the accident.

It was clarified that a homemaker's direct and indirect monthly income should

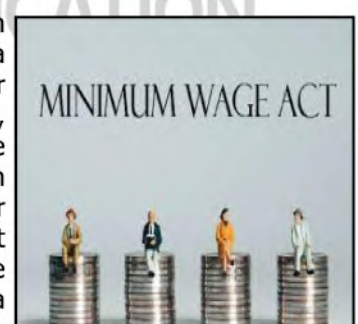
not be less than the minimum wages for a daily wager as per the state's Minimum Wages Act.

The Court granted a lump sum compensation of Rs.6,00,000/- to the appellants, considering the vehicle involved was not insured and to avoid calculating compensation under different heads.

The respondents were ordered to pay the balance amount within six weeks, failing which they would be liable to pay interest as awarded by the Tribunal.

“ CONTEXT

The Supreme Court, in a judgment related to a claim under the Motor Vehicles Act of 1988, emphasized the invaluable contribution of homemakers to their families. The Court observed that the deemed income of a homemaker cannot be less than the minimum wages notified for a daily wager. This observation came during the adjudication of compensation for the family of a deceased woman, a homemaker, who died in a car accident.





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LAW GRID

RIGHT TO PROPERTY UNDER ARTICLE 300A AVAILABLE TO A PERSON WHO ISN'T A CITIZEN OF INDIA: SUPREME COURT

“ CONTEXT

The Supreme Court clarified that Article 300A of the Constitution, which provides for the right to property, extends to individuals who are not citizens of India. This observation was made while adjudicating a case involving 'enemy property' under the Enemy Property Act, 1968, stating that such property is not exempt from municipal laws and is not vested with the Union Government by default.

LEGAL OUTLOOK

Article 300A's protection of the right to property applies not only to legal or juristic persons but also to non-citizens.

The Enemy Property Act, 1968, was legislated to ensure uniform protection, management, and dealing of enemy properties across India.

The Supreme Court emphasized that taking possession of enemy property for administration by the Custodian

does not imply a transfer of ownership from the true owner to the Custodian or the Union. The Court expressed concern that depriving the true owner (even if an enemy or enemy subject) of their property without compensation contradicts the principles of Article 300A. The judgment underscores that the constitutional right to hold property is broadly applicable, ensuring protection beyond the citizenship status of an individual.

BAIL CONDITION TO SHARE LIVE LOCATION VIOLATES PRIVACY? SUPREME COURT ASKS GOOGLE INDIA TO EXPLAIN WORKING OF GOOGLE PIN

“ CONTEXT

The Supreme Court issued a notice to Google India to understand the workings of Google PIN, especially in the context of bail conditions mandating the sharing of live mobile locations.

The Court is not impleading Google India as a respondent but is seeking information to assess the privacy implications of such bail conditions. The inquiry was initiated after the Ministry of Electronics and Information Technology suggested consulting Google India for detailed information on Google PIN's functionality.

The Supreme Court is examining two key issues: the imposition of bail conditions requiring foreign accused to secure embassy assurances

The Supreme Court has sought clarification from Google India on the functioning of Google PIN, in light of bail conditions requiring accused individuals to share their live mobile location with investigating officers. This inquiry stems from concerns over whether such bail conditions infringe on the right to privacy.

not to leave India, and conditions mandating accused to share their Google Pin location with investigating officers. The Court has expressed preliminary reservations about the potential privacy implications of both conditions.

SURROGACY AMENDMENT RULES | CENTRE ALLOWS COUPLES WITH MEDICAL CONDITIONS TO USE DONOR GAMETES

The Surrogacy (Regulation) Rules, 2022, have been amended to allow the use of donor gametes for couples with certified medical conditions necessitating such use. The amendment specifies that at least one gamete must come from the intending couple, with exceptions allowed for single women (widow or divorcee) using self eggs and donor sperms. This development was influenced by legal challenges and observations from the Supreme Court and Delhi High Court, highlighting the previous rules' infringement on the

right to parenthood for infertile couples.

The amendment aims to reconcile the surrogacy laws with the Assisted Reproductive Technology (Regulation) Act, 2021, addressing conflicts between the two and ensuring access to medically regulated procedures and services.

The change reflects the government's response to the evolving legal and social landscape surrounding surrogacy in India, aiming to safeguard the interests of all parties involved while accommodating medical necessities.

“ CONTEXT

The Central Government has amended the Surrogacy (Regulation) Rules, 2022, permitting couples with specific medical conditions to use donor gametes for surrogacy. This amendment modifies the previous stance that both gametes must come from the intending couple, now allowing the use of donor gametes if certified by the District Medical Board as medically necessary. This change follows legal challenges and Supreme Court observations regarding the restrictive nature of the earlier rules.





SUPREME COURT JUDGMENT | JUDICIAL DECISION DOESN'T INFRINGE FUNDAMENTAL RIGHTS

“ CONTEXT

The Supreme Court reaffirmed that a judicial decision made by a judge of competent jurisdiction does not infringe upon fundamental rights. This principle was reiterated in the context of refusing to direct a High Court to expedite a criminal appeal filed by the petitioner, highlighting that such decisions are part of the judicial process and cannot be challenged as a breach of fundamental rights under Article 32 of the Constitution.

LEGAL OUTLOOK

The Supreme Court cited the precedent set in *Naresh Shridhar Mirajkar Vs. State of Maharashtra*, emphasizing that judicial decisions do not infringe fundamental rights. A writ petition under Article 32 is not maintainable against orders regarding the listing of cases by the High Court, as these decisions are part of the judicial process. The Supreme Court noted that it does not have the power of superintendence over High

Courts, respecting the division of jurisdiction and mutual respect required between these constitutional courts.

The petitioner seeking bail pending a criminal appeal must resort to an application under Section 389(1) of the Code of Criminal Procedure instead of invoking a writ remedy.

The Supreme Court dismissed the writ petition as misconceived, stating that it can only request the High Court to expedite the hearing but cannot issue a directive in this regard.

SUPREME COURT CONFIRMS LACK OF SUPERINTENDENCE POWER OVER HIGH COURTS

“ CONTEXT

The Supreme Court clarified that it does not possess the power of superintendence over High Courts, emphasizing the constitutional division of jurisdiction and the need for mutual respect between these two judicial institutions. This observation came while the Court was refusing to direct a High Court to expedite a criminal appeal, highlighting the constitutional framework that separates the powers and responsibilities of the Supreme Court and High Courts.

The Supreme Court stated that there is no constitutional provision granting it superintendence power over High Courts, drawing a parallel to Article 227, which gives High Courts superintendence over lower courts.

The Court referenced the *Tirupati Balaji Developers (P) Ltd. Vs. State of Bihar* case to underline the clear division of jurisdiction and the principle of mutual respect between the Supreme Court and High Courts.

It was observed that directing the High Court as per the petitioner's request would be an inappropriate exercise of

discretionary jurisdiction and show disrespect to another constitutional court.

The Court also reiterated the principle from *Naresh Shridhar Mirajkar Vs. State of Maharashtra* that a judicial decision by a competent judge does not infringe on fundamental rights, applying this to the refusal to expedite the criminal appeal.

The Supreme Court dismissed the writ petition as not maintainable under Article 32 against the High Court's order regarding the listing of the case, emphasizing the judicial process's integrity and the non-infringement of fundamental rights by judicial decisions.

SUPREME COURT DECLARES ELECTORAL BONDS SCHEME UNCONSTITUTIONAL, DIRECTS SBI TO STOP EB ISSUANCE

The Supreme Court unanimously found that the electoral bonds scheme infringes upon the right to information, a fundamental right under Article 19(1)(a) of the Constitution.

The judgment was based on the principle that voters have a right to know about the funding of political parties, which is essential for the exercise of informed voting choices.

The Court held that the scheme and related amendments to the Representation of the People Act, the Companies Act, and the Income Tax Act, which fa-

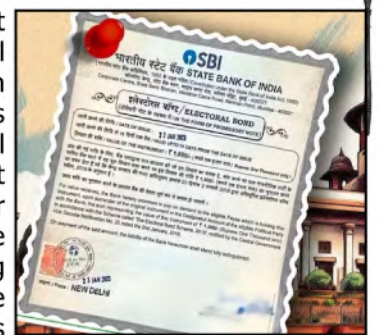
cilitated anonymous donations, are unconstitutional.

The Court issued directives for the State Bank of India (SBI) to stop the issuance of electoral bonds and to submit detailed information about the bonds purchased and encashed by political parties since an interim order in 2019 to the Election Commission of India (ECI).

The ECI is directed to publish the information received from SBI on its website, ensuring transparency in political funding.

“ CONTEXT

The Supreme Court ruled that the electoral bonds scheme, which allows for anonymous contributions to political parties, violates the right to information under Article 19(1)(a) of the Constitution, rendering the scheme unconstitutional. This landmark judgment addresses concerns regarding transparency in political funding and the potential for undisclosed corporate influence on politics.





Important Questions



1. What distinguishes a distributor's legal status from that of an agent in the context of principal-agent relationships?
2. Can the Supreme Court or High Courts impose time-bound schedules for the disposal of cases in other courts under ordinary circumstances?
3. Does the rule disqualifying candidates with more than two children from government jobs violate the Constitution?
4. Should legal services be included under the Consumer Protection Act of 1986?
5. When will the new criminal laws replacing the IPC, CrPC, and Evidence Act come into force?
6. Can a sale agreement entered into by a minor be enforceable under the law?
7. Does a bail condition requiring an accused to share their live location via Google PIN infringe on the right to privacy?
8. Can the deemed income of a homemaker be considered less than the minimum wages notified for a daily wager?
9. Are couples with medical conditions allowed to use donor gametes for surrogacy under the amended Surrogacy (Regulation) Rules, 2022?
10. Can a judicial decision be challenged as infringing fundamental rights?
11. Does the Supreme Court have the power of superintendence over High Courts?
12. Does the electoral bonds scheme violate the right to information under Article 19(1)(a) of the Constitution?
13. What distinguishes a distributor's legal status from that of an agent in the context of principal-agent relationships?
14. Can the Supreme Court or High Courts impose time-bound schedules for the disposal of cases in other courts under ordinary circumstances?
15. Does the rule disqualifying candidates with more than two children from government jobs violate the Constitution?
16. Should legal services be included under the Consumer Protection Act of 1986?
17. When will the new criminal laws replacing the IPC, CrPC, and Evidence Act come into force?
18. Can a sale agreement entered into by a minor be enforceable under the law?
19. Does a bail condition requiring an accused to share their live location via Google PIN infringe on the right to privacy?
20. Can the deemed income of a homemaker be considered less than the minimum wages notified for a daily wager?
21. Are couples with medical conditions allowed to use donor gametes for surrogacy under the amended Surrogacy (Regulation) Rules, 2022?
22. Can a judicial decision be challenged as infringing fundamental rights?
23. Does the Supreme Court have the power of superintendence over High Courts?
24. Does the electoral bonds scheme violate the right to information under Article 19(1)(a) of the Constitution?
25. Does advising a partner to marry someone else after a breakup amount to abetment to suicide?
26. What legal principle differentiates a distributor's role from an agent's in contractual relationships?
27. Is it within the judiciary's authority to mandate specific timelines for case resolutions in courts?
28. Are employment restrictions based on family size constitutionally valid?
29. Do legal practitioners fall under the consumer protection framework for service accountability?
30. What is the effective date for the implementation of India's revised criminal legislation?



31. Is a contractual agreement initiated by a minor legally binding?
32. Are privacy concerns valid in the context of bail conditions involving real-time location tracking?
33. How does the Supreme Court view the economic valuation of homemaking in compensation claims?
34. Can medical necessity justify the use of donor gametes in surrogacy under recent legal amendments?
35. Are judicial decisions immune from challenges on the basis of fundamental rights infringement?
36. What is the scope of the Supreme Court's supervisory jurisdiction over High Courts?
37. How does the electoral bond scheme align with the constitutional right to information?
38. What criteria allow for the differentiation between an independent contractor and an agent in legal terms?
39. Is judicial intervention permissible to set deadlines for court proceedings?
40. Under what conditions can government employment policies restrict candidates based on family size without violating constitutional rights?
41. Are attorneys subject to consumer protection laws in their professional services?
42. What marks the commencement date for the new legal framework replacing traditional criminal codes in India?
43. At what age is a person legally capable of entering into enforceable contracts in India?
44. How does the requirement to share live location for bail compliance intersect with privacy rights?
45. What legal recognition does homemaking receive in the context of economic contribution assessments?
46. Under what legal provisions can donor gametes be utilized in surrogacy arrangements?
47. Can the outcome of a court's decision be contested on the grounds of violating individual rights?
48. What delineates the Supreme Court's jurisdictional limits over High Courts?
49. What constitutional implications does the electoral bond scheme have on the right to information?
50. How does the legal system address the enforceability of contracts involving minors?



ALL INDIA TOPPERS



CLAT & AILET 2024

CLAT

Pragnya
(CPI4108050)

CLAT

Manav Agarwal
(CPI4105263)

CLAT

Anurag Meena
(CPI4107422)

CLAT

Jigyasa
(CPI4108784)

CLAT

HARSHITA RAUTELA
(CPI4200021)

AILET

Kanav Kumar
(CPI4107458)

AILET

Divas
(CPI4108612)

AILET

Ishaan Sehrawat
(CPI2400637)

AILET

Nitya
(CPI4108201)

AILET

Khushi
(CPI4108179)



ANSWERS

1. A distributor is considered an independent contractor who operates autonomously, buying and selling goods on their own account within their territory, without the legal obligation to alter the principal's legal relationships with third parties, which is a hallmark of an agent.
2. No, the Supreme Court and High Courts should refrain from imposing time-bound schedules for the disposal of cases in other courts under ordinary circumstances, except in exceptional cases where such direction is deemed necessary.
3. No, the Supreme Court held that the rule disqualifying candidates having more than two children from government jobs does not violate the Constitution, as it is non-discriminatory and serves the objective of promoting family planning.
4. SCAORA argues that legal services should not be included under the Consumer Protection Act of 1986, due to the unique and uncontrollable environment in which lawyers operate, which significantly differs from other service professions.
5. The new criminal laws, Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, will come into force on July 1, 2024.
6. No, the Supreme Court confirmed that a sale agreement entered into by a minor is void and not enforceable under the law.
7. The Supreme Court is currently examining whether such a bail condition infringes on the right to privacy and has sought information from Google India to aid in this assessment.
8. No, the Supreme Court held that a homemaker's deemed income cannot be less than the minimum wages for daily wagers, recognizing the significant contribution of homemakers to their families.
9. Yes, the amendment to the Surrogacy (Regulation) Rules, 2022, permits couples with certified medical conditions to use donor gametes for surrogacy, provided at least one gamete comes from the intending couple.
10. No, the Supreme Court reiterated that a judicial decision rendered by a judge of competent jurisdiction does not infringe upon fundamental rights.
11. No, the Supreme Court confirmed that it does not have the power of superintendence over High Courts, respecting the constitutional division of jurisdiction.
12. Yes, the Supreme Court declared that the electoral bonds scheme violates the right to information under Article 19(1)(a) of the Constitution and is therefore unconstitutional.
13. A distributor is considered an independent contractor, distinct from an agent who acts on behalf of the principal with third parties.
14. No, the Supreme Court and High Courts should ordinarily refrain from fixing time-bound schedules for case disposal in other courts.
15. No, the Supreme Court held that such a rule does not violate the Constitution, as it serves a legitimate state interest.
16. SCAORA argues that due to the unique operational environment of lawyers, legal services should not fall under the Consumer Protection Act.
17. The new criminal laws will come into effect on July 1, 2024, replacing the IPC, CrPC, and Evidence Act.
18. No, a sale agreement entered into by a minor is void and not enforceable under law.
19. The Supreme Court is examining the privacy implications of such a bail condition and has sought clarification from Google India.
20. No, the Supreme Court held that a homemaker's deemed income cannot be less than the minimum wages for daily wagers.
21. Yes, the amendment permits the use of donor gametes for couples with certified medical conditions, provided at least one gamete comes from the intending couple.
22. No, a judicial decision by a competent judge does not infringe upon fundamental rights.
23. No, the Supreme Court does not possess superintendence power over High Courts, maintaining a division of jurisdiction.
24. Yes, the Supreme Court found the electoral bonds scheme to violate the right to information, rendering it unconstitutional.



25. No, the Supreme Court held that heartbreaks are a part of everyday life, and advising a partner to marry someone else does not amount to abetment to suicide.
26. The legal status of a distributor as an independent contractor is defined by their operational autonomy and financial investment, unlike an agent who acts on behalf of a principal with third parties.
27. The judiciary typically avoids imposing strict timelines for case adjudications to respect procedural flexibility and judicial discretion.
28. Restrictions based on the number of children for government job eligibility do not contravene constitutional protections, serving broader public policy goals.
29. The unique professional obligations and ethical standards of lawyers exempt them from typical consumer service evaluations under consumer protection laws.
30. The comprehensive overhaul of India's criminal justice statutes is scheduled for July 1, 2024.
31. Contracts entered by minors are considered void ab initio, lacking legal enforceability due to the incapacity to contract.
32. The Supreme Court is scrutinizing the balance between the right to privacy and public interest in bail conditions requiring live location sharing.
33. The Supreme Court acknowledges the substantial, though often undervalued, economic contributions of homemakers to their families.
34. Legal amendments now permit the use of donor gametes in surrogacy for medically certified needs, ensuring at least one gamete originates from the intending couple.
35. A judicial decision made by a competent authority is not deemed a violation of fundamental rights, reflecting the judiciary's autonomy and authority.
36. The Supreme Court does not have direct supervisory control over High Courts, emphasizing the independence and co-equality of these judicial bodies.
37. The Supreme Court ruled that the electoral bond scheme's anonymity provisions infringe upon the constitutional right to information, necessitating transparency in political funding.
38. Legal differentiation is based on the degree of control, nature of work, and financial risk assumed by the party, distinguishing contractors from agents.
39. While the judiciary can recommend timely resolutions, it generally does not mandate fixed deadlines to ensure fairness and thoroughness in proceedings.
40. Policies limiting employment based on family size must align with public interest objectives and not arbitrarily infringe on individual rights.
41. The unique ethical obligations and regulatory framework governing legal practice exempt attorneys from standard consumer protection applicability.
42. July 1, 2024, is designated as the effective date for the enactment of India's new criminal justice reforms.
43. Indian law generally considers individuals under the age of 18 as minors, who are not fully capable of entering into legally binding contracts.
44. The judiciary examines the balance between ensuring public safety and upholding the constitutional right to privacy in bail conditions.
45. The Supreme Court acknowledges homemaking's substantial economic value, advocating for its consideration in compensation determinations.
46. Legal amendments now facilitate the use of donor gametes in surrogacy, provided medical conditions justify their necessity, with at least one gamete from the intending couple.
47. Judicial decisions, made within the scope of competent authority, are typically not viewed as infringing upon fundamental rights due to the judiciary's role in interpreting the law.
48. The Supreme Court operates without direct supervisory authority over High Courts, respecting the constitutional separation of powers and judicial independence.
49. The Supreme Court found the scheme's anonymity feature undermines the electorate's right to information, essential for informed voting and democratic transparency.
50. Contracts with minors are generally voidable at the minor's discretion, recognizing their limited capacity to understand and commit to contractual obligations fully.

AMAZING RESULTS ONCE AGAIN

CLAT & AILET 2024

CLAT 4 Pragnya (CPI4108050)	CLAT 5 Manav Agarwal (CPI4105263)	CLAT 6 ST Anurag Meena (CPI4107422)	CLAT 9 Jigyasa (CPI4108784)	CLAT 10 EWS HARSHITA RAUTELA (CPI4200021)
AILET 2 Kanav Kumar (CPI4107458)	AILET 6 Divas (CPI4108612)	AILET 7 Ishaan Sehrawat (CPI2400637)	AILET 9 Nitya (CPI4108201)	AILET 10 Khushi (CPI4108179)

ClatPrep Hai Toh Mumkin Hai!

Total Selections

150+

& still counting...

8 in TOP 50 | 14 in TOP 100

Another proof of LEADERSHIP

AIR 28 Manuja Kavishkar (CPI4107394)	AIR 29 Mudra Mehta (CPI4108053)	AIR 34 Avish Jain (CPI4105086)	AIR 38 Divas (CPI4108612)	AIR 46 Khushi Agarwal (CPI4108179)	AIR 58 Sayed Shafaq (CPI4108776)	AIR 62 Garvit Khandelwal (CPI2400637)	AIR 68 Madhav Sharma (CPI4105076)
AIR 81 Aaryashree Methi (CPI4200101)	AIR 88 Aarna Bhatnagar (CPI4107435)	AIR 93 Pranav Mittal (CPI4107140)	AIR 101 Preksha (CPI4108080)	AIR 105 Surya Gayathri (CPI24008704)	AIR 121 Akanksha Narayan (CPI4108768)	AIR 127 Ishaan Sehrawat (CPI2400637)	AIR 128 Pranjal Ranjan (CPI4107322)
AIR 129 Harshita Rautela (CPI4200021)	AIR 170 Aadya Sharma Chirag Begwani (CPI4107987)	AIR 173 (CPI4108115)	AIR 210 Param (CPI4105047)	AIR 221 Nitya Singhani Medha Chaturvedi (CPI4108201)	AIR 251 Khyati Chaturvedi (CPI4108267)	AIR 268 (CPI4200090)	AIR 273 Prakash Talwar (CPI2400764)
AIR 274 Tanishka Agarwal (CPI4105516)	AIR 275 Chahat Sandeep (CPI4107866)	AIR 286 Vasudev Sharma (CPI4107961)	AIR 291 Neha (CPI4108067)	AIR 329 Tisha Malik (CPI4108024)	AIR 331 Vidhi Shah (CPI4105150)	AIR 368 Vithala Agarwal (CPI4105451)	AIR 393 Ipsa Mittal (CPI2400577)
AIR 397 Aveksha Choudhary (CPI4107374)	AIR 398 Jiya Gulati (CPI2400868)	AIR 400 Udai Mittal (CPI4107456)	AIR 423 Vatsal Agarwal (CPI4107117)	AIR 430 Shastri Tiwari (CPI4108845)	AIR 445 Aaditya (CPI4108097)	AIR 458 Singh Udayshankar (CPI4108762)	AIR 488 Pratham Vyas (CPI4108635)

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