

# RESILIENCE

## ***LAW TIMES***

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## **LATEST LEGAL NEWS**

- **Calcutta HC orders extension of nomination to panchayat polls for 60 BJP candidates**

Calcutta HC ordered that BJP candidates who could not file their nomination papers from Basirhat's Sandeshkhali 1 and Sandeshkhali 2, Meenakhan, Najat, and Haroa blocks, will be allowed to file them now.

[By Sujay Ghosh, Anirban Sinha Roy](#): The Calcutta High Court on Friday ordered the extension of the [nomination process for the upcoming West Bengal panchayat polls](#), for 60 BJP candidates in Basirhat. The extension comes in light of the [pre-poll violence in parts of Bengal](#), that led to some candidates falling behind in filing their nomination papers.

Justice Amrita Sinha gave the order that stated that BJP candidates who could not file their nomination papers from Basirhat's Sandeshkhali 1 and Sandeshkhali 2, Meenakhan, Najat, and Haroa blocks, will be allowed to file it now.

"The nomination phase has to be completed in the SDO office and not in the BDO office. All candidates of opposition parties including BJP will get this opportunity," she said.

The judge directed around 60 candidates to reach the Subdivisional office by 4 pm to submit their nominations. The Basirhat police district SP and Basirhat police station officer-in-charge were directed to provide the necessary security.

Despite the court's order, the saffron party has been alleging since Friday morning, that police did not provide security for their party's candidates to present their nominations in Basirhat.

Notably, the last date to file the nomination papers, as set by the State Election Commission (SEC), was June 15.

However, the BJP had expressed displeasure over its candidates not being able to file nominations. Some BJP leaders barged into the SEC office on Wednesday, with candidates who could not file their nomination due to the clashes.

- **Hindu Sena files plea in Delhi High Court seeking ban on screening of Adipurush**

Right-wing organisation Hindu Sena has moved the Delhi High Court seeking ban on the screening of Bollywood movie 'Adipurush' on the grounds that it depicted religious leaders /characters/figures in a bad taste.

Filed by Hindu Sena national president Vishnu Gupta under Article 226 of the Constitution, the writ petition sought directions to the respondents for removal of objectionable scenes from the feature film, apart from a writ of mandamus to the respondents, directing them not to certify Adipurush for public exhibition.

The PIL further alleged that the flick, directed by Om Raut, 'hurt' the sentiments of Hindu community as it had portrayed religious leaders/characters/figures in an inaccurate and inappropriate manner, contrary to the description of Hindu religious leaders/characters as described in Ramayana authored by great writers like Maharishi Valmiki and Saint Tulsidas.

The petitioner contended that he had given a representation to the Secretary of the Ministry of Information and Broadcasting (MIB) on October 4, 2022. However, the Ministry failed to respond to the representation, added Gupta.

He said the depiction of Ravana, Lord Ram, Mata Sita and Hanuman in the feature film was contrary to the image and descriptions of these religious leaders/characters/figures as depicted in Maharishi Valmiki's Ramayana and Tulsidas' Ramcharitmanas.

The PIL contended that the depiction of religious leaders /characters such as Ravana, played by actor Saif Ali Khan and Lord Hanuman in the film were completely detached from the Indian civilisation. It said the bearded look of Ravana's character in the film was hurting the sentiments of Hindu community as the Hindu Brahmin Ravana was shown making a ghastly face in a wrong manner, which was an absolute insult to the Hindu civilisation, Hindu religious figures, idols and ideals.

It further noted that the scene related to Ravana in the film was an absolute distortion from the real facts and story of Ramayana. Since these were essentially religious leaders/characters, the filmmakers, producers and actors could not be permitted to take an unimpeded creative liberty to commercialise the religious leaders/characters, their faces, personalities and looks, including their hair. This was a sheer violation of religious rights under Article 25 of the Constitution of India, it added.

The PIL said that wrong depiction of Hindu religious leaders / characters including Ravana in this feature film was also discriminatory and against the principle of

secularism because the same has invited criticism and resentment from all over the country, including from those actors who played the role of religious Hindu leaders/characters in Ramanand Sagar's Ramayana. The Hindu Sena chief submitted that he had filed the PIL for the 'benefit' of the public in general, who may be incapable of accessing the court themselves because they were not fully/properly equipped, financially as well as legally.

Respondents in the petition include the Union government by way of the I&B Ministry Secretary, the Chairman of the Central Board of Film Certification (CBFC), the Home Secretary of Tamil Nadu, Director and Producer of Adipurush OM Raut and Chairman & Managing Director of T Series, Bhushan Kumar.

- **Uttarakhand High Court directs the Nagar Palika Parishad to immediately proceed for conversion of pedal/cycle rickshaw permits into E-rickshaw permits**

The Uttarakhand High Court directed the Nagar Palika Parishad to immediately proceed for conversion of pedal/cycle rickshaw permits into E-rickshaw permits, as they are non-polluting, faster moving, and have double carrying capacity. The existing pedal/ cycle rickshaws operators shall first be offered the right to obtain licenses for E-rickshaws. The Division Bench of Chief Justice Vipin Sanghi and Justice Rakesh Thapliyal further directed that only in case, they expressly, i.e. in writing, under their own signatures, refuse to accept the permit of E-rickshaw, the same be offered to other persons, who satisfy the criteria earlier fixed while issuing pedal/ cycle rickshaw permits, in a transparent manner.

The Court heard a Suo Moto Public Interest Litigation (PIL) on the extreme traffic congestion experienced in and around the town of Nainital.

Experience shows- and it is evident by stepping out on the roads in Nainital, that the traffic congestion is primarily a result of a large number of vehicles coming into and leaving the town of Nainital. The capacity of the roads- which are narrow and do not have scope for broadening is limited. So is the position with regard to parking. The traffic congestion increases during the tourist season, i.e. in summer months, and is heightened during weekends, when tourists from neighboring towns and areas plan their visit to Nainital in their own vehicles. With increased prosperity, even the middle class families are able to afford a vehicle, and find it convenient to visit Nainital, and areas around it in their own vehicles , the Bench noted.

To tackle this problem of influx of so many private vehicles into Nainital, the Bench held that one of the long term and permanent solutions is to take steps to reduce the number of private vehicles coming into Nainital. For this, an end to end solution would have to be offered to the tourists, so that they do not feel the need to bring their vehicles to Nainital, and they are also discouraged from doing so.

In view of the High Court , it would be useful if an appropriate area is earmarked for the purpose of developing modern, neat and clean, and a safe bus stations- either at Kathgodam, or Haldwani, and similarly at Kaladhungi, with large, modern, safe and secured parking area- may it be a multi-storied parking area, so that the tourists coming from outside, who wish to proceed to Nainital, can park their vehicles in the parking area, and board a luxury/ semi-luxury bus, to travel up to Nainital. At Nainital, they should be able to reach their destination, i.e. their hotels etc. by using public transport, such as Taxis and E-rickshaws. That would greatly reduce the influx of private vehicles into Nainital, and would also ease the traffic situation in the town of Nainital.

The Court directed the State to look into this suggestion, and revert to us on the same, before the next date.

The development of helicopter services, as proposed, would also enable reduction in private vehicles entering Nainital, and surrounding areas within the district. We hope and expect that the concerned authorities would take whatever steps, as are necessary, to make the helicopter services operational as early as possible.

The Bench add that it would be essential to ensure that there is sufficient public transport available from the heliports to the nearby places/ towns in the district of Nainital, so as to make the said project successful. For that purpose, the authorities should also look at the establishment of infrastructure for parking of vehicles and taxis near heliports.

It is essential for traffic management in Nainital that 'Parking' and 'No-parking' Zones are very clearly demarcated by the police authorities; whichever areas are designated for parking, should clearly and prominently indicate on the notice board, the capacity of the parking areas; and it should be ensured that the same is strictly adhered to , held by the High Court.

Vibha Dixit, Circle Officer, has informed the Bench that , presently, there is only one towing vehicle available with the police authorities in Nainital. Looking to the size of Nainital district, and the points of congestion that the Bench is presently witnessing, it is clear to the Court that one towing vehicle is not sufficient .

The Bench directed the State authorities to ensure that more towing machines are procured and put into service, so that any vehicle, found parked inappropriately, or in a no-parking zone, is towed away so that the smooth movement of the traffic, to and fro, is not obstructed. The Circle Officer shall conduct a survey within the Nainital district to identify the areas which are the bottlenecks for the traffic movement, and designate those areas as 'Noparking Zones', and also ensure that vehicles which are parked inappropriately, or in no-parking zone, are towed away , the Bench further directed.

"To maintain smooth traffic movement, it is also essential that traffic patrols are on the ground and move continuously on the road under their patrol, particularly, as there are various areas and pockets in the district, where there is no mobile connectivity, and it is not possible to anyone to report traffic jams and congestions to seek any help from such

jams. Traffic patrolling should, therefore, be undertaken on all trunk routes and roads which carry heavy traffic, and at places where traffic jams and congestion is experienced, between 08:00 AM to 08:00 PM every day. On every weekend, when traffic situation worsens, patrolling should further be intensified”.

Prabha Naithani, has pointed out that there are various schools in Nainital, and children from neighboring areas within the district, are also attending the said schools as day boarders. Due to traffic congestion being experienced, presently, the children are suffering as they have to leave very early in the morning, and reach their homes very late, and they are also late, at times, in reaching the schools.

The traffic police is directed by the Court to take steps to ensure that school buses and vehicles, carrying school children, are given first right to way and traffic is cleared for them so that they reach the schools in time in the morning, and similarly leave out of schools in the afternoon without getting stuck in traffic jams . The Circle Officer shall also hold consultations with the schools in Nainital, to devise a system of issuing stickers, which can be displayed on the windscreen of such taxis and vehicles, which carry school children on a daily basis, so that they could be easily identified by the traffic police.

“High Court is another place where hundreds and thousands of people congregate on daily basis, and the lawyers and litigants visiting the Court often get stuck in the traffic, either at Mall Road, or on other roads in the traffic congestion, and are not able to reach the Court in time to attend their cases”, the Bench observed.

The Bench further directed that police shall also take steps to ensure that all such vehicles are able to reach and leave the Court without getting stuck in traffic jams.

“Another suggestion which could be looked at by the authorities, in this regard, could be the spacing of school timings of schools which are close to each other. For example, if ‘A’ school starts at 7:00 AM, then ‘B’ school, close to it, could have timings starting from 7:30 AM, and so on. For this purpose, we direct the District Magistrate to hold a meeting with the Chief Education Officer, and the Administrators of all the schools- government and private, so that the burden on the road could be lessen at any point of time. “

Another complaint raised before the Court is that even in the areas which are designated as ‘walkways’ and ‘pathways’, two-wheeler vehicles are allowed to ply. This is completely unacceptable, as it poses a danger to the pedestrian traffic, and also makes them feel unsafe, and it is inconvenient for them to move on pathways and walkways.

The Nagar Palika Parishad, Nainital is directed by the High Court to ensure that such breaches do not take place. The persons who are found to be breaching the said restriction, should be dealt with strictly.

C.S. Rawat, Chief Standing Counsel , submits that some encroachments have also cropped up on the Mall Road in Nainital. The Nagar Palika Parishad shall take steps for

removing all such encroachments and a report with regard to action should be presented before the Court on the next date , the Bench directed.

The Bench also informed that there is huge traffic congestion at 'Kainchi Dham', where a lot of pilgrims and tourists make a visit. The Court directed the Circle Officer Bhowali to ensure that there is proper traffic management on a daily basis at 'Kainchi Dham' between 08:00 AM to 08:00 PM. Vehicles which are parked inappropriately on the road should be towed away, so as to ensure smooth movement of the traffic.

Matter is listed on 19.07.2023 for further consideration.

- **'Let Pilgrims Go Without Psychological Pressure': Supreme Court Refuses To Hear Plea Against Stay On Suspension Of Haj Group Organisers' Registration**

The Supreme Court today refused to entertain an appeal filed by the Union government against the Delhi High Court order which had stayed the suspension of registration of certain private Haj Group Organisers. The issue arose before a vacation bench comprising Justice Surya Kant and Justice MM Sundresh. ASG Sanjay Jain, appearing for the Union, argued that if the private Haj operators, which he described as "delinquents", were permitted to carry

However, the bench noted that the matter was already coming up before a Division Bench of the Delhi High Court on July 7 and thus, the Supreme Court did not need to interfere in the same. The Court added that the Union should let the pilgrims go to Haj without any psychological pressure of ongoing litigation.

While elaborating upon the issue, ASG Jain said– "There is a system in place. Saudi Arabia grants a quota– 80% goes to the Haj Committee of India and the remaining is operated through the Haj Group Organisers (HGOs). HGOs have to meet certain criteria. In month of May, 512 HGOs were cleared. On 25<sup>th</sup> May, we received a serious complaint against some of them. They then approached the High Court of Delhi..."

He added that the Union Government did not wish to negatively impact the pilgrims in any manner. Further, the government was willing to ensure that the pilgrims did not have to pay anything extra from their own pocket. He proposed–

"We don't want to impact the Haj pilgrims in any manner. They will not have to spend anything extra from pocket. Their travel will be given to other HGOs. The Government of India is giving them a financial guarantee."

He further highlighted that even the Delhi High Court passed the order to ensure that the interest of pilgrims should not be compromised in any manner. He said– "The concern of the High Court was also that the pilgrims should not be disadvantaged. If these HGOs are not up to the mark, the pilgrims will face difficulties in Saudi Arabia."

However, the bench was disinclined to entertain the matter. Justice Surya Kant remarked– "All these contentions will be dealt by the High Court. Let the pilgrims go to Haj without any psychological pressure of ongoing litigation...It would be wiser for you to not take any action against them (HGOs) are not up to the mark, the pilgrims will face difficulties in Saudi Arabia." However, the bench was disinclined to entertain the matter. Justice Surya Kant remarked– "All these contentions will be dealt by the High Court. Let the pilgrims go to Haj without any psychological pressure of ongoing litigation...It would be wiser for you to not take any action against them (HGOs) till they come back...they won't stay in Saudi Arabia till long."

Background A batch of pleas moved before the Delhi High Court by various private Haj Group Organizers challenging the suspension of their registration certificates and quota published in the "Consolidated List of Allocation of Haj quota for Haj-2023" by the Union Government on May 25.

The Delhi High Court stayed the comments made in the consolidated list against the Haj Group Organizers to ensure that the pilgrims are not obstructed from completing their Haj journey. The court was of the prima facie opinion that although restrictions and conditions on the issuance of Registration Certificate and Quota allotted to the Haj Group Organizers may be imposed, the same should not be held against the pilgrims who registered themselves with such organizers to undertake the pilgrimage in good faith.

A single bench comprising Justice Chandra Dhari Singh added that an alternative must be put into effect so that the law should not become a hurdle for the "noble-intentioned citizens" seeking to undertake Haj pilgrimage.



## **CURRENT AFFAIRS**

### **SEBI-SAT Stalemate Over Provision 23(E) of SCRA**

The Securities and Exchange Board of India (Sebi) and the Securities Appellate Tribunal (SAT) are currently embroiled in a stalemate over the interpretation of a specific provision in the securities law. Understanding Provision 23(E) At the heart of the impasse ..

### **Law Commission's Report on Sedition Law**

The Law Commission of India has recently proposed key amendments to the law of sedition, aiming to prevent alleged misuse while ensuring clarity and safeguarding constitutional rights. Let's delve into the details of these proposed changes and their potential impact. ..

### **Right to Change One's Name**

The right to change one's name has been a subject of legal scrutiny in recent cases. The High Courts of Allahabad and Delhi have ruled that this right is an intrinsic part of the right to life under Article 21 ..

### **What is Article 239AA?**

Article 239AA of the Constitution holds significant importance in defining the special status and governance structure of Delhi. The recent SC ruling that interpreted Article 239AA was nullified with the passing of an ordinance that sought to establish ..

### **What is Forum Shopping?**

Forum shopping is a legal term that refers to the deliberate choice made by litigants or lawyers to bring their case before a particular judge or court in the hope of obtaining a more favorable outcome. This practice has drawn ..

### **Draft Aircraft Bill, 2023**

The civil aviation ministry in India has taken a significant step towards enhancing regulations in the aviation sector with the introduction of the Draft Aircraft Bill, 2023. This bill aims to streamline and improve provisions related to the design, manufacture, ..

### **Livestock and Livestock Products (Importation and Exportation) Bill, 2023**

The proposed Livestock and Livestock Products (Importation and Exportation) Bill-2023 aims to replace outdated laws and establish regulations for the import and export of live animals. Replacing Outdated Laws The Livestock and Livestock Products (Importation and Exportation) Bill-2023 is ..

## **LATEST JUDGMENTS**

### **Bar Council of India Vs. Rabi Sahu & Anr. 2023 Latest Caselaw 525 SC**

*Citation* : 2023 Latest Caselaw 525 SC  
Judgement Date : **09 Jun 2023**  
Case No : Civil Appeal No. 8571 of 2013

#### **Bar Council of India Vs. Rabi Sahu & Anr.**

**[Civil Appeal No. 8571 of 2013]**

#### **Sanjay Kumar, J.**

1. Bar Council of India (BCI) is in appeal against the order dated 21.09.2012 passed by a Division Bench of the Orissa High Court in W.P.(C). No. 32506 of 2011. By the said order, BCI was directed to forthwith enrol the writ petitioner, viz., respondent No. 1 herein, as an Advocate.

2. By order dated 28.01.2013, this Court stayed the operation of the impugned order.

3. Despite service of notice, neither of the respondents, viz., the writ petitioner and the Orissa State Bar Council, chose to appear before this Court.

4. Respondent No. 1 herein secured his law degree from Vivekananda Law College, Angul, in the year 2009. This college is not recognized/approved by BCI. In fact, by letter dated 05.01.2002, BCI had directed Vivekananda Law College, Angul, not to admit students in law course stating that students so admitted would not be eligible for enrolment as Advocates.

BCI stated to this effect again in its letter dated 28.02.2011 addressed to the Orissa State Bar Council. As a corollary, the Orissa State Bar Council rejected the application of respondent No. 1 for enrolment as an Advocate, vide letter dated 04.05.2011. Aggrieved thereby, respondent No. 1 filed W.P.(C). No. 32506 of 2011 before the Orissa High Court.

5. The said writ petition was allowed by a Division Bench of the Orissa High Court under the impugned order dated 21.09.2012.

Reliance was placed by the Division Bench on the earlier judgment of this Court in *V. Sudeer vs. Bar Council of India* and another [(1999) 3 SCC 176] and on the strength thereof, the Division Bench opined that once a candidate fulfilled the conditions stipulated in Section 24(1) of the Advocates Act, 1961 (for brevity, 'the Act of 1961'), and did not suffer any disqualification under Section 24A thereof, he would be entitled to enrolment as an Advocate.

Further, the Division Bench held that BCI could not frame rules and add any condition for enrolment in addition to what was prescribed under Section 24 of the Act of 1961. Holding so, the Division Bench granted relief to respondent No. 1, as set out supra.

6. The earlier decision of this Court in *V. Sudeer* (supra) fell for consideration recently before a Constitution Bench in *Bar Council of India vs. Bonnie Foi Law College & Ors.* [Civil Appeal No. 969 of 2023 etc., decided on 10.02.2023].

Perusal of the Constitution Bench judgment reflects that the decision in V. Sudeer (supra) was held to be not good law. The Constitution Bench held that the BCI's role prior to enrolment cannot be ousted and the ratio decidendi in V.Sudeer (supra), that it was not one of the statutory functions of BCI to frame rules imposing pre-enrolment conditions, was erroneous.

It was categorically held that Section 49 read with Section 24(3)(d) of the Act of 1961 vested BCI with the power to prescribe the norms for entitlement to be enrolled as an Advocate and in consequence, the interdict placed by the decision in V. Sudeer (supra) on the power of BCI could not be sustained. The Constitution Bench, accordingly, held that V. Sudeer (supra) did not lay down the correct position of law.

7. Viewed thus, the rule framed by BCI requiring a candidate for enrolment as an Advocate to have completed his law course from a college recognized/ approved by BCI cannot be said to be invalid, as was held in the impugned order.

8. We, therefore, have no hesitation in holding that the Division Bench was not justified in directing the enrolment of respondent No. 1 as an Advocate, despite the fact that he secured his law degree from a college which was not recognized or approved by BCI.

The appeal is accordingly allowed, setting aside the order dated 21.09.2012 passed by the Orissa High Court in W.P.(C). No. 32506 of 2011.

In the circumstances, there shall be no order as to costs.

.....J. [Vikram Nath]

.....J. [Sanjay Kumar]

New Delhi;

## **Aish Mohammad Vs. State of Haryana & Ors. 2023 Latest Caselaw 526 SC**

*Citation* : 2023 Latest Caselaw 526 SC

Judgement Date : **14 Jun 2023**

Case No : C.A. No.-004044-004044 / 2023

**Aish Mohammad Vs. State of Haryana & Ors.**

**[Civil Appeal No. 4044 of 2023 @ SLP (Civil) No. 12248 of 2023 @ Diary No. 23042 of 2011]**

**R1: State of Haryana**

**R2: Director General of Police (Haryana), Panchkula**

**R3: Inspector General of Police, Gurgaon**

**R4: Senior Superintendent of Police, Gurgaon**

**R5: Inspector General of Police, Faridabad**

**R6: Superintendent of Police, Nuh**

**R7: Superintendent of Police, Palwal**

**Ahsanuddin Amanullah,J.**

1. Heard learned counsel for the parties finally on the basis of the available record. The Respondents are represented through counsel and have filed written submissions. Delay condoned, in these peculiar facts and circumstances, in the interest of justice. I.A. 72995/2022 [seeking condonation of delay in refiling/curing the defects] is formally allowed.

2. Leave granted.

3. The sole appellant has moved this Court being aggrieved by the Final Judgment and Order dated 25.04.2011 (hereinafter referred to as the "Impugned Judgment") [2011 SCC OnLine P&H 4687 | ILR (2012) 2 P&H 747] passed by a learned Division Bench of the High Court of Punjab and Haryana at Chandigarh (hereinafter referred to as the "High Court") in Letters Patent Appeal No.406 of 2011 (O & M), whereby the learned Division Bench allowed the appeal preferred by the respondent-State and set aside the Order dated 27.01.2010 [2010 SCC OnLine P&H 1193] passed by the learned Single Judge in Civil Writ Petition No.19128 of 2006.

**The Factual Prism:**

4. The appellant joined as Constable in Haryana Police on 15.01.1973 and promoted as Head Constable on 06.12.1993. One Assistant Sub-Inspector Basant Pal made a complaint against the appellant. This led to a departmental enquiry, where the appellant was held guilty and ordered to be reverted from Head Constable to Constable.

A representation was filed by the appellant before the Inspector General of Police, Gurgaon Range against the said reversion order, resultantly whereof, by order dated 28.04.2001, the Inspector General of Police, Gurgaon Range, modified the order of reversion to stoppage of one increment. The Controlling Officer of the appellant recorded adverse remarks against him for the periods between 11.10.1999 to 31.03.2000 and 01.04.2000 to 29.12.2000.

Initially, the representation filed apropos the period between 01.04.1999 to 31.03.2000 was rejected by orders dated 19.02.2002 and 27.06.2001. However, the representation pertaining to the period from 01.04.2000 to 29.12.2000 was partly accepted by order dated 20.07.2002. Thereafter, the appellant preferred a second consolidated representation for the aforesaid periods, which was accepted on 28.01.2005.

This second representation by the appellant was pursuant to judgment dated 27.09.2004 in Civil Suit No.168 of 2002 (filed on 06.08.2002) before the learned Civil Judge (Junior Division), whereby the stoppage of one increment was set aside and the respondents were directed to release the same. However, his prayer for expunging the adverse remarks was not accepted, yet liberty to prefer a fresh representation was granted by the learned Civil Court.

5. Challenge to judgment dated 27.09.2004 supra by the respondent-State was dismissed by the learned District Judge, Gurgaon, and the same has attained finality. The appellant, in terms of

observations made by the learned Civil Judge (Junior Division) Gurgaon in the judgment dated 27.09.2004, preferred a consolidated representation before the Inspector General of Police, Gurgaon Range for expunction of adverse remarks, on 07.01.2005. The Inspector General of Police, Gurgaon Range, Gurgaon vide order dated 28.01.2005 expunged all the adverse remarks.

Thereafter, the appellant received a Show-Cause Notice dated 05.09.2006 from the Director General of Police, Haryana stating that undue benefit had been given to the appellant by expunction of remarks and why the same should not be restored and an order of compulsory retirement be passed against him, indicating thereby, that due to expunction of these adverse remarks, he had escaped being retired from service compulsorily and also became eligible for further promotion.

The appellant filed his Reply to the Show-Cause Notice on 22.09.2006. The Director General of Police, Haryana by order dated 30.10.2006 directed reconstruction of the Annual Confidential Report [hereinafter referred to as "ACR" (in singular) and "ACRs" (in plural)] for the aforesaid period.

6. Aggrieved by the order dated 30.10.2006, the appellant filed Civil Writ Petition No.19128 of 2006 before the High Court. During the pendency of this writ petition, the appellant received notice for retirement issued by the Superintendent of Police, Mewat, Nuh dated 08.09.2008, informing him that his service was not required by the department beyond the age of 55 years, in public interest and he was to stand retired from service under the State of Haryana in terms of Rule 3.26(d) of the Punjab Civil Services Rules, 1934 Vol-I Part I and Rule 8.18 of the Punjab Police Rules, 1934 as applicable to the State of Haryana.

This was followed by the order of the Superintendent of Police, Palwal dated 27.10.2008 directing his retirement with effect from 30.11.2008. The learned Single Judge by judgment dated 27.01.2010 in Civil Writ Petition No.19128 of 2006 [2010 SCC OnLine P&H 1193] allowed the Writ Petition and the order for reconstruction of the adverse ACRs and compulsory retirement was quashed. The learned Single Judge also held that the appellant was entitled to all consequential benefits. The relevant part of the said judgment<sup>1</sup> notes:

"I have heard learned counsel for the parties. The controversy involved in these writ petitions is covered by a judgment in the case of Amarjit Kaur v. State of Punjab and others, 1988 (4) SLR 199 and a Division Bench judgment of this Court dated 26.5.2006 passed in CWP No. 8356 of 2006 (Ram Niwas v. State of Haryana) as also a judgment of the Hon'ble Supreme Court in the case of Rathi Alloys and Steel Ltd. v. C.C.E. (1990) 2 SCC 324. In the case of Ram Niwas (supra), following observations have been made:-

"Firstly, in law there is administrative hierarchy which was not to be respect and any successor cannot set aside the order passed by his predecessor. Secondly, there is no provision under the Punjab Police Rules, 1934, as applicable to Haryana or in any instructions or subordinate legislation providing for review of an order passed by the predecessor in office.

It is well settled that power or review cannot be exercised unless it is expressly provided by the Statute. In this regard, reliance may be placed on a judgment of the Hon'ble Supreme Court in the case of Rathi Alloys and Steel Ltd. v. C.C.E., (1990) 2 SCC 324.

Our view also finds support from the judgment of this Court in the case of Amarjit Kaur v. State of Punjab and others, 1988 (4) SLR 199" Following the aforesaid judgment, CWP No. 9973 of 2007 and CWP No. 12095 of 2007 were allowed by a co-ordinate Bench of this Court vide order dated 23.3.2009. Ratio of all these judgments is that the predecessor of an Officer in the hierarchy of service has no authority to review his orders." (sic)

7. Evincibly, the learned Single Judge concluded, in essence, that the original expunction could not be held to be illegal, and the subsequent reconstruction of the remarks would be incorrect in view of the pronouncements of law referred to by him.

8. The respondent-State, aggrieved, preferred Letters Patent Appeal No.406 of 2011 (O & M) which was allowed by judgment dated 25.04.2011 [2011 SCC OnLine P&H 4687] setting aside judgment dated 27.01.2010 of the learned Single Judge, thereby restoring the order of the Director General of Police, Haryana dated 30.10.2006. The judgment of the learned Division Bench is impugned before us.

**Submissions by The Appellant:**

9. Learned counsel for the appellant submitted that the judgment impugned is unsustainable for the reason that the main ground for allowing the appeal of the respondent-State was that the Order of the Inspector General of Police dated 28.01.2005 was completely against the verdict of the learned Civil Court refusing to expunge the adverse remarks, which was not only highly improper but totally unwarranted and the Director General of Police rightly set aside the order of his subordinate. It was submitted that the learned Division Bench failed to consider that the Director General of Police did not have any power of review as per the Punjab Police Rules, 1934 which applied to the State of Haryana.

10. Moreover, reiterating that the basic reasoning of the learned Division Bench for allowing the appeal of the State, as noted supra, was that the learned Civil Court had refused to interfere in expunging the remarks passed by the Controlling Officer and thus, the Inspector General of Police had no authority to pass an order for expunction, was highly improper and totally unwarranted. Learned counsel submitted that under similar circumstances, a co-ordinate Single Bench had interfered to hold that the Director General of Police had no power to review an order passed by the predecessor-in-office.

**Submissions on Behalf of The Official Respondents-R1 to R7:**

11. Per contra, learned counsel for the State of Haryana and the other official respondents (R2, R3, R4, R5, R6 and R7) submitted that the present case had been refiled after an inordinate delay of 11 years. It was submitted that even though the ground of delay is sought to be explained, being the unfortunate death of the appellant's son, the same took place in 2011 and thus, re-filing having been done only in 2022 i.e., 10 years after such incident, would not entitle the appellant to the benefit of condonation for such long and unexplained delay.

He submitted that the view taken in the Impugned Judgment, that the Inspector General of Police could not have over-reached the judgment of the learned Civil Court, is correct. Moreover, it was submitted that the adverse entry in the ACR of the appellant was on account of serious charges - viz. Corruption, insubordination and dereliction of duty.

12. Learned counsel summed up his arguments by taking the stand that the appellant, having been compulsorily retired, the same not being a 'punishment', the principles of natural justice would not be applicable.

**Analysis, Reasoning and Conclusion:**

13. Having considered the rival submissions, the Court would note that both the learned Single Judge and the learned Division Bench did not appreciate the legal position in the correct perspective of the factual background.

14. The undisputed position is that adverse remarks were entered into the ACR of the appellant for the period(s) in question, due to which initially an order of departmental enquiry was passed based on a complaint; in the departmental enquiry, an order came to be passed, and the appellant was reverted from the post of Head Constable to the post of Constable.

The appellant challenged such reversion. The reversion order was modified to stoppage of one increment. For expunction of the adverse remarks, he moved before the Inspector General of Police, Gurgaon Range, which was initially rejected for the entire period in question. On further representation, the Inspector General of Police, Gurgaon Range, on 20.07.2002, expunged the remarks partially for the period of 01.04.2000 to 29.12.2000.

15. The appellant filed Civil Suit No.168 of 2002 against the order of stoppage of one increment as also the adverse entry(ies)/remark(s) in his ACR, which was finally decided by the learned Civil Judge (Junior Division), Gurgaon by judgment and order dated 27.09.2004, interfering with the stoppage of one increment, but not interfering with the ACR aspect. However, in the said judgment, it was observed as under:

"If at all, plaintiff feels that recording remarks was the result of above adverse said departmental proceedings and result thereof, then in the wake of setting aside of the impugned order by this court, plaintiff, if so advised may again file a representation with the competent authority against the adverse remarks which shall be decided by said authority expeditiously.

In the totality of circumstances, this court is not inclined to interfere with the satisfaction of competent authority to record adverse remarks in the ACR of plaintiff. Hence, no relief whatsoever regarding expunction of adverse remarks can be granted in favour of plaintiff. Accordingly, issue No.2 is hereby decided against plaintiff and in favour of defendants." (sic)

16. This permitted the appellant to again file a representation before the Inspector General of Police, Gurgaon Range, for expunction of adverse remarks, which was disposed favourably, and the adverse remarks were expunged. However, the Director General of Police issued a Show-Cause Notice to the appellant that the adverse remarks were wrongly expunged, which made the appellant escape compulsory retirement.

Thereafter, the appellant was retired having crossed the age of 55 years, in terms of such power being conferred on the competent authority under the Punjab Civil Services Rules. The matter then came before the High Court, initially before the learned Single Judge who, relying on certain precedents, recorded that the Director General of Police could not have passed the order impugned therein, as it amounted to a review of an order passed by his predecessor-in-office.

17. The Court would pause at this juncture to indicate that the factual premise noted by the learned Single Judge itself was wrong, inasmuch as it was the Inspector General of Police, who had, in effect, 'reviewed' an order passed by his predecessor-in-office by expunging the adverse remarks, which was previously declined by his predecessor-in-office. Volume II of the Punjab Police Rules, 1934 provides as under:

**"16.28. Powers to review proceedings**

(1) The Inspector-General, a Deputy Inspector- General, and a Superintendent of Police may call for the records of awards made by their subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders.

(2) If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by reinstatement, or not. The order should also state whether service previous to dismissal should count for pension or not.

(3) In all cases in which officers propose to enhance an award they shall, before passing final orders, give the defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced."

(emphasis supplied)

18. Clearly, the 'review' contemplated in Rule 16.28 empowers a superior authority to 'call for the records of awards made by their subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders.' As such, the 'review' is by a superior authority and not the same authority.

19. Before advertng to the merits, we may at once highlight the incongruity that has crept in the Rules (supra) due to passage of time, legally and in fact. To a judicially or legally trained mind, it is obvious that 'review' carries a specific connotation, but the same is not the case herein. Put simply, review is a re-look at an order passed by the same authority which passed the original order, be it a Court or an executive officer.

The heading to the rule above is a misnomer inasmuch as no power of 'review' is created or conferred, as manifest from a reading of (1), (2) and (3) of Rule 16.28. For completeness, Rule 16.29 is entitled "Right of appeal" and Rule 16.32 is labelled "Revision". This is one part of the issue.

20. The next part is that the Rules, originally framed in 1934, contemplated the authorities as "The Inspector-General, a Deputy Inspector-General, and a Superintendent of Police".

The "Inspector-General" of that time [when the service was called Imperial/Indian Police] headed the State Police, but is today known as, in most States and Union Territories, barring a handful, in the hierarchy of the State Police, as the Director-General of Police, an officer drawn from the Indian Police Service, who sits at the apex of the state police machinery. In fact, today the Inspector-General of Police is administratively subordinate to the Director-General of Police and the Additional Director-General of Police.

21. The Rules were also framed at a time when the system of Ranges and Commissionerates had not been established. Indubitably, the Rules, for better or for worse (worse, we hazard) have not kept pace with the times. We do not appreciate why the authorities concerned are unable to update/amend the Rules with at least the correct official description of posts to obviate confusion.

22. In the case at hand, the Director General of Police, Haryana, had never passed any order earlier and for the first time when the issue was brought to his notice, a Show-Cause Notice was issued to the appellant as to why the adverse remarks be not reconstructed; as due to such expunction, he had escaped from being retired from service compulsorily.

Thus, the order passed by the learned co-ordinate Single Judge in CWP No.9973 of 2007 and CWP No.12095 of 2007 dated 23.03.2009 had no applicability in the facts and circumstances of the present



case. Be that as it was, the State of Haryana moved in appeal against the judgment of the learned Single Judge herein, which was allowed in favour of the respondent-State.

23. This Court finds that the learned Division Bench has not approached the issue in the manner it was required to. The reason given for interference with the learned Single Judge's view is that it was highly improbable and unwarranted for the Inspector General of Police to have expunged the adverse remarks when there was a judicial verdict by the learned Civil Court refusing to do so.

The said reasoning was employed despite noting the fact that even if there was any power of review, in the extant circumstances, it was wholly arbitrary. It was further observed that a judicial verdict by the learned Civil Court should have been respected. This Court would note that such reasoning is also erroneous. The fact remained that, rightly or wrongly, the learned Civil Court had granted this opportunity to the appellant to move again for expunction of adverse remarks, which the appellant did.

Having said that, this Court would now look at the issue from a totally legal point of view - firstly, the authorities were exercising the power conferred on them by statute, and secondly, any order which amounts to 'review' (in the legal sense of the word) of an earlier order by the same authority cannot be undertaken, unless specifically so conferred by the relevant statute.

24. Moreover, the learned Civil Judge (Junior Division) found no ground to interfere with the adverse remarks yet granted liberty to the appellant to move for expunction thereof. The learned Civil Court erred in assuming that it had the power to do so, in the absence of any such provision in the Punjab Police Rules, 1934.

There may be cases where a High Court under Articles 226 or 227 of the Constitution of India or this Court in exercise of its constitutional powers may specifically direct for fresh consideration of a representation, even in the absence of specific provisions. In High Court of Tripura v Tirtha Sarathi Mukherjee, (2019) 16 SCC 663, the question that arose was whether, in the absence of a statutory provision, a writ petitioner could seek re-evaluation of examination answer scripts? Answering, this Court held:

"20. The question however arises whether even if there is no legal right to demand revaluation as of right could there arise circumstances which leave the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for re-valuation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer.

Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for revaluation in a situation where a candidate despite having giving correct answer and about which there cannot be even the slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.

21. Should the second circumstance be demonstrated to be present before the writ court, can the writ court become helpless despite the vast reservoir of power which it possesses?

It is one thing to say that the absence of provision for re-valuation will not enable the candidate to claim the right of evaluation as a matter of right and another to say that in no circumstances

whatsoever where there is no provision for re-valuation will the writ court exercise its undoubted constitutional powers? We reiterate that the situation can only be rare and exceptional."

(emphasis supplied)

25. The unique nature of power bestowed on the High Courts under Article 226 has very recently been commented upon in *B S Hari Commandant v Union of India*, 2023 SCC OnLine SC 413. In *Sanjay Dubey v State of Madhya Pradesh*, 2023 SCC OnLine SC 610, while declining to interfere with the order impugned therein, a reason which weighed was that a High Court had passed the said order, and not a Court of Session. This again emphasised the special nature of the High Courts, including that they are Constitutional Courts.

26. Thus, the observation by the learned Civil Court that the appellant could approach the authority, cannot be taken to mean that the appellant was granted carte blanche liberty in law to approach the same authority. What the learned Civil Court lost sight of was that no provision permitted the course of action suggested by it.

Examined from another lens, even if we were to read the learned Civil Court's view in the appellant's favour, at best, he may have had some justification in approaching the Director General of Police, Haryana, being a superior authority, but the same authority could not have been approached again.

On this line of reasoning, it becomes clear that even though the appellant had a window to move before the authorities again and dehors the learned Civil Court not interfering, but the same should have been to the superior authority and not the same authority, which had earlier refused expunction. In any event, we need not dilate on this further.

27. As far back as in 1971, directions were issued by the State Government that repeated representations would not be entertained as it would be contrary to Government Letter No. 2784-3S-70 dated 22.03.1971 mandating that a second representation against adverse remarks would not lie and which clarified the position that the same authority did not have any power of review for an order passed by its predecessor-in-office.

28. As such, the Director General of Police had rightly show-caused the appellant and taken subsequent action thereupon. Considering the chain of events, the consequential action, in our considered view, cannot be said to be arbitrary or shocking the conscience of the Court, so as to warrant interference.

For a person in uniformed service, like the police, adverse entry relating to his/her integrity and conduct is to be adjudged by the superior authority(ies) who record and approve such entry. Personnel having such remarks being compulsorily retired as per the statutory provisions under the Punjab Civil Services Rules, 1934, in the instant facts, is not an action this Court would like to interdict.

We are hence not inclined to interfere with the order impugned, though as discussed above, for entirely different reasons than what were considered by and prevailed with the learned Division Bench.

29. Accordingly, the instant appeal stands dismissed.

30. Parties are left to bear their own costs.

**Additional Direction(S):**

31. Copies of this judgment be communicated to the (a) the Chief Secretaries, Governments of Punjab and Haryana at Chandigarh; (b.1) the Principal Secretary, Department of Home Affairs and Justice, Government of Punjab and (b.2) the Additional Chief Secretary, Home, Government of Haryana, and (c) the Directors General of Police, Punjab and Haryana by the Registry.

32. Steps be taken forthwith in line with the observations recorded at Paragraphs 19 to 21.

.....J. [Vikram Nath]

.....J. [Ahsanuddin Amanullah]

**LATEST NOTIFICATION**

I/16991/2023

**National Company Law Tribunal**CGO Complex, Block-3, 6<sup>th</sup> Floor

New Delhi- 110003

Date: - 01 .06.2023

**OFFICE MEMORANDIUM**

**Subject:- Engagement of Law Research Associates in various Benches of National Company Law Tribunal purely on contractual assignment**

Applications are invited from Indian nationals to work as Law Research Associate in NCLT purely on contractual assignment in Ahmedabad, Allahabad, Amravati (Andhra Pradesh), Bengaluru, Chandigarh, Chennai, Cuttack, Guwahati, Hyderabad, Indore, Jaipur, Kochi, Kolkata, Mumbai, New Delhi Benches of National Company Law Tribunal. There are **55 tentative vacancies** across all Benches of NCLT.

Following are the essential qualifications: -

- (a) Law Graduates fresh or experienced who have passed final year L.L.B examination with a minimum aggregate of 50% marks from a recognized university.
- (b) The candidate must be enrolled with any Bar Council. **(AIBE certificate is must).**
- (c) The age of the candidate shall not be above 30 years as on last date of receipt of applications, i.e. **on 30.06.2023;**
- (d) The candidate must have knowledge of computer operation including retrieval of desired information from various search engines/ processors such as Manupatra, SCC Online etc.

2. Selection will be made for filling up the existing and/or future vacancies in NCLT Benches mentioned above.

3. **Remuneration:** - The remuneration in various benches is **likely to increase** shortly, which is currently as follows;

S/No	Bench	Remuneration (Rs per month)
1	Delhi	65000/-
2	Jaipur	50,000/-
3	Chandigarh	50,000/-
4	Others locations	40,000/-



**Recruitment of Officer Grade A (Assistant Manager) -  
Legal Stream 2023**

Securities and Exchange Board of India (SEBI), is a statutory body established by an Act of Parliament, to protect the interests of investors in securities, to promote the development of and to regulate the securities market.

**IMPORTANT DATES TO REMEMBER**

Activity	Important Dates (SEBI reserves the right to make any change in these dates)
On-Line Application and Payment of fee On-Line	June 22, 2023 to July 09, 2023
Availability of Call Letters on SEBI website (for On-Line Examinations)	Will be intimated by email/SMS
Phase I On-Line Examination	August 05, 2023
Phase II On-Line Examination	September 09, 2023
Phase III Interview	Dates will be intimated

Applicants desirous of securing job at SEBI are hereby cautioned not to fall prey to any unscrupulous elements who may try to deceive candidates/public by false promises of securing jobs in SEBI. In case any candidate comes across such offer/ practice, the same may be immediately brought to the notice of SEBI at [recruitment@sebi.gov.in](mailto:recruitment@sebi.gov.in), with full details, such as name and contact details, of the elements indulging in such practice.

- I. SEBI invites applications from Indian citizens for the post of Officer Grade A (Assistant Manager) for the Legal Stream. SEBI reserves the right to fill up the posts or not to fill up the posts at all.

Stream	Number of posts						Out of which PwBD**	Educational Qualification and Experience
	UR	OBC @	SC	ST	EWS \$	Total		
Legal	11	7	3	2	2	25	1 (Blindness and low vision) 1 (Autism/ Intellectual disability/ specific learning disability/mental illness/multiple disabilities from amongst persons under clauses (a) to (d) including deaf – blindness)*	Mandatory Educational Qualification - Bachelor's Degree in Law from a recognized University / Institute  Desirable Experience - Two years post qualification experience as an Advocate (including as an associate in an Advocate's or Solicitor's Office or Law firm) after being enrolled under the Advocates Act, 1961 (25 of 1961) shall be a desirable qualification.

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## MCQ'S

**Q1: Under which section of the Code of Criminal Procedure an accused person can himself be a competent witness for the defence?**

- (a)section 311
- (b)section 313
- (c)section 315
- (d)section 319.

**Q2: Disclosure of identity of a victim of rape is punishable under:**

- (a)Section 376D, IPC.
- (b)Section 229, IPC
- (c)Section 228, IPC
- (d)Section 228A, IPC.

**Q3: When the consent to the contract is caused by coercion, the contract under section 19 of the Indian Contract Act, 1872 is**

- (a)valid
- (b)voidable
- (c)void
- (d)illegal.

**Q4: If time of performance of the contract is the essence of the contract and the promisor fails to perform the contract by the specified time, the contract becomes**

- (a)void
- (b)voidable at the option of promisee
- (c)unenforceable
- (d)Both (a) and (c).

**Q5: An offer was sent by post, the acceptor wrote 'accepted' on the letter, put it in his drawer and forget about it. The transaction is a**

- (a)valid contract
- (b)voidable contract
- (c)a void contract
- (d)no agreement as the acceptance was never communicated to the proposer.

**Q6: Tender is**

- (a)an offer
- (b)an invitation to offer
- (c)a counter offer
- (d)a promise.

**Q7: The principal of 'caveat emptor' is enunciated, in the Sale of Goods Act, 1930 under**

- (a)Section 16
- (b)Section 17
- (c)Section 18
- (d)Section 27.

**Q8: Risk prima facie passes with**

- (a)property or ownership
- (b)with delivery of goods
- (c)with verification of goods
- (d)either (a) or (b) or (c).

**Q9: Mutual agency among the partners is:**

- (a)a test to determine the existence of a partnership
- (b)a legal incidence of partnership

(c)both (a) and (b).

(d)neither (a) nor (b).

**Q10: An agreement in restraint of trade in a partnership Act, 1932 is**

(a)valid

(b)voidable

(c)void

(d)invalid.

**Q11: Section 14 of the Indian Partnership Act, 1932 is**

(a)exhaustive

(b)inclusive

(c)conclusive

(d)both (a) and (c).

**Q12: Section 34 of the Indian Partnership Act, 1932 deals with**

(a)retirement of a partner

(b)expulsion of a partner

(c)insolvency of a partner

(d)death of a partner.

**Q13: An express agreement by the creditor to discharge a retired partner and to look only to a continuing partner, for partnership debts is**

(a)void for want of consideration

(b)voidable

(c)invalid

(d)valid.

**Q14: The type of dissolution described under section 42 of the Indian Partnership Act, 1932 is**

(a)contingent dissolution

(b)compulsory dissolution

(c)dissolution by the court

(d)dissolution by notice.

**Q15: Reasonable time for performance of a contract is a question:**

(a)of facts

(b)of law

(c)mixed question of fact and law

(d)of prudence.

**Q16: A decree can be:**

(a)Preliminary

(b)Final

(c)First Preliminary then Final.

(d)Either preliminary or Final.

**Q17: The plaint shall be rejected by the court under Order 7, Rule 11© of the Code of Civil Procedure, if it is not filed in**

(a)duplicate

(b)triplicate

(c)Quadruplicate

(d)None of the above.

**Q18: Period of detention in Civil imprisonment, as a consequence of disobedience or breach of any injunction shall not exceed:**

(a)one month

(b)three months

(c)six months

(d)one year.

**Q19: Caveat shall not remain in force after the expiry of:**

- (a)30 days
- (b)60 days
- (c)90 days
- (d)120 days.

**Q20: Defence of insanity under section 84 of the Indian Penal Code relates to**

- (a)unsoundness of mind of any kind
- (b)medical insanity
- (c)legal insanity
- (d)congenital insanity.

**Q21: Under which section of the Code of Criminal Procedure an accused person can himself be a competent witness for the defence?**

- (a)section 311
- (b)section 313
- (c)section 315
- (d)section 319.

**Q22: Which one among the following is not a primary evidence?**

- (a)A document executed in several parts
- (b)A copy made from or compared with original
- (c)Document executed in counterparts
- (d)Documents made by one uniform process

**Q23: Indian Evidence Act deals with**

- 1.Relevancy of evidence
- 2.Reliability of evidence
- 3.Admissibility of evidence

Select the correct answer using the code given below:

- (a)1 and 2 only
- (b)1 and 3 only
- (c)3 only
- (d)1,2 and 3.

**Q24: Sapinda relationship and prohibited relationship**

- (a)are dependent on each other
- (b)are mutually exclusive
- (c)sometimes overlap each other
- (d)none of the above.

**Q25: Consent theory of divorce was introduced in the Hindu Marriage Act, 1955 in**

- (a)1964
- (b)1972
- (c)1974
- (d)1976.

**Q26: An adoption made by a Hindu male without the consent of his wife is**

- (a)valid
- (b)voidable
- (c)void
- (d)invalid but can be validated.

**Q27: An illegitimate son of a Hindu is entitled to maintenance during his**

- (a)Minority
- (b)Majority till marriage
- (c)only if he is of unsound mind
- (d)he is not entitled to maintenance.



**Q28: A child can be given in adoption by**

- (a)the father
- (b)the mother
- (c)the guardian
- (d)either (a) or (b) or (c).

**Q29: A person who has an adopted son living**

- (a)can adopt another son
- (b)cannot adopt another son
- (c)can adopt another son with the consent of the adopted son
- (d)can adopt another son with the prior permission of the court.

**Q30: Section 19 of the Hindu Adoptions and Maintenance Act, 1956, provides for maintenance of**

- (a)wife
- (b)children
- (c)parents
- (d)widowed daughter-in-law.

**Q31: A muta marriage is dissolved**

- (a)ipso-facto by efflux of the period
- (b)by death
- (c)by hiba-e-muddat
- (d)either (a) or (b) or (c).

**Q32: 'Failure of the husband to provide for wife's maintenance asa ground for divorce, must be for a period of**

- (a)four years
- (b)three years

- (c)two years
- (d)one year.

**Q33: Marz-ul-mauta means**

- (a)a disease which causes death
- (b)a serious disease
- (c)a long-standing disease
- (d)either (a) or (b) or (c).

**Q34: Provision for interest in CPC has been made under**

- (a)Section 32
- (b)Section 34
- (c)Section 35A
- (d)Section 35B.

**Q35: Order II, Rule 2 of CPC does not apply to**

- (a)application for execution
- (b)writ petitions
- (c)both (a) and (b)
- (d)neither (a) nor (b).

**Q36: For the purpose of Order XIV, Rule 4 of CPC the Court may adjourn the framing of issues to a date not later than**

- (a)7 days
- (b)10 days
- (c)14 days
- (d)30 days.

**Q37: For the purpose of Order XII, Rule 6 of CPC, admission of fact**

- (a)must be in pleading

- (b) may be oral
- (c) may be either in pleadings or otherwise
- (d) none of the above.

**Q38: Who was the first woman judge of the Supreme Court of India?**

- (a) Justice Sujata Manohar
- (b) Justice Leila Seth
- (c) Justice Fatima Biwi
- (d) Justice Ruma Pal.

**Q39: Blood cancer is commonly known as**

- (a) Anaemia
- (b) Leukaemia
- (c) Leucodeema
- (d) Bulemia.

**Q40: International Court of justice is located at**

- (a) Geneva
- (b) Prague
- (c) Washington D.C.
- (d) The Hague.

**Q41: From which one country did India buy the Barack anti-missile defence systems?**

- (a) Israel
- (b) France
- (c) Russia
- (d) USA.

**Q42: The Nobel Prize are distributed annually at**

- (a) Manila
- (b) Stockholm

- (c) Geneva
- (d) New York.

**Q43: Who was the first Indian to receive the Magasaysay Award?**

- (a) Indira Gandhi
- (b) T.N. Seshan
- (c) Kiran Bedi
- (d) Vinoba Bhave.

**Q44: Match the following**

Place	State
A. Sriharikota1.	Karnataka
B. Thumba2.	Andhra Pradesh
C. Hassan	3. Orissa
D. Chandipur	4. Kerala
	5. Tamil Nadu.

**Codes:**

	A	B	C	D
(a)1		3	5	4
(b)2		4	1	3
(c)1	4		5	3
(d)2	3		1	4.

**Q45: The famous Petronas Twin Towers are located in**

- (a) China
- (b) Japan
- (c) Malaysia
- (d) Indonesia.

**Q46: The City of Chandigarh was designed by**

- (a)Le Corbousier
- (b)Edward Lutyens
- (c)Michelongo
- (d)Lord Mountbatten.

**Q47: With which religion is Kaivalya associated?**

- (a)Buddhism
- (b)Jainism
- (c)Hinduism
- (d)Sikhism.

**Q48: The title 'Devanan Priya was gives to**

- (a)Harsha
- (b)Kanishka
- (c)Ashoka
- (d)Chandragupta Vikramaditya.

**Q49: The achievement of Samudragupta are described in**

- (a)Hathigumpha inscription
- (b)Allahabad pillar inscription
- (c)Girnar inscription
- (d)Sarnath inscription.

**Q50: Who gave the slogan 'Go back to the Vedas'?**

- (a)Ramakrishna Paramhana
- (b)Raja Ram Mohan Roy
- (c)Swami Dayanand Saraswati
- (d)Swami Vivekananda.

**Q51: The Practice of Sati was declared illegal by**

- (a)Lord Ripon
- (b)Lord Cornwallis
- (c)Lord William Bentick
- (d)Lord Dalhousie.

**Q52: Who was the Viceroy of India at the time of Jallianwala Bagh Massacre?**

- (a)Lord Curzon
- (b)Lord Hardinge
- (c)Lord Chelmsford
- (d)Lord Irwin.

**Q53: The Strait which separates Africa from Europe is**

- (a)Hook Strait
- (b)Strait of Gibraltar
- (c)Palk Strait
- (d)Bering Strait.

**Q54: The Tropic of Cancer does not pass through**

- (a)Madhya Pradesh
- (b)West Bengal
- (c)Rajasthan
- (d)Orissa.

**Q55: Who is called the 'Father of Economics'?**

- (a)Max Muller
- (b)Karl Marx
- (c)Adam Smith
- (d)None of the above.

**Q56: Which of the following diseases is not caused by virus?**

- (a)Choler
- (b)Chickenpox
- (c)Hepatitis
- (d)Measles.

**Q57: Zawar mines famous for Zinc are situated in**

- (a)Madhya Pradesh
- (b)Jharkhand
- (c)Chhattisgarh
- (d)Rajasthan.

**Q58: Which acid is produced when milk gets sour?**

- (a)Acetic Acid
- (b)Tartaric acid
- (c)Lactic acid
- (d)Butyric acid.

**Q59: Who among the following has been awarded with Rajiv Gandhi Khel Ratna Award 2012?**

- (a)Sushil Kumar and Yogeshwar Dutt
- (b)Sushil Kumar and Yogeshwar Dutt
- (c)Vijay Kumar and Yogeshwar Dutt
- (d)Sushil Kumar and Vijay Kumar.

**Q60: The headquarters of UNESCO is in**

- (a)New York
- (b)Paris
- (c)Moscow
- (d)Geneva.

**Q61: A is a good swimmer. He sees B drowning, but does not save him. B is drowned. A has committed**

- (a)the offence of Murder
- (b)the offence of abetment of suicide
- (c)the offence of culpable homicide not amounting to murder
- (d)no offence.

**Q62: Palvinder Kaur v. State of Punjab, AIR 1952 SC 354, relates to which of the following?**

- (a)Confession
- (b)Dying Declaration
- (c)Entries in the books of account
- (d)Relevancy of judgments.

**Q63: A fact is said to be “not proved”**

- (a)when it is disproved
- (b)when, after considering the matters before it, the court believes that it does not exist
- (c)when a prudent man consider that the fact does not exist
- (d)when it is neither proved nor disproved.

**Q64: The principle that possession is prima facie proof of ownership is provided under which section of the Evidence Act?**

- (a)Section 109
- (b)Section 110
- (c)Section 111
- (d)Section 113.

**Q65: X sues Y for money due on a bond. The execution of the bond is admitted, but Y says that it was obtained by fraud, which X denies. The burden of proof is on**

- (a)Y
- (b)X
- (c)Either X or Y
- (d)Discretion of Court.

**Q66: Promises which form the consideration or part of the consideration for each other are called**

- (a)conditional promises
- (b)cross offers
- (c)reciprocal promises
- (d)contingent promises.

**Q67: The juridical basis of quasi-contractual obligation can be explained by the theory of**

- (a)indebitatus assumpsit
- (b)unjust enrichment
- (c)just and reasonable solution
- (d)voluntary benefits.

**Q68: Which of the following sections of the Hindu Marriage Act, 1955 contains provision for “divorce by mutual consent”?**

- (a)Section 13
- (b)Section 13A
- (c)Section 14
- (d)None of the above.

**Q69: Which of the following is not correct?**

- (a)Limitation is a procedural law
- (b)Limitation bars the judicial remedy
- (c)Limitation extinguishes the right
- (d)None of the above.

**Q70: Which of the following does not find a mention as showing State of mind under section 14 of the Evidence Act, 1872?**

- (a)Ill-will
- (b)motive
- (c)Good faith
- (d)Negligence.

**Q71: ‘Rejection of plaint’ is mentioned under**

- (a)Order VII, Rule 11
- (b)Order VI, Rule 13
- (c)Order VII, Rule 12
- (d)Order VIII, Rule 4.

**Q72: Dasti summons for service on the defendant can be given to the plaintiff under**

- (a)Order V, Rule 9, CPC
- (b)Order V, Rule 9A, CPC
- (c)Order IV, Rule 7, CPC
- (d)Order VI, Rule 6, CPC.

**Q73: Section 115 of the Civil Procedure Code provides for**

- (a)Reference
- (b)Review
- (c)Revision
- (d)Appeal to the Supreme Court.

**Q74: Order XXIII of the Civil Procedure Code applies to**

- (a)withdrawal of suits
- (b)Appeals
- (c)Execution proceeding
- (d)All of the above.

**Q75: Objection as to place of suing shall be allowed in the Court of first instance in the essence of**

- (a) Section 21, CPC
- (b) Section 21A, CPC
- (c) Section 22, CPC
- (d) Section 24, CPC.

**Q76: Assault in order to outrage the modesty of a woman is punishable under which section of Indian Penal Code?**

- (a) Section 329
- (b) Section 354
- (c) Section 364
- (d) Section 509.

**Q77: In Criminal cases, the fact that the accused person has a**

- (a) previous good character is relevant
- (b) previous bad character is relevant
- (c) both (a) and (b)
- (d) None of the above.

**Q78: An ex parte decree can be set aside under**

- (a) Order IX, Rule 7, CPC
- (b) Order IX, Rule 11, CPC
- (c) Order IX, Rule 12, CPC
- (d) Order IX, Rule 13, CPC.

**Q79: The following is not a disability within the meaning of section 6 of the Limitation Act, 1963**

- (a) Insolvency
- (b) Insanity
- (c) Minority

(d) Idiocy.

**Q80: A contract does not stand discharged**

- (a) by performance
- (b) by breach of contract
- (c) by impossibility of performance
- (d) by a mere likely delay in performance.

**Q81: Rescission of a contract means**

- (a) cancellation of contract
- (b) alteration of contract
- (c) the renewal of original contract
- (d) substitution of new contract in place of earlier one.

**Q82: The principle laid down in Hadley V. Baxendale related to**

- (a) minor's agreement
- (b) privity of consideration
- (c) contracts caused by mistake of parties
- (d) None of the above.

**Q83: Which section of the IPC codifies, in the field of criminal law, the maxim: de minimis non curat lex.**

- (a) Section 85
- (b) Section 88
- (c) Section 95
- (d) Section 96.

**Q84: Whether a weapon is a deadly weapon is a question of**

- (a) Law
- (b) Fact
- (c) Opinion of the expert witness

(d)Opinion of the judge.

Q85: Right of Private defence is available

(a)Against all members of an unlawful assembly

(b)In a free fight

(c)To retrieve from the wrong doer one's property

(d)Both (a) and (b).

**Q86: After investigation pertaining to an offence of murder, the Police files a cancellation report. The report can be accepted only by**

(a)The Magistrate

(b)The Court of Sessions

(c)The High Court

(d)None of the above.

**Q87: 'X' is accused of an offence of rape. He can be subjected to the following tests for investigation**

(a)Polygraph Test

(b)Narco analysis Test

(c)Brain Electrical Activation Profile (BEAP)Test

(d)None of the above.

**Q88: A boy aged about 14 years is suspected in the commission of the offence of murder. He can be made to join investigation**

(a)at the Police Station

(b)at his residence

(c)at any place

(d)all of the above.

**Q89: Right of an accused for plea-bargaining in India relates to:**

(a)Fact bargaining

(b)Charge bargaining

(c) Sentence bargaining

(d)All of the above.

**Q90: Nothing is an offence if it is done by a person who is a:**

(a)Boy of 6 years having sufficient maturity to understand the nature and consequence of her conduct

(b)Girl below 12 years having sufficient maturity to understand the nature and consequence of her conduct

(c)A man aged 100 years

(d)All of the above.

**Q91: Criminal justice system in India is based on:**

(a)It is the duty of the State to the state to prosecute whosoever commits a wrong

(b)Adversarial trial

(c)A wrong doer must be punished

(d)Both (a) and (b) above.

**Q92: Test Identification Parade pertains to the field of**

(a)Investigation

(b)Trial

(c)Satisfaction of the Investigating Officer that he is proceeding in the right direction

(d)Both (a) and (b) above.

**Q93: Police remand of an accused cannot exceed:**

(a)7 days

(b)9 days

(c)12 days

(d)15 days.

**Q94: Which of the following statement is/are correct?**

(a)Preparation to commit dacoity is not an offence

(b)Preparation to commit murder is not an offence

(c)Attempt to commit murder is not an offence

(d)Both(a) and (b) above.

**Q95: A suit may be defeated due to**

(a)Non-joinder of a proper party

(b)Misjoinder of a necessary party

(c)Non-joinder of a necessary party

(d)Misjoinder of a proper party.

**Q96: Acknowledgement after the period of limitation:**

(a)Is of no effect

(b)Gives rise to an independent an enforceable contract

(c)Is of great value

(d)None of the above.

**Q97: A time-barred debt can be claimed:**

(a)As a set off

(b)As a counter-claim

(c)As a fresh

(d)None of the above.

**Q98: In a suit for maintenance, arrears can be claimed for the last:**

(a)Seven years

(b)Twelve years

(c)One year

(d)Three years.

**Q99: A partnership firm is:**

(a)A distinct legal entity from its partners

(b)An independent juristic person

(c)An agent of its partners

(d)None of the above.

**Q100: Two parties entered into contract. They later realized that there was a mistake in their understanding of the law as applicable in India. This makes their contract:**

(a)Non est

(b)void

(c)voidable

(d)None of the above.

**Q101: Which of the following is an offer?**

(a)A bid at an auction sale

(b)Banker's catalogue of charges

(c)Menu card at a restaurant

(d)All of the above.

**Q102: If only a part of the consideration or object is unlawful, the contract under section 24 of the Indian Contract Act, 1872 shall be**

(a)Valid to the extent the same are lawful

(b)void to the extent the same are unlawful

(c)void as a whole

(d)valid as a whole.

**Q103: A suit for damages for breach of contract can be filed at a place**



- (a) where the contract was executed
- (b) where the contract was to be performed
- (c) where the plaintiff resides
- (d) both (a) and (b).

**Q104: A decision or finding given by a court or a Tribunal without jurisdiction:**

- (a) Can operate as res judicata under all circumstances
- (b) Cannot operate as res judicata
- (c) Cannot operate as res judicata under certain circumstances only
- (d) May operate as res judicata or may not operate as judicata.

**Q105: What does the legal maxim 'sui generis' mean?**

- (a) On its own strength
- (b) The only one of its kind
- (c) On the threshold
- (d) Among other things.

**Q106: Which of the following is not a ground for dissolution by the Court of a firm under section 44 of the Partnership Act?**

- (a) Unsoundness of Mind
- (b) Misconduct
- (c) Persistent breach of agreement
- (d) Death or insolvency of a partner.

**Q107: The liability of a partner is**

- (a) Joint only
- (b) Several only
- (c) Joint as well as several
- (d) Strict liability.

**Q108: In which case, Lord Cranworth said, "The liability of one partner for the acts of his co-partner is in truth the liability of a principal for the acts of his agent".**

- (a) Grace V. Smith
- (b) Young V. Jones
- (c) Cox V. Hickman
- (d) Bentley V. Craven.

**Q109: Which of the following is not a sufficient cause within the meaning of section 5 of the Limitation Act, 1963?**

- (a) Illness
- (b) Imprisonment
- (c) Poverty
- (d) Wrong proceedings taken in good faith.

**Q110: A relief of injunction may be refused on the ground of**

- (a) Laches or acquiescence
- (b) The applicant has not come with clean hands
- (c) where monetary compensation is adequate relief
- (d) All of the above.

**Q111: Guardianship of the person of a Minor Under Muslim Law is called**

- (a) Jabar
- (b) Wasi
- (c) Hizanat
- (d) None of the above.

**Q112: Khyar-ul-bulugh is**

- (a) option of puberty
- (b) A form of valid marriage

(c) A form of dower

(d) Infidelity.

**Q113: A sum stipulated for a Muslim girl in the marriage is:**

(a) Musha

(b) Mahr (dower)

(c) Nazarana

(d) Izi.

**Q114: A mute marriage could not be dissolved:**

(a) Ipso facto by the efflux of the period.

(b) By death

(c) By divorce

(d) By hiba-i-muddat.

**Q115: Restitution of conjugal rights is provided for in which section of the Hindu Marriage Act, 1955?**

(a) Section 7

(b) Section 8

(c) Section 9

(d) Section 10.

**Q116: If a minor marries without the consent of the parents/guardian, the marriage would be:**

(a) Invalid

(b) Valid

(c) void

(d) voidable.

**Q117: To make a marriage voidable on account of lack of mental capacity, the mental capacity should relate to:**

(a) Pre-marriage Mental conditions

(b) Post-marriage mental conditions

(c) Both (a) and (b)

(d) either (a) or (b).

**Q118: Which section of the Hindu Marriage Act, 1955 provides for the registration of marriage?**

(a) Section 6

(b) Section 8

(c) Section 12

(d) Section 26.

**Q119: An adoption made by the Hindu male without the consent of his wife**

(a) valid

(b) voidable

(c) illegal

(d) void.

**Q120: A female of 21 years wants to adopt a boy/girl. She can do so:**

(a) If she is unmarried

(b) if she is married, with the consent of her husband

(c) she cannot adopt a child

(d) both (a) and (b).

**Q121: Which of the following sections of the Hindu Marriage Act, 1955, provides that children of a void marriage would be the legitimate children?**

(a) Section 11

(b) Section 16

(c) Section 17

(d) Section 18.

**Q122: 'Mesne profit' has been defined under which section of the Code of Civil Procedure?**

- (a)Section 2(4)
- (b)Section 2(8)
- (c)Section 2(12)
- (d)Section 2(14)

**Q123: Which is not public document?**

- (a)Affidavit
- (b)Judgment of Court
- (c)Arrest warrant
- (d)Will.

**Q124: Specific performance of contracts may be ordered by the court when**

- (a)the contract is voidable
- (b)damages are an adequate remedy
- (c)damages are not an adequate remedy
- (d)the contract is uncertain.

**Q125: 'A' puts his hand in the pocket of 'B' for stealing money, but the pocket was empty.'A' is guilty of:**

- (a)Theft
- (b)Attempt to commit theft
- (c)Mischief
- (d)No offence.

## RESILIENCE LAW ACADEMY

<b><u>ANSWER</u></b>	21(D)	43(D)	65(A)	87(C)	109(C)
<b><u>KEY</u></b>	22(B)	44(B)	66(C)	88(C)	110(D)
1(C)	23(D)	45(C)	67(B)	89(C)	111(C)
2(D)	24(C)	46(A)	68(B)	90(A)	112(A)
3(B)	25(D)	47(B)	69(C)	91(B)	113(B)
4(B)	26(C)	48(C)	70(B)	92(A)	114(C)
5(D)	27(A)	49(B)	71(A)	93(D)	115(C)
6(B)	28(D)	50(C)	72(B)	94(B)	116(B)
7(A)	29(B)	51(C)	73(C)	95(C)	117(A)
8(A)	30(D)	52(C)	74(A)	96(A)	118(B)
9(C)	31(D)	53(B)	75(A)	97(D)	119(D)
10(A)	32(C)	54(D)	76(B)	98(D)	120(A)
11(B)	33(A)	55(C)	77(A)	99(D)	121(B)
12(C)	34(B)	56(A)	78(D)	100(D)	122(C)
13(D)	35(C)	57(D)	79(A)	101(A)	123(D)
14(A)	36(A)	58(C)	80(D)	102(C)	124(C)
15(C)	37(C)	59(C)	81(A)	103(D)	125(B)
16(C)	38(C)	60(B)	82(D)	104(B)	
17(B)	39(B)	61(D)	83(A)	105(B)	
18(B)	40(D)	62(A)	84(D)	106(D)	
19(B)	41(A)	63(D)	85(A)	107(C)	
20(C)	42(B)	64(B)	86(B)	108(D)	