LAW WALLAH

Legal Xpress

Legal Reasoning Magazine

CLAT, AILET & OLETS

MARCH 2024

PW LAW WALLAH

CLAT ACHIEVERS 2025

For **CLAT & AILET**

Daily Practice Problems With Video Solutions

20 Sectional Tests

22 Monthly Magazines

3000+ Questions Bank

10 Study e-Modules

15 Mock **Test Series**

SAVE BIG on **CLAT ACHIEVERS 2025** Enrolment

Enjoy a **Discount** of **FLAT ₹ 500/- Off** with **COUPON CODE** **CLAT500**

PW LAW WALLAH

CLAT ACHIEVERS Pro 2025

For **CLAT, AILET & OLETs**

Daily Practice Problems With Video Solutions

Monthly Magazines of Current Affairs & Legal Reasoning (January 2024 to April 2025)

10,000+ Questions Bank in DPP Format & Lecture Notes

30 Study E-Modules & Practice E-Modules

Annual subscription to access all the upcoming batches of **CLAT 2025**

Khazana Package: 120+ Best Lectures of CLAT 2024

80+ Hours Marathon Revision Lectures (Oct-Nov. 2024)

30 Mock Test Series with video solutions

10,000+ Infinite Practice Questions (Passage Based)

SAVE BIG on **CLAT ACHIEVERS Pro 2025** Enrolment

Enjoy a **Discount** of **FLAT ₹ 500/- Off** with **COUPON CODE** **CLAT500**

CONTENTS

1 Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court without any further corroboration: Supreme Court

Why in News?

While hearing the **Naeem Vs The State of Uttar Pradesh case on March 05, 2024,** the Supreme Court (SC) stated that a dying declaration can be the sole basis of conviction if it inspires the full confidence of the court. It also added that "Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration."

Background of the case:

- The case revolved around a written report received by the Police Station, detailing a complaint by Shahin Parveen who sustained severe burns and accused the defendants of setting her on fire.In her complaint, the deceased had alleged that "she had been set ablaze by the accused/appellants who had been pressuring her into entering the profession of immoral trafficking and prostitution".
- Initially, the case was filed under Section 307 of the Indian Penal Code (IPC), later altered to Section 302 IPC after the victim's death.
- The victim's dying declaration implicated her brother-in-law (Pappi), his wife (Naeema), and Naeema's brother (Naeem) in the crime.
- The trial court convicted the accused, a decision upheld by the High Court.
- Subsequently, the case was brought before the Supreme Court for further scrutiny and review.

Supreme Court's Observations:

- A bench comprising Justice B.R. Gavai and Justice Sandeep Mehta, citing the case of Atbir v. Government of NCT of Delhi (2010 INSC 491), emphasized that a dying declaration can serve as the sole basis for conviction if it instills complete confidence in the court. They reiterated that the court must ensure that the deceased was of sound mind when giving the statement and that it was not influenced by external factors such as coaching or imagination.
- The bench further highlighted that if the court is convinced of the truthfulness and voluntariness of the dying declaration, it can rely on it for conviction without requiring additional corroboration. They clarified that there is no absolute rule mandating corroboration for a dying declaration to be the basis of conviction; rather, corroboration is merely a prudential guideline.
- The court stressed that if, upon careful examination, the declaration appears genuine, coherent, and consistent,

and there is no indication of coercion, it can indeed form the basis for conviction, even in the absence of corroborative evidence.

Concept of dying declaration:

Matthew Arnold's quote, "Truth sits upon the lips of dying men, and falsehood, while I lived, was far from mine," underscores the significance of dying declarations. This legal concept stems from the Latin maxim "Nemo moriturus praesumitur mentire," which translates to "a man will not meet his maker with a lie in his mouth." Essentially, a dying declaration refers to statements made by a deceased individual before their death, describing the circumstances or cause of their demise. Indian law recognizes the weight of such declarations, acknowledging the belief that truth prevails in the final moments of life, and a person is unlikely to lie when facing their impending death.

Legislation Prescribed:

Under the **Indian Evidence Act, 1872**, the provisions regarding dying declarations are outlined in **Section 32(1)**. This section states that statements made by a person who is dead, relating to the cause of their death, or any of the circumstances leading to their death, are considered relevant facts and can be used as evidence in legal proceedings. The rationale behind this provision is the presumption that individuals are unlikely to lie when faced with imminent death.

It is one of the exceptions to the general rule prescribed in **Sec 60** of the Act which explains that oral evidence in all instances must be direct i.e. it must be the evidence of testimony. Even though a dying declaration has not been made under oath and the person making it cannot be cross-examined still it is accepted in the court.

Essential Ingredients:

- The person who is giving the dying declaration must die.
- The dying declaration must not be incomplete.
- It must be done without any extra compulsion and freedom.
- The cause of death must be explained which leads to the death of the deceased or at least the circumstances which lead to his death must be explained.
- The declarant who is making a dying declaration must be conscious of what is happening near him.
- The person must be of sound mind.
- The cause of death of a person must be in question.

Who can take down a dying declaration?

In India, a dying declaration can be recorded by any person, including a police officer, depending on the circumstances and urgency of the situation. However, for legal validity and reliability, it is preferable for a competent Magistrate to record the dying declaration whenever possible. If a Magistrate is unavailable or cannot be summoned in time due to the deteriorating condition of the declarant, a police officer or any other person present may record the dying declaration. In such cases, it is important to ensure that the recording process is conducted in a fair, unbiased, and transparent manner. Additionally, obtaining the signatures of witnesses who are present during the recording can further strengthen the legitimacy of the dying declaration.

Forms of Dying Declaration:

In the case of **Queen-Empress vs. Abdullah**, the Allahabad High Court ruled that a dying declaration can take various forms, including written, oral, gestures, and signs. This decision was made when the declarant, who had her throat cut by the accused, was unable to speak but was able to indicate the identity of the perpetrator through hand gestures.

Similarly, in the **Nirbhaya case (Mukesh & Anr vs State For Nct Of Delhi & Ors)**, a divisional bench consisting of Hon'ble Justices Deepak Mishra, R Banumathi, and Ashok Bhushan emphasized that a dying declaration is not restricted to verbal or written communication. It can also be conveyed through gestures or nods.

A dying declaration is essentially a statement made by a declarant regarding the circumstances surrounding their impending death or the injuries leading to it. It holds legal weight because the anticipation of death generally motivates individuals to speak truthfully, akin to testimony given under oath by a conscientious and guiltless person. Given the declarant's limited chances of survival, their statement is considered necessary evidence and, if found reliable, can be pivotal in securing a conviction.

Relevant Case Law:

In **Kushal Rao vs The State of Bombay**, the Supreme Court of India established several key principles regarding dying declarations:

- There is no absolute rule that a dying statement cannot be the sole basis for conviction without corroboration. A genuine and voluntary declaration free from compulsion does not require corroboration.
- Each case must be assessed based on its facts and circumstances surrounding the dying declaration.
- A dying declaration holds equal weight as any other form of evidence.
- Like any evidence, a dying declaration should be evaluated considering the surrounding circumstances and in accordance with rules governing the weight of evidence.
- Dying declarations recorded by a competent magistrate in a question-and-answer format, ideally using the declarant's own words, are considered more reliable than those based solely on oral testimony, which may be subject to memory lapses and biases.

In **State Of Uttar Pradesh vs Ram Sagar Yadav And Ors**, the Supreme Court emphasized that the primary concern of the court should be to ascertain the authenticity of the dying declaration. If the court is satisfied with its authenticity, further corroboration may not be necessary for conviction.

Additionally, in **Atbir vs Govt. Of N.C.T Of Delhi**, the Supreme Court established further principles:

- If the court fully trusts the dying declaration, it can serve as the sole basis for conviction.
- The court must ensure that the declarant was mentally sound when making the statement and that it was not influenced by external factors.
- A dying declaration should not be disregarded simply because it is brief; its brevity can enhance its accuracy.
- There is no strict rule mandating corroboration for a dying declaration to be relied upon.
- If the court finds the dying declaration to be authentic, coherent, and free from attempts to induce falsehood, it can be the basis for conviction even without corroboration.

Overall, the court must carefully examine the dying declaration, considering its authenticity, voluntariness, coherence, and consistency, before determining its admissibility and weight in the case.

Conclusion:

Lord Lush, L.J., encapsulated the significance of dying declarations by stating that they are admitted in evidence on the presumption that a person facing imminent death would not lie when about to meet their maker. However, for a dying declaration to hold weight, the declarant must have a settled and hopeless expectation of immediate death; a mere anticipation of death at a later time is insufficient.

While a dying declaration carries substantial weight, it's crucial to acknowledge that the accused cannot cross-examine the declarant to ascertain the truth. Therefore, the court must be convinced of the declaration's authenticity and ascertain that it was not influenced or fabricated in any way. The court must ensure that the declarant's statement was voluntary and not coerced, prodded, or a product of imagination.

If the court is satisfied with the truthfulness and voluntariness of the dying declaration, it can lead to a conviction even without further evidence. There is no absolute rule of law mandating corroboration for a dying declaration to be relied upon; the requirement for corroboration is merely a precautionary measure.

2 'Dangerous and illegal', SC disapproves celebratory firing

Why in News?

On March 11, 2024, the Supreme Court (SC) of India, during the hearing of the **Shahid Ali vs. The State of Uttar Pradesh** case, voiced apprehension regarding celebratory firing at marriage ceremonies, which led to the tragic death of an individual. The bench, comprising Justice Satish Chandra Sharma and Justice Vikram Nath, remarked that "the act of celebratory firing during marriage ceremonies is an unfortunate yet prevalent practice in our nation." The bench emphasized that the present case serves as a stark illustration of the calamitous outcomes resulting from such unregulated and unnecessary celebratory firing.

Facts of the case:

- In this case, an FIR was filed by Gulab Ali (PW1), the chowkidar of village Katena Sikeriya, reporting an incident during the marriage ceremony of Nizamuddin's daughter. The FIR alleged that the appellant, along with other individuals, shot Ishfaq Ali (the deceased) resulting in a fatal injury to his neck. The FIR also mentioned a history of enmity between the deceased and the accused, and numerous witnesses observed the incident.
- The trial court convicted the accused/appellant, sentencing them to life imprisonment under Section 302 IPC and additional imprisonment under Sections 25/27 of the Arms Act, 1959. The Allahabad High Court upheld this decision.
- The Supreme Court addressed the main question of **whether the appellant's act of engaging in celebratory firing during a marriage ceremony constituted an act so inherently dangerous that it was likely to cause death or serious bodily harm.**

Supreme Court's observations:

- During the proceedings, the Supreme Court referred to its previous decision in the **Kunwar Pal Singh vs. State of Uttarakhand (2014)** case, highlighting the principle that firing a gun in the presence of a crowd, especially at events like marriage ceremonies, carries inherent risks and can result in fatalities. The court emphasized that individuals carrying firearms must exercise responsibility and caution.
- In the case of **Bhagwan Singh vs. State of Uttarakhand (2020)**, the Supreme Court held that an individual who causes fatalities as a result of firing a shot in the air must be held criminally liable for conduct that could potentially lead to fatal injuries to others in close proximity. This decision underscores the accountability of individuals for their actions, particularly when such actions pose a serious risk to the safety and lives of others.

- Furthermore, the Supreme Court noted that in the absence of evidence demonstrating that the appellant specifically aimed at or targeted the crowd during celebratory firing, and considering the lack of prior enmity between the deceased and the appellant, it was unable to accept the prosecution's version of events. However, the court acknowledged that the appellant's act of firing a gun in a crowded place without taking adequate safety measures resulted in the unfortunate death of the deceased.
- In essence, while the court recognized the dangerous nature of celebratory firing, it found insufficient evidence to establish the appellant's intention to kill or any pre-existing animosity between the appellant and the deceased. Nonetheless, the court affirmed the appellant's culpability for engaging in reckless behavior that led to the tragic demise of the deceased.
- After careful consideration of the cases, the Supreme Court concluded that the appellant was guilty of the commission of 'culpable homicide' as defined in Section 299 IPC, punishable under Section 304 Part II of the IPC. As a result, the appellant's conviction and sentence under Section 302 IPC were set aside, and instead, the appellant was convicted for an offense under Section 304 Part II of the IPC.

Relevant Provisions:

Indian Penal Code,1860:

In the case discussed, the Supreme Court concluded that the appellant was guilty of the commission of 'culpable homicide' as defined in Section 299 of the Indian Penal Code (IPC). Let's break down the relevant provisions discussed in the case:

- **Section 299 IPC:** This section defines culpable homicide as the act of causing death with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death. It encompasses situations where death is caused by reckless or negligent conduct.
- **Section 304 Part II IPC:** This section deals with the offense of culpable homicide not amounting to murder but done with the knowledge that it is likely to cause death. It provides for lesser punishment compared to murder under Section 302 IPC. Section 304 Part II states that whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for a term which may extend to life imprisonment, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

In this case, the Supreme Court set aside the appellant's conviction and sentence under Section 302 IPC, which deals with murder, and instead convicted the appellant under Section 304 Part II IPC for culpable homicide not amounting to murder. This indicates that the court found the appellant guilty of causing death with the knowledge that it was likely to cause death but without the specific intention to kill. The punishment for this offense is less severe compared to murder, but it still entails significant legal consequences, including the possibility of life imprisonment.

Arms Act,1959:

Sections 25 and 27 of the Arms Act, 1959, deal with offenses related to the illegal possession, use, and carrying of firearms. Here's an explanation of each section:

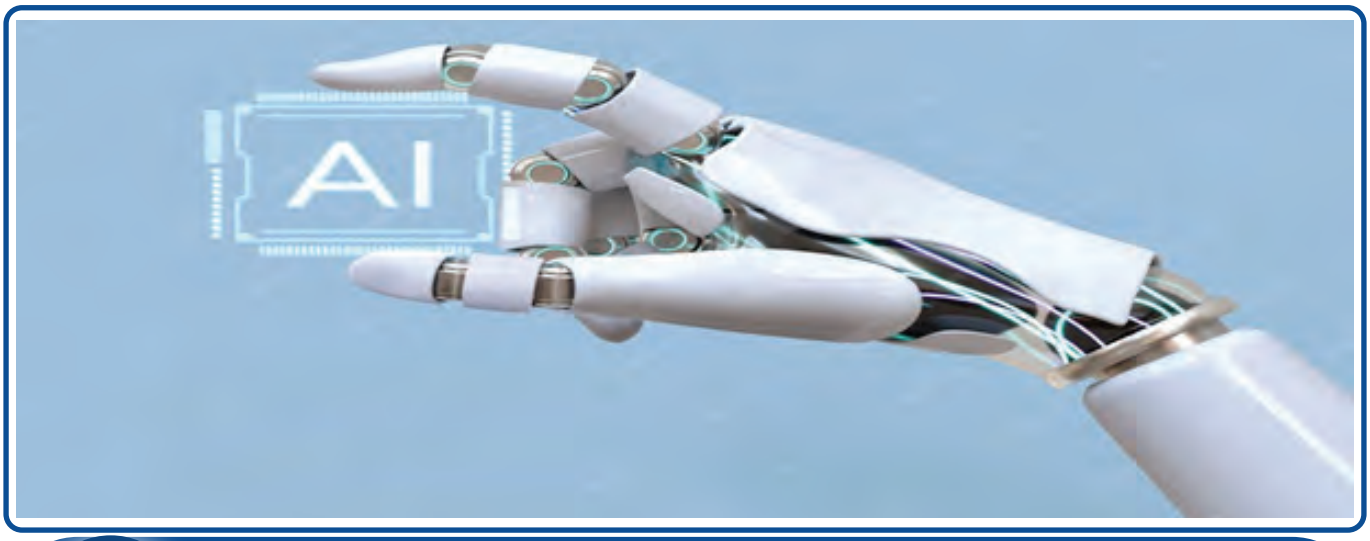
Section 25 of the Arms Act, 1959:

- Section 25 prohibits the manufacture, sale, transfer, conversion, repair, testing, proofing, possession, or use of firearms or ammunition without a valid license.
- It imposes penalties for contravening the provisions of the Act, which may include imprisonment for a term that can extend to three years, or with a fine, or with both.
- This section aims to regulate the possession and use of firearms to prevent their misuse and ensure public safety.

Section 27 of the Arms Act, 1959:

- Section 27 deals with the punishment for using arms in contravention of the Act or any rule or order made under it.
- It states that whoever uses any arms or ammunition in contravention of Section 3 (which specifies the requirement of a license for possessing firearms) shall be punishable with imprisonment for a term that may extend to seven years, and shall also be liable to fine.
- This section emphasizes the seriousness of using firearms without proper authorization and imposes significant penalties to deter such unlawful activities.

In summary, Sections 25 and 27 of the Arms Act, 1959, aim to regulate the possession and use of firearms and ammunition and impose penalties for their illegal manufacture, sale, possession, or use. These provisions play a crucial role in maintaining public safety and preventing the misuse of firearms.



3 World's First Artificial Intelligence Act: Passed by European Union

Why in News?

EU Parliament approves the pioneering AI Act, establishing a global benchmark for AI regulation.

The approval of the European Union's Artificial Intelligence Act represents a significant milestone in the regulation of AI technology. The legislation, which has been in development for five years, received overwhelming support from lawmakers in the European Parliament. With this approval, the EU is set to implement world-leading rules governing the use and development of artificial intelligence.

The AI Act is expected to serve as a model for other governments around the world as they navigate the challenges of regulating AI in various sectors. By establishing clear guidelines and standards, the EU aims to ensure the responsible and ethical deployment of AI while fostering innovation and competitiveness in the region.

The enactment of this legislation demonstrates the EU's commitment to addressing the complex issues raised by artificial intelligence, including concerns related to data privacy, transparency, and accountability. As such, it marks a significant step forward in shaping the global regulatory landscape for AI technologies.

How does the AI Act work?

- The AI Act follows a risk-based approach to regulate products and services that utilize artificial intelligence within the European Union. This approach entails categorizing AI applications based on their level of risk, with stricter scrutiny and requirements imposed on higher-risk systems.
- The majority of AI systems are considered low risk, encompassing applications such as content recommendation systems and spam filters. Companies developing such systems have the option to adhere to voluntary requirements and codes of conduct.
- However, high-risk AI applications, such as those used in medical devices or critical infrastructure like water or electrical networks, are subject to more stringent regulations. These requirements include using high-quality data and providing transparent information to users.
- Certain uses of AI are outright banned due to the deemed unacceptable risks they pose. Examples include social scoring systems that govern individual behavior, specific types of predictive policing, and emotion recognition systems in educational institutions and workplaces.
- Moreover, the AI Act prohibits the use of AI-powered remote biometric identification systems by law

enforcement for general public scanning purposes, except in cases involving serious crimes such as kidnapping or terrorism. These measures are designed to safeguard individuals' rights, privacy, and security while fostering responsible AI innovation within the EU.

What about generative AI?

- The evolution of AI technology, particularly the emergence of general-purpose AI models like OpenAI's ChatGPT, prompted European Union policymakers to adapt the AI Act to encompass these advancements. As a result, provisions were added to address the regulation of generative AI models, which underpin systems capable of producing diverse and lifelike responses, images, and other content.
- Developers of general-purpose AI models, including European startups and major players like OpenAI and Google, will now be required to provide detailed summaries of the data used to train their systems, including text, images, video, and other internet-derived content, while adhering to EU copyright law.
- Specific regulations are also introduced concerning AI-generated deepfake content, such as images, videos, or audio, that manipulates existing people, places, or events. Such content must be clearly labeled as artificially manipulated, ensuring transparency and accountability in its dissemination.
- Moreover, heightened scrutiny is applied to the largest and most powerful AI models that are deemed to pose systemic risks, such as OpenAI's GPT-4 and Google's Gemini. The EU expresses concerns about the potential for these advanced AI systems to cause serious accidents or be misused for cyberattacks. Additionally, there is apprehension regarding the propagation of harmful biases across various applications by generative AI models, which could impact a broad spectrum of individuals.
- Companies providing these high-risk AI systems will be obligated to assess and mitigate associated risks, report any serious incidents, implement cybersecurity measures, and disclose the energy consumption of their models. These measures aim to ensure the responsible development and deployment of advanced AI technologies within the EU, balancing innovation with the protection of individuals' rights, safety, and well-being.

Do Europe's rules influence the rest of the world?

- The European Union's proactive stance on AI regulation, dating back to the initial suggestions in 2019, reflects its familiar role in setting global standards and increasing scrutiny on emerging industries. As Brussels moves forward with its AI regulations, other governments worldwide are also taking steps to address the challenges posed by AI technology.
- In the United States, President Joe Biden signed a comprehensive executive order on AI in October, signaling a commitment to regulating AI technology. This executive order is anticipated to be supported by forthcoming legislation and international agreements. Additionally, lawmakers in at least seven U.S. states are actively working on their own AI legislation, reflecting a decentralized approach to AI governance within the country.
- China, under President Xi Jinping, has proposed the Global AI Governance Initiative, aiming to ensure fair and safe utilization of AI technology on a global scale. Within China itself, authorities have implemented interim measures for managing generative AI, covering various types of content generated for internal consumption.
- Furthermore, countries across the globe, including Brazil and Japan, as well as international organizations like the United Nations and the Group of Seven (G7) industrialized nations, are also taking steps to establish frameworks and regulations for the responsible development and use of AI. This concerted global effort underscores the recognition of the importance of AI governance in addressing societal, ethical, and security implications associated with advancing AI technologies.

What happens next?

- The timeline for the implementation of the AI Act is expected to see the law officially come into effect by May or June, following final formalities and approval from EU member countries. Provisions of the Act will be rolled out in stages, with a requirement for countries to prohibit banned AI systems six months after the rules are incorporated into law.
- Regulations pertaining to general-purpose AI systems, such as chatbots, will begin to apply a year after the law takes effect. By mid-2026, the full suite of regulations, including those governing high-risk systems, will be fully enforced.

In terms of enforcement, each EU member country will establish its own AI watchdog, where citizens can lodge complaints if they believe they have been subject to a violation of the rules. Additionally, Brussels will establish an AI Office tasked with overseeing and enforcing the law specifically for general-purpose AI systems.

Violations of the AI Act could result in fines of up to 35 million euros ($38 million) or 7% of a company's global revenue.

Conclusion:

Dragos Tudorache, a Romanian lawmaker who played a significant role in negotiating the draft law within the Parliament, highlighted the AI Act's role in steering the future of AI towards a human-centric direction. He emphasized the importance of ensuring that humans remain in control of AI technology, with the technology serving to facilitate new discoveries, foster economic growth, drive societal progress, and unleash human potential.

While the need for AI regulation has garnered support from major tech companies, these companies have also engaged in lobbying efforts to shape the regulations to align with their interests. OpenAI CEO Sam Altman attracted attention last year when he suggested that OpenAI might consider withdrawing from Europe if it found compliance with the AI Act untenable. However, Altman later clarified that there were no immediate plans to withdraw from the region.

4 'UP Board of Madarsa Education Act 2004' is unconstitutional: Allahabad HC

Why in News?

The Allahabad High Court has declared the Uttar Pradesh Board of Madarsa Education Act, 2004, as unconstitutional. The court's ruling stated that the Act violates the principle of secularism and infringes upon the fundamental rights guaranteed under Article 14 of the Constitution.

Background of the Case:

- The ruling was issued in response to a writ petition filed by Anshuman Singh Rathore, challenging the constitutionality of the Uttar Pradesh Board of Madarsa Education Act, 2004.
- In his petition, Rathore challenged the constitutionality of the Uttar Pradesh Board of Madarsa Education Act, 2004, based on several grounds. He argued that the provisions, structure, and atmosphere created by the Madrasa Act violate Articles 14, 15, and 21-A of the Indian Constitution.
- Rathore asserted that fundamental rights under these articles, particularly Articles 14 and 21-A, encompass the right to universal quality education, including secular education. He contended that the Madrasa Act failed to fulfill the obligation to provide compulsory education up to the age of 14 years or Class VIII, as mandated by Article 21-A of the Constitution. Additionally, he argued that the Act did not ensure universal and quality school education for all children studying in madrasas, as required by Article 21.
- Furthermore, Rathore's petition challenged the validity of Section 1(5) of the Right to Education (RTE) Act, which excludes madrasas, vedic pathshalas, and educational institutions primarily imparting religious instructions. This exclusion was questioned on the grounds of its compatibility with constitutional principles and the right to education for all.
- During the hearing on the petition filed by Anshuman Singh Rathore, the bench overseeing the case appointed advocates Gaurav Mehrotra, Akber Ahmad, and Madhukar Ojha as amici curiae. These appointed individuals were tasked with assisting the court by providing expert opinions, legal analysis, and recommendations related to the case. Amici curiae, or "friends of the court," play a crucial role in providing impartial guidance to the judiciary in matters of complex legal significance, ensuring that all aspects of the case are thoroughly considered before a decision is reached.

Submissions by the Counsels:

The amici curiae submitted to the court that the Uttar Pradesh Board of Madarsa Education Act, 2004, violates secularism and several articles of the Indian Constitution, including Articles 14, 15, 16(5), 29(2), 30, and Article 51-A. They argued that concerning higher education, the Act directly conflicts with and contravenes the University Grants Commission (UGC) Act, encroaching upon the

jurisdiction regulated by central legislation and thus is ultra vires in that aspect.

The state government, represented by the Additional Advocate General, contended that although the Madrasa Board provides religious education to students, the state possesses sufficient authority under the Constitution to impart such education. The government emphasized that madrasas offer affordable education to children from impoverished and marginalized families, suggesting that the closure of these institutions would deprive such children of even this basic education. Furthermore, the government asserted that the UGC Act pertains to academic disciplines unrelated to religious teachings, traditional education, or religious instructions, thus occupying distinct domains.

Counsel representing the Madrasa Board and the Teachers' Association Madrasa Aribiya, Kanpur, raised objections to the maintainability of Rathore's writ petition. They argued that Rathore, being a practicing advocate in the High Court, lacked personal interest in the matter and therefore lacked locus standi to file the writ petition. In response, Rathore's lawyer and the amici curiae contended that the petition concerned the fundamental rights to life and education of minor children from financially disadvantaged families of a minority community, warranting the court's intervention.

Allahabad's High Court Ruling:

The Allahabad High Court has declared the Uttar Pradesh Board of Madarsa Education Act, 2004, unconstitutional.he bench comprising Justices Vivek Chaudhary and Subhash Vidyarthi maintained that the Act violates the principle of secularism as well as fundamental rights provided under Article 14 of the Constitution.

In its ruling, the bench directed the state government to take immediate steps to accommodate madrasa students in regular schools recognized under the Primary Education Board and schools recognized under the High School and Intermediate Education Board of Uttar Pradesh. The government is instructed to create additional seats as needed and establish new schools if necessary to ensure that children between the ages of 6 to 14 years are not left without admission in duly recognized institutions.

The bench noted that Uttar Pradesh has a total of 16,513 recognized and 8,449 unrecognized madrasas with nearly 25 lakh students. Additionally, the bench stated that the Madrasa Act is also violative of Section 22 of the University Grants Commission Act, 1956. However, the court did not make a decision regarding the validity of Section 1(5) of the Right to Education (RTE) Act, as it had already declared the Madrasa Act to be ultra vires, and Vedik Pathshalas do not exist in the state of Uttar Pradesh, as per the information provided by learned counsel for both parties.

In response to the court's order, the Chairman of the UP Madrasa Education Board Iftikhar Ahmed Javed expressed his disappointment and said "It (order) will be examined. It (Act) was enacted by the government in 2004... It is unfortunate that our lawyers couldn't explain to the court that the government grant given to madrasas is not for religious education.He stated that the Madrasa Education Act was enacted by the government in 2004 with the intention of promoting oriental languages such as Arabic, Farsi, and Sanskrit, rather than focusing solely on religious education. He clarified that the government grants provided to madrasas were primarily allocated for the promotion of these languages.

The Chairman emphasized that the Madrasa Education Board would examine the court's order. He also highlighted that the grants provided by the government were not intended solely for religious education but were aimed at promoting oriental languages, including Arabic, Farsi, and Sanskrit. Additionally, he pointed out that if teachings were conducted in Arabic and Farsi, it was natural that Islamic teachings would be included. Similarly, teachings in Sanskrit would include Vedas.

Relevant Provisions:

The case involving the declaration of the Uttar Pradesh Board of Madarsa Education Act, 2004 as unconstitutional underscores the crucial role of constitutional provisions in safeguarding fundamental rights and upholding the principles of secularism and equality before the law.

- **Article 14 - Right to Equality:** This provision ensures equality before the law and prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. In this case, the court found that the Madarsa Education Act violated Article 14 by not providing equal educational opportunities to all children, irrespective of their religious background.
- **Article 15 - Prohibition of Discrimination:** Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. The court's ruling suggests that the Madarsa Education Act violated this provision by not ensuring equal treatment for all students, regardless of their religious affiliations.
- **Article 21-A - Right to Education:** Article 21-A guarantees the right to free and compulsory education for children between the ages of 6 and 14 years. The court directed the state government to accommodate madrasa students in recognized educational institutions to ensure that children in this age group are not left without access to education.
- **Secularism:** While secularism is not explicitly mentioned as a fundamental right in the Constitution, it is implicit in various provisions, including Articles 14, 15, and 21-A. The court's decision to declare the Madarsa Education Act unconstitutional due to its violation of secular principles underscores the importance of secularism in India's constitutional framework.
- **Article 51-A - Fundamental Duties:** Article 51-A enumerates fundamental duties of citizens, including promoting harmony and the spirit of common brotherhood among all the people of India. The court's decision to strike down the Madarsa Education Act aligns with the fundamental duty of ensuring equality and non-discrimination among citizens.

5 Calling Husband Impotent in front of others mental cruelty: Delhi High Court

Why in News?

- An appellant-husband filed an appeal against a judgement and decree issued by the Principal Judge, Family Court, Delhi, dated July 28, 2021. In the original judgement, the petition filed by the appellant for divorce on the grounds of cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (HMA), was dismissed.
- The Division Bench of Delhi High Court consisting of Justices Suresh Kumar Kait and Neena Bansal Krishna heard the appeal. They concluded that the actions of the respondent-wife, which included openly humiliating the husband by calling him impotent in front of others and discussing their sexual life in the presence of family members, constituted an act of mental cruelty towards the appellant-husband. Based on this assessment, the Court granted divorce to the appellant on the grounds of cruelty under Section 13(1)(ia) of the HMA.

Background of the Case:

- The appellant and the respondent were married on July 3, 2011, according to Hindu customs. Due to medical constraints, they resorted to In Vitro Fertilisation (IVF) treatment for conception, but despite two attempts, they were unsuccessful. This led to marital discord.
- The appellant accused the respondent of publicly labelling him impotent without any basis, especially in front of their relatives. The appellant cited a medical visit where the respondent's high LH levels were noted, hindering conception. Despite subsequent IVF failure due to ectopic gestation, the respondent blamed the appellant.
- To salvage the marriage, the appellant moved out at the respondent's request but received no reciprocation. The appellant sought divorce on grounds of cruelty. However, the Principal Judge found the appellant's claims vague and unsubstantiated, noting failed IVF attempts. The evidence presented was deemed insufficient to prove the alleged humiliation. Consequently, the divorce petition was dismissed. Aggrieved, the appellant appealed the decision.

Law & Decision:

- The Court affirmed the Principal Judge's decision regarding the appellant's allegations of the respondent's behaviour towards household chores as general and vague. It acknowledged that the couple was capable of a healthy sexual relationship, but complications arose due to the appellant's sterility being misconstrued as impotency by the respondent.
- Upon medical examination, it was revealed that the appellant suffered from Azoospermia, rendering him unable to conceive. The Court deemed the public humiliation inflicted upon the appellant by the respondent's actions as a form of mental cruelty. Even

though the disclosure was made to family members, the lack of discretion and respect for the appellant's privacy was considered humiliating.

- Citing legal precedents such as **N.G. Dastane v. S. Dastane and Raj Talreja v. Kavita Talreja**, the Court emphasised the detrimental impact of false allegations of dowry harassment and reckless defamation on the husband's reputation, constituting cruelty.
- The respondent's unilateral withdrawal from the matrimonial relationship without valid grounds since October 2013 was viewed as further evidence of cruelty, depriving the appellant of conjugal bliss.
- Based on these findings, the Court concluded that the appellant had indeed been subjected to cruelty and overturned the previous judgement that dismissed the divorce petition. Consequently, the Court granted divorce to the appellant under Section 13(1)(ia) of the Hindu Marriage Act.

Cruelty as a ground for Divorce:

What is cruelty?

Cruelty in the context of marriage refers to behaviour that causes mental or physical suffering to one spouse by the other. While violence is a clear example of cruelty, it's not limited to physical harm. Cruelty can also encompass various forms of mental or emotional abuse, such as continuous ill-treatment, mental torture, or severe emotional distress inflicted upon one spouse by the other.

How cruelty was established as a ground for divorce

- The establishment of cruelty as a ground for divorce under the Hindu Marriage Act, 1955, marks a significant evolution in Indian matrimonial law. Originally, cruelty was not considered a ground for divorce but was applicable only in cases of judicial separation. In such cases, the aggrieved party had to prove that the cruelty they endured was so severe or unbearable that it made it impossible to continue living with their spouse.
- However, this perspective changed with a landmark case in 1975, Narayan Ganesh Dastane vs. Sucheta Narayan Dastane, where the Supreme Court upheld cruelty as a valid ground for divorce. This decision prompted an amendment to the Hindu Marriage Act in 1976, which added cruelty as a specific ground for divorce. The amendment included a legal definition of cruelty within the Act.
- Following the amendment, courts were instructed to decide cases of cruelty based on the merits of each individual case. The addition of the words "persistently or repeatedly" in the definition of cruelty emphasised the seriousness of the conduct leading to divorce. This distinction between grounds for judicial separation and grounds for divorce was reduced, with cruelty now serving as a primary reason for divorce under Section 10(1) of the Hindu Marriage Act.

Cruelty under Sec 13(1)(ia) of the Hindu Marriage Act talks about the behaviour of one spouse towards the other which results in a reasonable apprehension in the mind of the latter that it is not safe for him or her to continue to stay in the matrimonial relationship anymore with the other.

Kinds of cruelty

Physical cruelty:

It refers to acts of violence, bodily harm, or threats to life, limb, or health that occur within the marriage. This includes any physical violence inflicted upon one spouse by the other, resulting in bodily injuries or causing fear for one's safety. Establishing physical cruelty as a ground for divorce is relatively straightforward, as physical violence is commonly recognized as a serious issue leading to marital breakdown.

Various personal laws in India also recognize physical cruelty as grounds for divorce. For instance, the Muslim Marriage Act, 1939, considers "habitual assaults" as one of the grounds for the dissolution of marriage. Similarly, the Parsi Marriage and Divorce Act, 1936, recognizes causing grievous hurt as a ground for divorce, as defined under Section 320 of the Indian Penal Code.

Mental cruelty:

It carries equal weight compared to physical cruelty in matrimonial disputes. However, identifying and proving mental cruelty can be more challenging, as it often involves psychological and emotional harm rather than physical harm. Mental cruelty can encompass a range of behaviours that inflict mental stress, anguish, or compromise mental peace on one spouse by the other.

Factors contributing to mental cruelty may include constant mental harassment, emotional manipulation, coercion, or forcing the spouse to act against their will. Additionally, behaviours such as deception, betrayal, or withholding information that causes doubt or suspicion can also be considered as forms of mental cruelty.

Is a man entitled to a divorce?

- Yes, under Indian law, both men and women are entitled to seek a divorce if they are subjected to cruelty by their spouse. The landmark judgement of Mayadevi Vs. Jagdish Prasad in February 2007, as cited, clarified that mental cruelty faced by either spouse, whether male or female, can be grounds for seeking a divorce.
- In the case mentioned, the respondent, who was the husband, applied for divorce citing repeated mental cruelty inflicted by his wife. The alleged cruelty included the wife's failure to provide food to him and their children, as well as blaming the husband and his family members for various issues.
- Therefore, the judgement affirmed that men have the legal right to seek a divorce on grounds of cruelty if they are subjected to such behaviour by their spouse. This decision signifies the recognition of gender equality in

matrimonial matters and ensures that both husbands and wives have access to legal remedies in cases of marital discord.

Conclusion:

- Cruelty, whether physical or emotional, constitutes a violation of these rights guaranteed by the Indian Constitution under Article 21, which ensures the right to a dignified life.
- Despite the seriousness of cruelty, it is often underreported and tolerated in Indian society due to various factors such as fear, societal pressure, and lack of understanding. Many individuals, particularly women, endure cruelty silently due to these pressures, rather than seeking legal recourse.
- The concept of marriage has evolved from a sacred union to a contractual agreement, where individuals are bound by marital duties. Consequently, there are fewer divorce cases filed on grounds of cruelty, as people tend to adapt to their circumstances.
- Cruelty in marriage can manifest in various forms, ranging from subtle emotional manipulation to outright violence. It is subjective and depends on individual circumstances, making it challenging to define precisely. Courts have the discretion to interpret cruelty based on specific cases.

6 Would Disrupt Lok Sabha Elections : Supreme Court On Refusal To Stay Election Commissioners' Act

Why in News?

- The Supreme Court stated on Thursday that it cannot suspend the contentious Chief Election Commissioner and Other Election Commissioners Act of 2023, citing potential chaos as a consequence. This remark was made during a hearing where Justices Sanjiv Khanna and Dipankar Datta were presiding over petitions questioning the constitutionality of different sections of the Act.
- Earlier, on March 15, the court declined to halt the appointment of new Election Commissioners under the 2023 legislation, which does not involve the Chief Justice of India in the selection committee.

Background of the Case:

- On Wednesday, the Central government defended its decision to appoint two new election commissioners under the 2023 law in the Supreme Court. This law excludes the Chief Justice of India from the selection committee. The government argued that the independence of the Election Commission does not hinge upon the presence of a judicial member on the committee.
- In response to various petitions challenging the 2023 law, including those by Congress leader Jaya Thakur and the Association for Democratic Reforms, the Union Law Ministry filed an affidavit in the apex court. The affidavit refuted the petitioners' claim that the appointment of the two election commissioners on March 14 was done hastily to preempt any orders from the court the next day, when matters related to the law were listed for interim relief.
- The Supreme Court deferred the hearing on these pleas until March 21. The vacancies arose after Anup Chandra Pandey's retirement on February 14 and Arun Goel's sudden resignation. **Retired IAS officers Gyanesh Kumar and Sukhbir Singh Sandhu were appointed as replacements.**
- According to the new law, the selection panel consists of the prime minister as chairperson, along with the leader of the opposition in the Lok Sabha and a Union minister nominated by the prime minister as the other members.
- In March 2023, a five-judge constitution bench had ruled that the Chief Election Commissioner (CEC) and Election Commissioners (ECs) should be appointed based on the advice of a committee comprising the prime minister, the leader of the opposition in the Lok Sabha, and the Chief Justice of India.

Arguments & Decision:

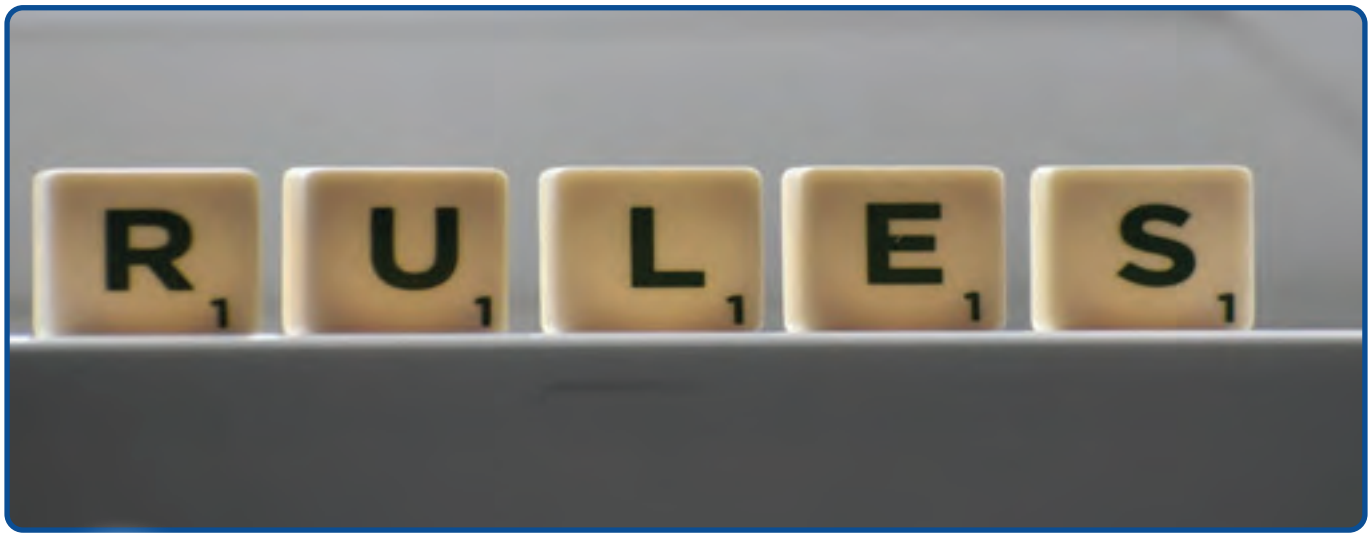
- During the hearing, the bench expressed concern over the haste with which the Central government

proceeded with the appointment of the two new election commissioners.

- Justice Datta emphasised the importance of not only ensuring justice but also maintaining public confidence in the process. He highlighted the significance of the Representation of the People Act, stating it is among the highest laws after the Constitution. He questioned why any room should be left for public scepticism.
- The bench acknowledged the crucial role of independent and fair election commissioners in the country's electoral processes. It noted that India has had excellent election commissioners in the past and emphasised the need for transparency in the appointment process.
- Advocate Prashant Bhushan, representing the NGO, raised concerns about the non-compliance of the 2023 apex court verdict, which excluded the Chief Justice of India from the selection panel. He proposed allowing the newly appointed ECs to serve temporarily until fresh appointments could be made by a panel that includes the CJI, as suggested in the 2023 verdict.
- The court clarified that the 2023 verdict did not mandate a judicial member on the selection panel for EC appointments. It explained that the verdict aimed to prompt Parliament to enact legislation in the absence of a specific law.
- The bench expressed agreement with Bhushan's argument that the appointment procedure for the new ECs lacked transparency. It criticised the rushed process and emphasised that the selection committee should have been given adequate time to consider candidates' backgrounds.
- The bench questioned why only six names were shortlisted out of 200 suggested by a search panel, suggesting that a more transparent approach should have been adopted. It noted that the meeting of the selection committee was advanced despite one member, Adhir Ranjan Chowdhury, expressing the need for more time to review the candidates' names.
- Justice Khanna criticised the timing of the meeting, suggesting that it could have been deferred given the pending matter in the apex court. The bench clarified that while it did not doubt the credentials of the appointed election commissioners, it was concerned about the procedural aspects of their appointment.
- The Supreme Court has stated that it cannot suspend or put on hold the controversial Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Terms of Office) Act, 2023. The court emphasised that doing so would create chaos and uncertainty. Justices Sanjiv Khanna and Dipankar Datta, presiding over the case, pointed out that there are no allegations against the newly appointed election commissioners.
- The bench clarified to the petitioners challenging the law that they cannot claim that the Election Commission is under the control of the executive. Instead of issuing an interim order to suspend the legislation, the court decided to examine the main petitions challenging the validity of the 2023 Act. It directed the Centre to file its response within six weeks and scheduled the matter for a hearing on August 5.
- While the court acknowledged the importance of examining the Act regarding the appointment of Election Commissioners, it emphasised the current focus on interim relief due to the approaching elections.
- Considering the appointments of the new election commissioners and the imminent elections, the bench highlighted the significance of the balance of convenience. It stressed the need to assess the potential consequences of any decision and noted that there are no specific allegations against the newly appointed election commissioners.

Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Terms of Office) Act, 2023

- The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Terms of Office) Act, 2023 is a piece of legislation that governs the appointment, terms of service, and conditions of office for the Chief Election Commissioner (CEC) and other Election Commissioners (ECs) in India. This Act outlines the procedures for the appointment of these officials, as well as their roles, responsibilities, and terms of service.
- One of the notable aspects of this Act is its exclusion of the Chief Justice of India from the selection committee responsible for appointing Election Commissioners. Instead, the selection panel comprises the Prime Minister as the chairperson, along with the Leader of the Opposition in the Lok Sabha and a Union Minister nominated by the Prime Minister.
- The Act also addresses various aspects related to the functioning of the Election Commission, including the removal of Election Commissioners, their salaries, allowances, and other terms and conditions of service.



7 SC transfers pleas against IT Rules 2021 to Delhi HC

Why in News?

The Supreme Court, on Friday March 22, decided to transfer a group of petitions challenging the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 to the Delhi High Court. These petitions were initially pending before various high courts across India, including Karnataka, Madras, Calcutta, Kerala, and Bombay High Courts.

Reasoning given for such transfer:

- Justices Hrishikesh Roy and Prashant Kumar Mishra observed that the existence of multiple petitions on the same issue in different high courts could potentially lead to contradictory judgments. Considering this, and to facilitate consolidated and consistent hearings, the Supreme Court directed the transfer of these cases to the Delhi High Court.
- The bench noted the Union of India's desire to consolidate all matters for analogous hearing, and since many of these cases are already under consideration by the Delhi High Court, it deemed it appropriate to transfer the petitions from various high courts to the Delhi High Court.

Background:

- This order was issued in response to a transfer petition filed by the Union of India, seeking the consolidation of all petitions in one high court to prevent conflicting judgments. Advocate Rajat Nair, representing the Centre, informed the court that the Delhi High Court is currently handling five similar matters related to the challenge against the 2021 Rules, and it would be more convenient for legal practitioners to appear before it.
- The Supreme Court had previously stayed further proceedings before the high courts in cases involving challenges to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, or the Cable Television Networks (Amendment) Rules, 2021, in May 2022.

Directions given by the SC:

The Supreme Court issued a directive stating that all relevant paper books pertaining to the petitions challenging the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 should be transferred by the respective high courts to the Delhi High Court within four days.

IT Rules 2021

Key provisions of IT Rules 2021:

- The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 were enacted under section 87 of the Information Technology Act, 2000 to regulate various online platforms including social media, digital media, and over-the-top (OTT) platforms.

- Under these rules, social media intermediaries with a user base above a specified threshold are categorised as significant social media intermediaries (SSMIs). The rules outline a framework for regulating content published by online publishers of news, current affairs, and curated audio-visual content.
- All intermediaries are mandated to establish a grievance redressal mechanism to address complaints from users or victims. Furthermore, the privacy policies of social media platforms must inform users about restrictions on disseminating copyrighted material and content that may threaten the unity, integrity, defence, security, or sovereignty of India, or harm friendly relations with other states, or violate any existing laws.
- Intermediaries are also required to promptly remove or restrict access to unlawful or inappropriate content within specified timeframes upon receiving complaints. Specifically, within 24 hours of receiving complaints, intermediaries must remove or restrict access to content depicting private areas, nudity, sexual acts, or content created through impersonation or morphing techniques.

Amendment to IT rules 2021:

The amended provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 introduce several key changes aimed at enhancing accountability and user protection on online platforms:

- **Establishment of Grievance Appellate Committees (GAC):** The Central Government will set up one or more Grievance Appellate Committees within three months. Each GAC will comprise a chairperson and two whole-time members appointed by the Central government, with one member serving ex-officio and the other two being independent members. The purpose of these committees is to hear appeals from social media users against decisions made by grievance officers appointed by intermediaries, providing users with an alternative recourse besides approaching the courts.
- **Digital Dispute Resolution Mechanism:** The introduction of an online dispute resolution mechanism allows for the entire appeal process, from filing to decision, to be conducted digitally.
- **Enhanced Obligations for Intermediaries:** Intermediaries are now required to develop and implement appropriate safeguards to prevent misuse of the grievance redressal mechanism. This includes acknowledging complaints from users within 24 hours and resolving them within 15 days, or within 72 hours in the case of information takedown requests.
- **Focus on Misinformation and Incitement to Violence:** The rules have been amended to specifically address misinformation and content that could incite violence between different religious or caste groups. Some content categories in rule 3(1)(b) have been rephrased to reflect this emphasis.
- **Respect for Constitutional Rights:** Intermediaries are mandated to respect the rights guaranteed to users under the Indian Constitution, including due diligence, privacy, and transparency. This ensures that intermediaries fulfill their obligations with sincerity rather than merely as a formality.
- **Regional Language Communication:** Effective communication of the rules and regulations of intermediaries must be done in regional Indian languages as well, ensuring accessibility and understanding among a diverse user base.
- **Shift in Intermediary Responsibility:** While the original IT Rules of 2021 mandated intermediaries to inform users not to host or share prohibited content, the amended rules now require intermediaries to take all reasonable measures to inform users of these rules, imposing a greater responsibility on intermediaries to actively prevent the dissemination of harmful or unlawful content.

Concerns Related to IT Rules:

Concerns regarding the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have been raised due to several factors:

- **Excessive Government Control:** Some critics argue that the rules may exceed the powers delegated under the Information Technology Act, particularly in cases where they regulate significant social media intermediaries and online publishers. For instance, the requirement for certain intermediaries to identify the first originator of information is seen as potentially intrusive and may infringe on user privacy.
- **Restrictiveness:** There are concerns that the rules could be used as a tool to stifle government criticism and dissent. The criteria for restricting online content are perceived as overly broad, which could have a chilling effect on freedom of speech and expression.
- **Absence of Procedural Safeguards:** One significant concern is the lack of procedural safeguards for requests made by law enforcement agencies for information held by intermediaries. This raises fears of potential misuse or abuse of power. Additionally, the requirement for messaging services to enable the identification of the first originator of information may compromise the privacy of individuals and lacks adequate safeguards to prevent misuse.

Overall, these concerns highlight the need for a careful balance between regulating online content to address legitimate concerns such as misinformation and hate speech, while also safeguarding fundamental rights such as freedom of speech and privacy. Critics argue that the current IT rules may tilt the balance too far in favour of government control and censorship, without adequate safeguards to protect individual rights and liberties.

8 Section 420 IPC| Person Cheated Must Have Been Dishonestly Induced To Deliver Property: Supreme Court

Why in News?

The Supreme Court, in its ruling on March 20, emphasised specific criteria necessary to establish the offence of cheating under Section 420 of the Indian Penal Code (IPC). The bench, consisting of Justices B.R. Gavai, Rajesh Bindal, and Sandeep Mehta, clarified that for Section 420 to apply, the following elements must be demonstrated:

- **Deception:** There must be evidence of deceiving a person.
- **Fraudulent or Dishonest Inducement:** The deception must lead to fraudulently or dishonestly inducing that person to deliver property to another person.
- **Dishonest Intention:** The accused must have a dishonest intention at the time of making the inducement.

These criteria outlined by the Supreme Court help clarify the parameters under which the offence of cheating can be established under Section 420 of the IPC.

Background of the case: (Case Title: A.M. MOHAN v. THE STATE REP BY SHO., 32027/ 2022)

In the present case, the complainant transferred a certain amount of money to the present appellant upon the insistence of another accused, no. 2, who was also the complainant's college friend. Apart from this, it was also alleged that accused no. 1 and 2 had duped the complainant for a heavy sum. The accused persons swindled all the amounts and cheated the complainant. The case was registered against accused no. 1 and 2 for the offence of cheating. In this, the appellant was also roped in.Since the appellant's plea of quashing the FIR was declined by the High Court, the present appeal came to be filed.

Supreme Court's Ruling:

- The Supreme Court, while deliberating on the case, expressed concerns regarding the tendency to convert purely civil disputes into criminal cases. In doing so, the Court referenced the landmark case of **Prof. R.K. Vijayasarathy and Another v. Sudha Seetharam and Another** to delineate the essential elements for establishing the offence of cheating. Based on this precedent, the Court made the observations outlined earlier.
- Examining the facts of the case, the Court noted that the allegations regarding inducement were solely against accused Nos. 1 and 2, with no role attributed to the present appellant. Furthermore, the complainant had not engaged in any transaction directly with the appellant; rather, the amount was transferred at the instance of accused no. 1. The Court emphasised that no inducement was attributed to the present appellant. Even accepting the FIR's version at face value, it did not disclose the essential ingredient of dishonest inducement necessary for the offence of cheating.

- Considering the absence of dishonest inducement, the Court concluded that the FIR, even when taken at face value, did not satisfy the requirements to invoke Section 420 of the IPC against the appellant.
- Addressing the contention raised by the respondent that the appeal should be dismissed because a chargesheet had been filed, the Court referred to its decision in **Anand Kumar Mohatta and Another v. State (NCT of Delhi)**, Department of Home, and Another. In this case, it was established that proceedings initiated against an individual could be interfered with not only at the FIR stage but also if the allegations materialised into a chargesheet. The Court emphasised that allowing the criminal proceedings to continue against the appellant would amount to an abuse of the legal process.
- Hence, based on the absence of essential elements for the offence of cheating and to prevent the abuse of legal process, the Court allowed the appeal and quashed the FIR concerning the present appellant.

Sec 420 IPC-An analysis

Introduction:

- The term '420' or 'chaur sau bees' has become ingrained in Indian culture, from classroom banter to references in Bollywood films, to describe someone who is deceitful or untrustworthy. This slang term originates from India's colonial-era law on cheating.
- In the Indian Penal Code of 1860, Section 415 defines the offence of cheating and its elements. Section 417 prescribes the punishment for cheating. However, there was a need for addressing more severe forms of cheating. This need was addressed by Section 420, which penalises instances where the offender deceitfully induces the transfer of property or interferes with valuable securities.

Cheating (Section 415 IPC):

Cheating, as defined in Section 415 of the Indian Penal Code (IPC) of 1860, encompasses scenarios where an individual deceives another to hand over property or intentionally prompts the deceived person to perform or refrain from an action, resulting in harm or damage to the deceived individual's body, mind, reputation, or property. Proving cheating is essential for invoking Section 420 of the IPC.

There are two primary ways cheating can occur under this section:

- Deceit by the accused leading to fraudulent or dishonest inducement of the deceived person to deliver or allow retention of property by another.
- Deceit by the accused causing intentional inducement of the deceived person to perform or refrain from an action they wouldn't have otherwise done, resulting in harm or damage.

In the case of **Ram Jas v State of Uttar Pradesh (1970),** the Supreme Court outlined the essential elements of the offence of cheating:

- Fraudulent or dishonest inducement by the person deceiving.
- The deceived person should be induced to deliver property to someone else or consent to property retention.
- Alternatively, the deceived person should be intentionally induced to perform or refrain from an action they wouldn't have otherwise done.
- In the latter case, the act or omission induced should be likely to cause or actually cause harm or damage to the deceived person's body, mind, reputation, or property.

Section 420 IPC:

Section 420 of the Indian Penal Code (IPC) pertains to aggravated forms of cheating, distinct from the general offence of cheating outlined in Section 415. It specifically addresses cases where the offender deceitfully induces the deceived person to deliver property or tamper with valuable securities.

In essence, Section 420 targets instances of cheating where dishonest inducement is involved, and the subject matter is property or valuable security. Unlike Section 417, which applies to any act of cheating, whether fraudulent or dishonest, Section 420 deals with cases where the cheating involves dishonest inducement and property or valuable security.

Under this section, the deceived person may be induced to:

- Deliver property to someone else.
- Create, alter, or destroy any part of a valuable security, which includes something signed, sealed, and capable of being converted into a valuable security.

A crucial element in proving an offence under Section 420 is demonstrating the dishonest inducement by the accused. Furthermore, the property delivered must have some monetary value to the deceived person. Additionally, there must be evidence of a guilty intention on the part of the accused at the time of inducing the deceived person or delivering the property.

Ingredients of cheating:

Ingredients of cheating as per Section 420 of the Indian Penal Code (IPC) include various elements that need to be established for successful prosecution:

- **Deception:** Deception involves intentionally leading someone to believe something false, whether by direct or indirect means, through words or actions. It may involve the concealment of facts or making false representations with the intent to deceive another person.

- **Dishonestly (Section 24 IPC):** The term "dishonestly" refers to any act done with the intent to cause wrongful gain or wrongful loss of property. It involves acts aimed at gaining property that one is not legally entitled to or causing loss to another who is legally entitled to it.
- **Fraudulently (Section 25 IPC):** An act is considered fraudulent if it is done with the intent to defraud and results in actual or possible injury. It entails intentionally representing something false as true and deriving benefit from it.
- **Intentional Inducement:** This element requires intentional inducement for a person to engage in an activity detrimental to them, leading to damage in body, mind, reputation, or property. The induced action should be to the advantage of the inducer and would not have occurred without the deception.
- **Wilful Representation:** Mens rea, or guilty intention, is essential for the crime of cheating. The person making the misrepresentation must be aware of its falsity at the time of making it.
- **Inducement:** Fraudulent or dishonest acts must induce the deceived person to deliver property or interfere with valuable security.
- **Damage:** It is crucial to prove that some form of damage has occurred or is likely to occur to the victim as a result of the deception.
- **Causal Connection:** There must be a causal connection between the dishonest inducement and the damage suffered by the victim. The harm caused should not be remote or contingent but directly related to the deception.
- **No Damage Caused:** Even if no benefit accrues to the accused, but the deceit results in loss to another, it may still constitute the offence of cheating.

In **Hari Sao v. State of Bihar, (1969)**, a railway station master made an endorsement on a receipt pursuant to a false representation. This act did not cause any damage to the railway or the master. The Supreme Court held that damage or likelihood to cause damage is essential under Section 420. No offence of cheating would be constituted without this. Thus, the accused were acquitted.

In **State v. Ramados Naidu (1976),** the Madras High Court was faced with a peculiar case. The accused obtained loans by virtue of fraudulent misrepresentation. However, the bank did not suffer any losses. It was not likely to either, since the loans were fully covered by the securities given by the accused. However, wrongful gain accrued to the accused. They were thus convicted for the offence of cheating.

Punishment for Section 420 IPC:

The punishment prescribed for an offence under Section 420 of the Indian Penal Code (IPC) includes imprisonment for a term extending up to seven years, along with a mandatory fine. The imprisonment may be either simple or rigorous, at the discretion of the court.

Conclusion:

In conclusion, Section 420 of the Indian Penal Code (IPC) addresses aggravated forms of cheating, where individuals deceitfully induce others to deliver property or interfere with valuable security. To establish an offence under this section, several elements must be proven, including deception, dishonesty, fraudulent inducement, intentional inducement, wilful misrepresentation, inducement causing damage, and a causal connection between inducement and damage. Upon conviction, the punishment may include imprisonment for up to seven years, along with a mandatory fine, with the type of imprisonment determined by the court's discretion. It is imperative to carefully evaluate each case's specific circumstances to determine whether the offence of cheating under Section 420 has been committed.

9 Delhi High Court Directs Removal Of 'Be The Beer' Mark From Trademarks Register In Plea By The Beer Cafe

Why in News?

On March 12, the Delhi High Court responded to a plea filed by The Beer Cafe by directing the removal of the 'Be the Beer' mark from the Register of TradeMarks.

Background of the case:

- The petition in question was filed for the rectification of the respondents' trademark 'Be the Beer', which was registered on 5-10-2017 in Class 43. The petitioner claimed to be the registered proprietor of the device and wordmark 'THE BEER CAFÉ', with registrations dating back to 26-8-2010 and 20-6-2016, respectively, also in Class 43. The petitioner asserted their engagement in the business of operating a chain of food and beverage cafes under the brand name 'THE BEER CAFÉ', with over 120 outlets across India since its establishment in 2012.
- The petitioner contended that the respondents' usage of the mark 'BE THE BEER' was causing deceptive similarity with their registered mark, considering both parties operated in the same industry of food and beverages and ran cafes. The petitioner argued that merely prefixing the word 'BE' to their registered mark created confusion among consumers and infringed upon their prior rights as the trademark owner.
- In addition to seeking rectification, the petitioner had previously sent a cease and desist notice to the respondents on 2-4-2018, to which the respondents replied on 16-4-2018.
- The case revolves around the issue of **deceptive similarity and trademark infringement,** highlighting the importance of protecting intellectual property rights in the competitive business landscape.

Comparison of petitioner's and respondents' mark

Petitioner's Mark	Respondent's Mark (pictorial representation)
THE BEER CAFÉ The Beer Café	Be Beer Cafe

Court's order:

- In light of respondent No. 1's failure to respond, the court deemed the petitioner's averments, including prior registration, usage, and deceptive similarity, as admitted. Consequently, the petition was allowed, and the impugned mark of respondent No. 1 was ordered to be removed from the register. The Registrar of TradeMarks was instructed to update the website accordingly within four weeks.

- BTB Marketing argued that the 'Be The Beer' mark closely resembled its own mark used for its cafes. As BTB Marketing operates in the food and beverage sector and runs cafes, the addition of the prefix 'BE' was considered to create a deceptive similarity with its established and previously used registered mark.
- Following a thorough assessment of the case's facts, the court ruled in favour of the petitioner, leading to the removal of the 'Be The Beer' mark from the Register of TradeMarks.

Trademark Infringement & Deceptive similarity- A detailed Analysis:

Trademark infringement occurs when one party uses a trademark that is identical or similar to another party's registered trademark in connection with goods or services that are identical or similar to those covered by the registered trademark, leading to confusion among consumers.

Deceptive similarity is a crucial concept in determining trademark infringement, where the similarity between the marks is such that it is likely to deceive or confuse consumers regarding the source or origin of the goods or services.

In the case provided, the petitioner, BTB Marketing, operates in the food and beverage sector and runs cafes under the registered trademark 'THE BEER CAFÉ'. The respondents' mark, 'Be The Beer', was deemed to bear a striking resemblance to BTB Marketing's mark. **Here's a detailed analysis of trademark infringement and deceptive similarity in this context:**

- **Similarity of Marks:** The comparison between 'THE BEER CAFÉ' and 'Be The Beer' suggests a considerable degree of similarity. While the core element 'BEER' is identical, the addition of the prefix 'THE' in the petitioner's mark does not significantly distinguish the two marks.
- **Nature of Goods/Services:** Both parties operate in the food and beverage sector and run cafes. The similarity in the nature of goods/services enhances the likelihood of confusion among consumers.
- **Likelihood of Confusion:** Consumers encountering the 'Be The Beer' mark may associate it with BTB Marketing's 'THE BEER CAFÉ', assuming a connection or affiliation between the two establishments. This confusion can lead to a diversion of customers and dilution of the petitioner's brand reputation.
- **Prior Registration and Usage:** BTB Marketing provided evidence of prior registration and extensive usage of its mark 'THE BEER CAFÉ'. This establishes the petitioner's rights over the mark and strengthens the case for trademark protection.
- **Consumer Perception:** Courts often consider the perspective of an average consumer with imperfect recollection and limited attention when assessing likelihood of confusion. Given the similarities between the marks and the nature of goods/services, consumers may mistakenly believe that 'Be The Beer' is associated with or endorsed by BTB Marketing.
- **Intent of the Respondents:** While direct evidence of intent to deceive may not be required for trademark infringement, the adoption of a mark closely resembling an established trademark can imply an attempt to benefit from the goodwill and reputation associated with the original mark.

Conclusion:

In conclusion, the similarities between the marks, the nature of goods/services, prior registration and usage, and the likelihood of consumer confusion collectively support the claim of trademark infringement and deceptive similarity in this case. As a result, the court's decision to remove the 'Be The Beer' mark from the register aligns with the principles of trademark protection and prevention of consumer confusion.

10 What court said as it extended Kejriwal's ED custody till April 1

Why in News?

In the midst of the controversy surrounding the arrest of Delhi's Chief Minister, Arvind Kejriwal, the Delhi High Court has prolonged his custody for four more days, extending until April 1. The Enforcement Directorate (ED), in its bid for remand for the CM, has disclosed that while data from one of his mobile phones has been retrieved and is undergoing analysis, information from the remaining four digital devices seized during the March 21 search at Kejriwal's premises is still pending extraction.

What the Delhi court said?

- The court acknowledged the need for Kejriwal to be confronted with data extracted from digital devices and other pertinent details. Given the ongoing investigation and the necessity for sustained interrogation, the court granted the ED's plea for an extension of Kejriwal's custody.
- During the proceedings, Kejriwal expressed willingness to cooperate with the agency and did not oppose the remand extension. He also contested the relevance of certain statements and documents presented by the ED. The court noted arguments from both the ED's counsel, Additional Solicitor General S V Raju, and Kejriwal's counsel, Senior Advocate Ramesh Gupta, regarding the merits of the arrest and the ongoing legal challenge to it in the Delhi High Court.
- The ED asserted that there was sufficient evidence to trace the money trail of kickbacks allegedly received, including funds utilized in political campaigns. Meanwhile, Kejriwal's counsel argued against the basis of the remand application. The matter concerning the grounds of Kejriwal's arrest remains under judicial scrutiny by the Delhi High Court.

What led to Arvind Kejriwal's arrest? What is his link to the Delhi liquor policy case?

Delhi Chief Minister Arvind Kejriwal was arrested by the Enforcement Directorate on Thursday after he failed to appear for nine summons in connection with the Delhi excise policy case. The investigating authorities have accused the AAP leader of colluding with others to design a liquor policy that would favour a particular group of traders, resulting in kickbacks for the party.

Delhi liquor policy case explained:

- In 2021, the AAP government, led by Arvind Kejriwal, implemented significant changes to the liquor excise policy in Delhi. These changes included privatizing store operation licences, removing the Delhi government from the liquor sales business, reducing the drinking age from 25 to 21 years, and proposing a substantial increase in the annual liquor vending license fee from Rs 8 lakh to Rs 75 lakh.
- At the time, the Kejriwal government asserted that these reforms aimed to eliminate the influence of the

liquor mafia and black marketing, boost government revenue, and enhance the overall customer experience. However, the policy was short-lived and was revoked a year later on September 1, 2022. This decision came after Delhi's chief secretary, Naresh Kumar, submitted a report to Lieutenant Governor Vinai Kumar Saxena in July, highlighting alleged procedural irregularities in the policy's formulation.

- The report indicated that decisions made by the then Deputy Chief Minister Manish Sisodia, who also served as the excise minister, were deemed "arbitrary" and resulted in estimated financial losses to the exchequer exceeding Rs 580 crore.
- Furthermore, the report alleged that AAP leaders received "kickbacks" from alcohol business owners and operators in exchange for preferential treatment, such as discounts, extensions in licence fees, waivers on penalties, and relief due to disruptions caused by the COVID-19 pandemic. These kickbacks were purportedly utilised to influence the Assembly elections held in Punjab and Goa in early 2022.
- Subsequently, Delhi Lieutenant Governor VK Saxena recommended a CBI probe into the matter. The CBI initiated investigations and conducted raids at Sisodia's residence in August 2022. The agency named 15 individuals in its FIR filed regarding the Delhi excise policy for 2021-2022, with Sisodia's name listed prominently.
- Additionally, the Enforcement Directorate (ED) joined the case to investigate allegations of money laundering. As a result, several other leaders and prominent figures were arrested, with K Kavitha, a Bharat Rashtra Samithi (BRS) leader and daughter of former Telangana Chief Minister K Chandrasekhar Rao, being the most recent arrest in connection to the case.

Kejriwal's link to the case:

So, how is the Delhi chief minister connected to the case and what are the charges being made by the ED against Kejriwal?

- The Enforcement Directorate (ED) has levelled allegations against political figures including Arvind Kejriwal, Manish Sisodia, and K Kavitha (who was arrested recently) in connection with the Delhi excise policy. The agency claims that these leaders conspired to devise a liquor policy favouring a southern Indian liquor lobby, dubbed the 'South Lobby', allegedly offering Rs 100 crore to the AAP.
- Following K Kavitha's arrest, an ED spokesperson stated that their investigation revealed her involvement in a conspiracy with top AAP leaders, including Kejriwal and Sisodia, to secure benefits in the formulation and implementation of the Delhi excise policy. It is alleged that in exchange for these favors, Rs 100 crore was paid to AAP leaders, generating a continuous flow of illegal funds in the form of kickbacks from wholesalers for the party.
- The probe agency further alleges that Vijay Nair, AAP's media and communications in-charge and a key accused in the case, facilitated meetings between liquor traders and Kejriwal. Nair is said to have arranged a meeting between Sameer Mahendru, owner of Indospirit Group, and the Delhi CM. When this meeting couldn't take place, Nair organized a "FaceTime" call during which Kejriwal purportedly referred to Nair as "his boy" and urged Mahendru to trust him.
- Additionally, C Arvind, an officer of DANICS and secretary to Sisodia, reportedly stated in his recorded statement that he was summoned to Kejriwal's residence by his superior Sisodia, where he was handed the "draft group of ministers (GoM)" report, the new excise policy allegedly tweaked to favour the liquor cartel.
- The ED also interrogated Kejriwal's personal assistant (PA), Bibhav Kumar, last February on allegations of evidence destruction and concealment in the Delhi excise scam. The agency accuses Kumar and other suspects of altering or destroying SIM cards and 170 phone numbers to hide facts in the Delhi excise policy case, as well as facilitating meetings and interactions between the accused and Delhi Chief Minister Kejriwal.
- In response, Kejriwal dismissed the ED's summons as politically motivated, accusing the BJP of orchestrating them, and subsequently skipped all nine summonses issued by the agency.

PRACTICE QUESTIONS

Directions (1-5) Read the following passage and answer the given questions.

On March 14, two retired bureaucrats, Gyanesh Kumar and Sukhbir Singh Sandhu, were appointed as Election Commissioners, just two days ahead of the announcement of the dates of the 2024 Lok Sabha elections. They are now part of the three member Election Commission of India panel, headed by Rajiv Kumar, the Chief Election Commissioner. The two officials are the first to be appointed under the new law governing appointments to the constitutional body, the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023. What is the new law? Under the new law, the two commissioners were selected by a three-member Selection Committee, comprising Prime Minister Narendra Modi, Union Home Minister Amit Shah, and the Leader of the Indian National Congress in the Lok Sabha, Adhir Ranjan Chowdhury, as leader of the largest party in the Opposition. They were chosen out of a shortlisted panel of six names. The shortlisting was done by a search committee which, according to the Act, is headed by the Union Minister for Law and Justice and includes two officials of the rank of Secretary to the government. What was the process before this? For nearly 40 years from the adoption of the Constitution, the EC only had a Chief Election Commissioner. The Constitution does not lay down a specific legislative process for the appointment of the Chief election commissioner and Election Commissioners. Article 324 of the Constitution says the Election Commission shall consist of the Chief Election Commissioner and a number of other Election Commissioners, if any, as the President may fix from time to time. This provision was subject to any law made in that behalf by Parliament. In the absence of any particular process being laid down by parliamentary law, the President has been appointing the Chief Election Commissioner and Election Commissioners. The only known process is that the Law Ministry puts up a panel of names to the Prime Minister, who recommends the appointment of one of them as Election Commissioner to the President. It had become a convention to appoint officials as Election Commissioners first and then, on the completion of the tenure of the Chief Election Commissioner, the senior Election Commissioner was elevated as the Chief Election Commissioner. Why are the latest appointments being criticised? Earlier this month, the two vacancies sprung up following the retirement of Anup Chandra Pandey, and the resignation of Arun Goel. When Goel took over the post in 2022, it came in the midst of a Constitution Bench hearing for a truly independent process of selecting members of the panel that conducts and supervises India's elections. The foremost criticism from those who have challenged the new Act is that it has removed the Chief Justice of India from the selection panel and has made a Union Minister a member instead. This gives the executive a two-one majority in the three-member committee.

1. **Who was the first Election Commissioner of India?**
   (*a*) Sukumar Sen
   (*b*) VS Ramadevi
   (*c*) Shankar Dayal Sharma
   (*d*) Rajendra Prasad.
2. **Which article of the Indian Constitution states that there would be an Election Commission to control direct elections in India?**
   (*a*) Article 344
   (*b*) Article 324
   (*c*) Article 333
   (*d*) Article 370
3. **Choose the correct statement about Election Commission**
   (i) It was a single member body
   (ii) The commission consists of one Chief Election Commissioner and two Election Commissioners
   (iii) Earlier there was only one election commissioner but after Election Commissioner Amendment Act 1989, it became a multi member body.
   (*a*) i and ii
   (*b*) ii and iii
   (*c*) i, ii and iii
   (*d*) None of the above
4. **What is the tenure of the Election Commissioner of India?**
   (*a*) 5 years or 65 years of age, whichever earlier
   (*b*) 6 years or 65 years of age, whichever earlier
   (*c*) 4 years or 63 years, whichever earlier.
   (*d*) 5 years or 62 years, whichever earlier.

5. **What is the majority required to remove the Chief Election Commissioner of India?**

(i) Special majority of 2/3rd members present and voting

(ii) More than 50% of the strength of the house

(iii) 2/3 of the total strength of the Lok Sabha

(*a*) i and ii

(*b*) i and iii

(*c*) ii and iii

(*d*) i, ii, iii

Directions (6-10): Read the following passage and answer the given questions.

The Ministry of Electronics and IT (MeitY) has notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021) on October 28. In June 2022, MeitY had put out a draft of the amendments and solicited feedback from the relevant stakeholders. The draft generated considerable discussion and comment on the regulation of social media in India. What are the IT Rules, 2021? World over, governments are grappling with the issue of regulating social media intermediaries (SMIs). Given the multitudinous nature of the problem — the centrality of SMIs in shaping public discourse, the impact of their governance on the right to freedom of speech and expression, the magnitude of information they host and the constant technological innovations that impact their governance — it is important for governments to update their regulatory framework to face emergent challenges. In a bid to keep up with these issues, India in 2021, replaced its decade old regulations on SMIs with the IT Rules, 2021 that were primarily aimed at placing obligations on SMIs to ensure an open, safe and trusted internet. What was the need to amend the IT Rules, 2021? As per the press note accompanying the draft amendments in June 2022, the stated objectives of the amendments were threefold. First, there was a need to ensure that the interests and constitutional rights of netizens are not being contravened by big tech platforms, second, to strengthen the grievance redressal framework in the Rules, and third, that compliance with these should not impact early stage Indian start-ups. This translated into a set of proposed amendments that can be broadly classified into two categories. The first category involved placing additional obligations on the SMIs to ensure better protection of user interests while the second category involved the institution of an appellate mechanism for grievance redressal. What are the additional obligations placed on the SMIs? The notification of the final amendments carry forward all the amendments that it had proposed in June 2022. First, the original IT Rules, 2021 obligated the SMIs to merely inform its users of the "rules and regulations, privacy policy and user agreement" that governed its platforms along with the categories of content that users are prohibited from hosting, displaying, sharing etc. on the platform. This obligation on the SMIs has now been extended to ensuring that its users are in compliance with the relevant rules of the platform. Further, SMIs are required to "make reasonable" efforts to prevent prohibited content being hosted on its platform by the users. To a large extent, this enhances the responsibility and concomitantly the power of SMIs to police and moderate content on their platforms. This has been met with skepticism by both the platforms and the users given the subjective nature of speech and the magnitude of the information hosted by these platforms. While the SMIs are unclear of the extent of measures they are now expected to undertake, users are apprehensive that the increased power of the SMIs would allow them to trample on freedom of speech and expression. Second, a similar concern arises with the other newly introduced obligation on SMIs to "respect all the rights accorded to the citizens under the Constitution, including in the articles 14, 19 and 21". Given the importance of SMIs in public discourse and the implications of their actions on the fundamental rights of citizens, the horizontal application of fundamental rights is laudable. However, the wide interpretation to which this obligation is open to by different courts, could translate to disparate duties on the SMIs. Frequent alterations to design and practices of the platform, that may result from a case-to-case based application of this obligation, could result in heavy compliance costs for them. Third, SMIs are now obligated to remove information or a communication link in relation to the six prohibited categories of content as and when a complaint arises. They have to remove such information within 72 hours of the complaint being made. Given the virality with which content spreads, this is an important step to contain the spread of the content. Lastly, SMIs have been obligated to "take all reasonable measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency". While there are concerns that ensuring "accessibility" may obligate SMIs to provide services at a scale that they are not equipped to, the obligation is meant to strengthen inclusion in the SMI ecosystem such as allowing for participation by persons with disabilities and diverse linguistic backgrounds. In this context, the amendments also mandate that "rules and regulations, privacy policy and user agreement" of the platform should be made available in all languages listed in the eighth schedule of the Constitution.

6. **In order to ensure an Open, Safe & Trusted Internet and accountability of intermediaries including the social media intermediaries to users, Ministry of Electronics and InformationTechnology (MeitY) has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter referred to as "IT Rules, 2021") on 25th February, 2021. These Rules supersede the earlier notified _____.**

(*a*) Information Technology (Intermediaries Guidelines) Rules, 2010

(*b*) Information Technology (Intermediaries Guidelines) Rules, 2011

(*c*) Information Technology (Intermediaries Guidelines) Rules, 2012

(*d*) Information Technology (Intermediaries Guidelines) Rules, 2013

7. What is the purpose of the new IT Rules, 2021 introduced by the Government of India?

(*a*) To regulate social media platforms and digital news outlets

(*b*) To restrict freedom of speech and expression online

(*c*) To promote transparency and accountability in online content moderation

(*d*) To discourage the use of digital technologies among the public

8. Which authority is responsible for overseeing compliance with the new IT Rules, 2021?

(*a*) Ministry of Electronics and Information Technology

(*b*) Ministry of Home Affairs

(*c*) National Cyber Security Coordinator

(*d*) Internet and Mobile Association of India

9. According to Rule 3(1)(d) of the new IT Rules, 2021, how long do social media platforms have to take down information upon receiving a court order or notice from appropriate government authorities authorised by law?

(*a*) 24 hours

(*b*) 36 hours

(*c*) 48 hours

(*d*) 72 hours

10. Under Section 79 of the Information Technology Act, 2000, which of the following statements regarding the liability of intermediaries for third-party content is correct?

(*a*) Intermediaries are held strictly liable for all third-party content hosted on their platforms.

(*b*) Intermediaries are immune from liability for third-party content if they exercise due diligence in content moderation.

(*c*) Intermediaries are exempt from liability only if they actively monitor and censor user-generated content.

(*d*) Intermediaries are liable for third party content regardless of their efforts in content moderation.

Directions (11-15) Read the following passage and answer the given questions.

An Enforcement Directorate (ED) team's surprise visit to Delhi Chief Minister Arvind Kejriwal's official residence on Flagstaff Road has ignited a political firestorm, as the probe agency seeks to serve him a summons in connection with a money laundering case linked to the Delhi excise policy. The ED's move, following the Delhi High Court's denial of relief to Kejriwal, has heightened tensions in the national capital, with the possibility of arrest looming over the AAP chief. The absence of official confirmation on the agency's course of action adds to the uncertainty surrounding the situation. Timeline of events: From liquor policy to legal battles The liquor policy introduced by the AAP government in 2021 aimed at significant reforms in the excise sector, including privatisation of liquor stores and adjustments in licensing criteria. However, allegations of corruption and favouritism marred its implementation, leading to its eventual rollback. Investigations and arrests The Delhi Lieutenant Governor's call for a Central Bureau of Investigation (CBI) probe into alleged breaches and procedural irregularities resulted in the arrest of Deputy CM Manish Sisodia. Sisodia's legal woes deepened with subsequent arrests by the ED in a money-laundering case. Kejriwal's summons and political backlash The ED's summons to Kejriwal signified a new chapter in the ongoing legal saga. The opposition, led by the Bharatiya Janata Party (BJP), has intensified calls for Kejriwal's arrest, alleging his central role in the alleged liquor policy scam. Kejriwal's refusal to comply with the ED's summons further fuels political tensions. Implications of non-bailable warrant As Kejriwal ignored multiple ED summons, the possibility of a non-bailable warrant looms large. A non-bailable warrant could compel Kejriwal to appear in court, with failure to comply potentially resulting in arrest, adding another layer of complexity to an already contentious legal battle. Manish Sisodia's arrest and ongoing probe Former Deputy CM Manish Sisodia's arrest marked a significant development in the case. The CBI and Enforcement Directorate (ED) are investigating allegations of kickbacks and irregularities in the policy's formulation and implementation. Political fallout and Kejriwal's response AAP leaders have accused the BJP of orchestrating a conspiracy to undermine Kejriwal's image. Despite legal battles and mounting pressure, Kejriwal maintained his stance, denouncing the ED's actions as politically motivated.

11. What significant liquor policy did the AAP government introduce in 2021?

(*a*) Complete prohibition of liquor sales

(*b*) Introduction of a 'Home Delivery' model for liquor

(*c*) Mandatory alcohol education programs for all citizens

(*d*) Establishment of government-run liquor stores

12. What significant changes were made to Delhi's existing liquor policy after the implementation of the AAP government's reforms in 2021?

(*a*) The legal drinking age was lowered from 25 to 21 years.

(*b*) Government-owned liquor stores were replaced by private entities.

(*c*) Separate registration criteria for liquor brands were introduced based on pricing and sales performance.

(*d*) All of the above

13. Why did the Delhi government revert to the older liquor policy?

(*a*) Financial irregularities reported by the chief secretary

(*b*) Pressure from liquor barons

(*c*) Public demand for government-owned liquor stores

(*d*) Legal challenges from private players

14. What was the vision behind the new excise policy introduced in November 2021?

(*a*) To eliminate the liquor mafia

(*b*) To boost revenue by selling alcohol

(*c*) To increase the legal drinking age

(*d*) To enhance consumer experience

15. Who played a key role in the execution of the now-scrapped liquor policy of 2021-22?

(*a*) Manish Sisodia

(*b*) Arvind Kejriwal

(*c*) Sanjay Singh

(*d*) Lieutenant Governor V K Saxena

Directions (16-20) Read the following passage and answer the given questions.

On March 12, the Delhi High Court responded to a plea filed by The Beer Cafe by directing the removal of the 'Be the Beer' mark from the Register of Trade Marks. "Considering that there is no response from respondent No. 1, the averments of the petitioner would stand admitted, aside from the facts of prior registration, user, and deceptive similarity. Accordingly, the petition is allowed. The impugned mark of respondent No. 1 be removed from the register. The website of the Registrar of Trade Marks be updated accordingly." The Court instructed the Registrar of Trade Marks to complete the removal process within four weeks. This directive came during the hearing of a plea submitted by BTB Marketing Private Limited, the owner of The Beer Cafe chain, which sought rectification of the 'Be The Beer' trademark registered in the name of Deepshikha Singh in October 2017. BTB Marketing contended that the 'Be The Beer' mark bore a striking resemblance to its own mark, which is used for its cafes. Given that BTB Marketing operates in the food and beverage sector and runs cafes, the addition of the prefix 'BE' was deemed to create a deceptive similarity with its established and previously used registered mark. After carefully considering the facts of the case, the Court ordered the removal of the 'Be The Beer' mark from the Register of Trade Marks. Advocate Rishi Kapoor and Devoleena Datt represented the petitioners during the proceedings. Claiming to be the registered proprietor of The Beer Cafe mark since 2010, BTB Marketing alleged that the 'Be The Beer' mark was a pictorial representation of its mark being used for Singh's cafe. It submitted that since BTB Marketing was operating in the same industry of food and beverages and running cafes, prefixing the word 'BE' caused deceptive similarity with its registered mark. Furthermore, the court's directive serves as a reminder to businesses and individuals alike regarding the importance of conducting thorough trademark searches and securing proper legal protection for their intellectual property assets. It underscores the necessity of adhering to trademark laws and regulations to avoid legal disputes and potential repercussions associated with trademark infringement. Overall, the Delhi High Court's decision in response to The Beer Cafe's plea highlights the significance of trademark enforcement in preserving the integrity of brands and fostering a fair and competitive business environment. It serves as a testament to the judiciary's commitment to upholding intellectual property rights and promoting legal recourse in matters of trademark disputes.

16. What was the outcome of the plea filed by The Beer Cafe regarding the 'Be the Beer' mark before the Delhi High Court on March 12?

(*a*) The mark was granted exclusive rights for commercial usage

(*b*) The mark was ordered to be removed from the Register of Trade Marks

(*c*) The mark's registration was extended for an additional term

(*d*) The mark was subjected to stricter regulatory oversight

17. What broader implication does the removal of the 'Be the Beer' mark from the Register of Trade Marks have for intellectual property rights?

(*a*) It indicates a relaxation of trademark enforcement measures

(*b*) It highlights the importance of trademark registration and protection

(*c*) It suggests a decrease in legal scrutiny over brand identities

(*d*) It signifies a shift towards communal ownership of trademarks

18. What lesson can businesses draw from the Delhi High Court's decision regarding the 'Be the Beer' mark?

(*a*) The importance of neglecting trademark registration

(*b*) The significance of engaging in unauthorised usage of trademarks

(*c*) The necessity of conducting thorough trademark searches and securing legal protection

(*d*) The benefits of overlooking legal disputes related to intellectual property

19. The Beer Cafe's journey began in April 2012, with the launch of its first café in _____.

(*a*) Gurugram

(*b*) Lucknow

(*c*) Delhi

(*d*) Goa

20. Who is the Founder & CEO of The Beer Café?

(*a*) Ajay Singh

(*b*) Rahul Singh

(*c*) Deepak Singh

(*d*) Manoj Singh

Answer Key

1. (*a*)	**2.** (*b*)	**3.** (*b*)	**4.** (*b*)	**5.** (*a*)	**6.** (*b*)	**7.** (*c*)	**8.** (*a*)	**9.** (*b*)	**10.** (*b*)
11. (*b*)	**12.** (*d*)	**13.** (*a*)	**14.** (*b*)	**15.** (*c*)	**16.** (*b*)	**17.** (*b*)	**18.** (*c*)	**19.** (*a*)	**20.** (*b*)

Solution

1. (*a*) Sukumar Sen

Sukumar Sen was the first Indian Civil Servant to become the Chief Election Commissioner of India. He served from 1950-1958.

2. (*b*) Article 324

Article 324 states that superintendence, direction and control of elections to be vested in an Election Commission. This constitutional provision empowers the Election Commission to oversee the conduct of elections to the Parliament, State Legislatures, and the offices of the President and Vice-President of India.

3. (*b*) ii and iii

Originally the commission had only one election commissioner but after the Election Commissioner Amendment Act 1989, it has been made a multi-member body. It was never a single member body though.

4. (*b*) 6 years or 65 years of age, whichever earlier

The Election Commissioners have a fixed tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India.

5. (*a*) i and ii

Removal of the Chief Election Commissioner requires a special majority of 2/3rd members present and voting supported by more than 50% of the total strength of the house. The removal process for the Chief Election Commissioner (CEC) in India is outlined in Article 324(5) of the Constitution.

6. (*b*) Information Technology (Intermediaries Guidelines) Rules, 2011

These Rules prescribe the due diligence to be followed by all intermediaries as well as the additional due diligence to be followed by significant social media intermediaries. The Rules also provide guidelines to be followed by publishers of news & current affairs and also online curated content providers. These Rules supersede the earlier notified Information Technology (Intermediaries Guidelines) Rules, 2011.

7. (*c*) To promote transparency and accountability in online content moderation.

The new IT Rules, 2021 were introduced by the Government of India to promote transparency and accountability in online content moderation. These rules require social media platforms, digital news outlets, and other intermediaries to adhere to certain guidelines, including appointing grievance officers, setting up mechanisms for addressing user complaints, and ensuring the removal of unlawful content within a specified timeframe. The rules aim to create a safer online environment while also holding platforms accountable for the content hosted on their platforms.

8. (*a*) Ministry of Electronics and Information Technology.

The Ministry of Electronics and Information Technology (MeitY) is responsible for overseeing compliance with the new IT Rules, 2021. MeitY monitors the implementation of these rules and ensures that social media intermediaries and digital platforms adhere to the prescribed guidelines.

9. (*b*) 36 hours.

Rule 3(1)(*d*) of the new IT Rules, 2021 mandates that social media platforms are required to take down information upon receiving a court order or notice from appropriate government authorities authorized by law within 36 hours. This provision aims to ensure swift action in cases where the legality of certain content is challenged or deemed objectionable by the judiciary or government agencies.

10. (*b*) Intermediaries are immune from liability for third-party content if they exercise due diligence in content moderation.

Section 79 of the Information Technology Act, 2000 provides a safe harbour provision for intermediaries, shielding them from liability for any third-party content hosted on their platforms. However, this immunity is contingent upon intermediaries fulfilling certain conditions, including exercising due diligence in implementing measures for content moderation. Intermediaries must act upon receiving actual knowledge of unlawful content and promptly remove or disable access to such content. This provision aims to strike a balance between promoting freedom of expression and holding intermediaries accountable for illegal or harmful content on their platforms. Options A, C, and D are incorrect as they misrepresent the liability framework established under Section 79.

11. (*b*) Introduction of a 'Home Delivery' model for liquor

In 2021, the Aam Aadmi Party (AAP) government in Delhi introduced a groundbreaking liquor policy, marked by the introduction of a 'Home Delivery' model for liquor. This policy aimed to modernize liquor sales in the city and curb the problems associated with long queues and overcrowding at liquor shops, especially during the COVID-19 pandemic. Under this policy, consumers could place orders for liquor through mobile applications or websites, and the delivery would be made to their doorstep. This step not only ensured convenience for consumers but also helped in reducing instances of overcrowding and maintaining social distancing norms.

12. (*d*) All of the above

The Delhi liquor policy, proposed in 2020 and implemented in November 2021, aimed at significant reforms in the excise sector. The key changes included: B. The cessation of government-owned liquor stores, with the issuance of store operation licences to private entities. A. Lowering the legal drinking age from 25 to 21 years. C. Introducing separate registration criteria for liquor brands based on factors such as pricing and sales performance in areas outside of Delhi. Therefore, the correct answer is D.

13. (*a*) Financial irregularities reported by the chief secretary

The chief secretary Naresh Kumar's report, released on July 8, 2023, alleged financial irregularities related to the new liquor policy. Reacting to this report, Lieutenant Governor VK Saxena ordered a CBI probe. Consequently, Manish Sisodia withdrew the new liquor policy and reverted to the older policy, which permitted government-owned shops to sell liquor.

14. (*b*) To boost revenue by selling alcohol

The new excise policy aimed to boost revenue for the Delhi government by selling alcohol. It involved exiting the liquor sale business and handing over the customer-end of the trade to private players. The policy was implemented in November 2021.

15. (*c*) Sanjay Singh

AAP MP Sanjay Singh was allegedly involved in the execution of the liquor policy of 2021- 22, which was later scrapped. The policy was accused of being skewed to favour certain individuals in exchange for a Rs 100 crore bribe.

16. (*b*) The mark was ordered to be removed from the Register of Trade Marks

The Delhi High Court's response to The Beer Cafe's plea on March 12 resulted in the directive to remove the 'Be the Beer' mark from the Register of Trade Marks, indicating a significant decision in trademark enforcement and protection.

17. (*b*) It highlights the importance of trademark registration and protection

The removal of the 'Be the Beer' mark underscores the significance of trademark registration and protection in safeguarding intellectual property rights and preventing instances of unfair competition.

18. (*c*) The necessity of conducting thorough trademark searches and securing legal protection

The decision emphasizes the importance for businesses to conduct comprehensive trademark searches and secure proper legal protection for their intellectual property assets to avoid legal disputes and potential repercussions associated with trademark infringement.

19. (*a*) Gurugram

The Beer Cafe's journey started in April 2012, with the launch of its first café in Gurugram. The Beer Café has proven itself to be the pioneer in the alco-beverage space. It's the fastest growing alco-beverage chain in India with over 40+ outlets across the country and growing consistently.

20. (*b*) Rahul Singh

Professional turned entrepreneur, Rahul Singh is the Founder & CEO of The Beer Café, India's favourite beer chain. Singh is the recipient of the TiECON 2010 Entrepreneurial Award for Excellence and holds the position of the Honorary Secretary for the NRAI (National Restaurant Association of India). He was also bestowed with the Prestigious Entrepreneur India 2015 Award in F&B services.

LAW WALLAH

MENTORS

MANSI JAIN

(LEGAL REASONING)

- 12+ years of Teaching experience in CLAT/CATGMAT/SAT
- B.A.(H) Geography, LL.B, LL.M
- Mentoring 5000+ CLAT and other law entrance aspirants

ISRAA RAIS

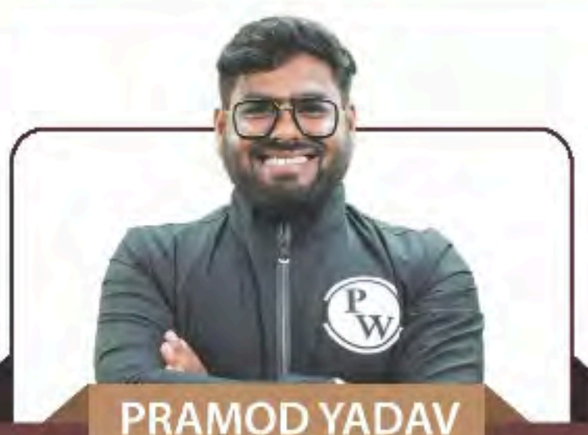
(LEGAL REASONING)

- 3+ Years of Teaching Experience in Judicial Services Examinations
- B.A LL.B./LL.M. (Constitutional Law)

PRAKHAR MISHRA

(CURRENT AFFAIRS)

- 3+ years of teaching experience
- BBA LLB (Hons), National Law University Odisha
- Mentored 3000+ CLAT aspirants



PRAMOD YADAV

(QUANTITATIVE TECHNIQUES)

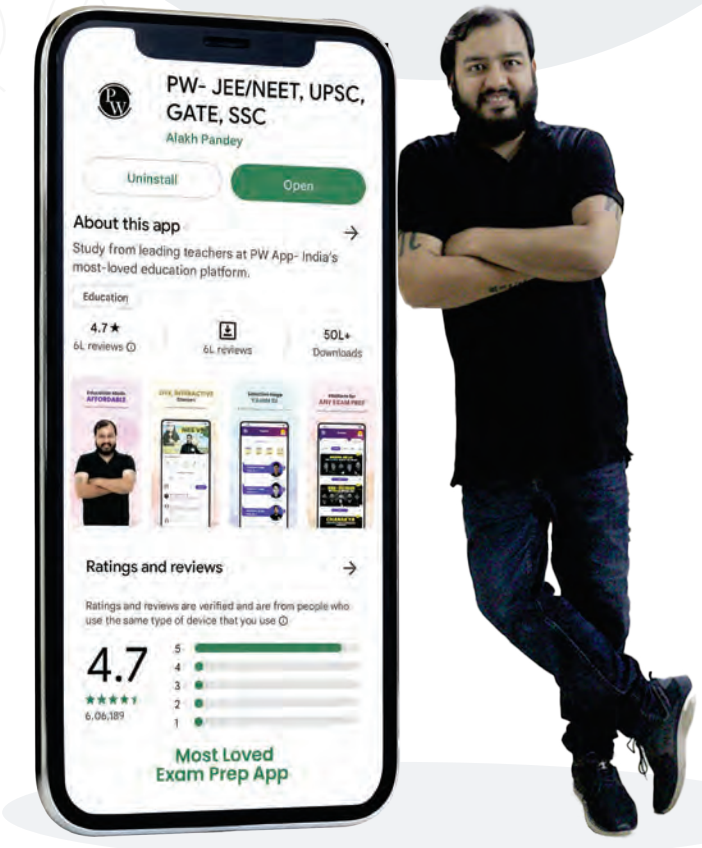
- 6+ years of Teaching Experience in Government Exams
- B.S.C. in Mathematics

JUHI NARULA

(ENGLISH & LOGICAL REASONING)

- 12+ years of Teaching Experience in CAT/GMAT/GRE/SAT
- MHRM, B.Tech

LAW WALLAH



INDIA'S MOST LOVED

Educational Channel And Platform

4.8★ Rating	**20M+** Subscribers
8M+ Downloads	**8000**hrs Video Content/Week

If you have any queries or need assistance with admission in PW Classes **here is what you can do**

PW APP

PW CLAT INSTAGRAM

PW CLAT YOUTUBE

PW CLAT TELEGRAM

www.pw.live

Talk to our Counselor give a **Missed Call on:**

+91-7019243492

THANK You