

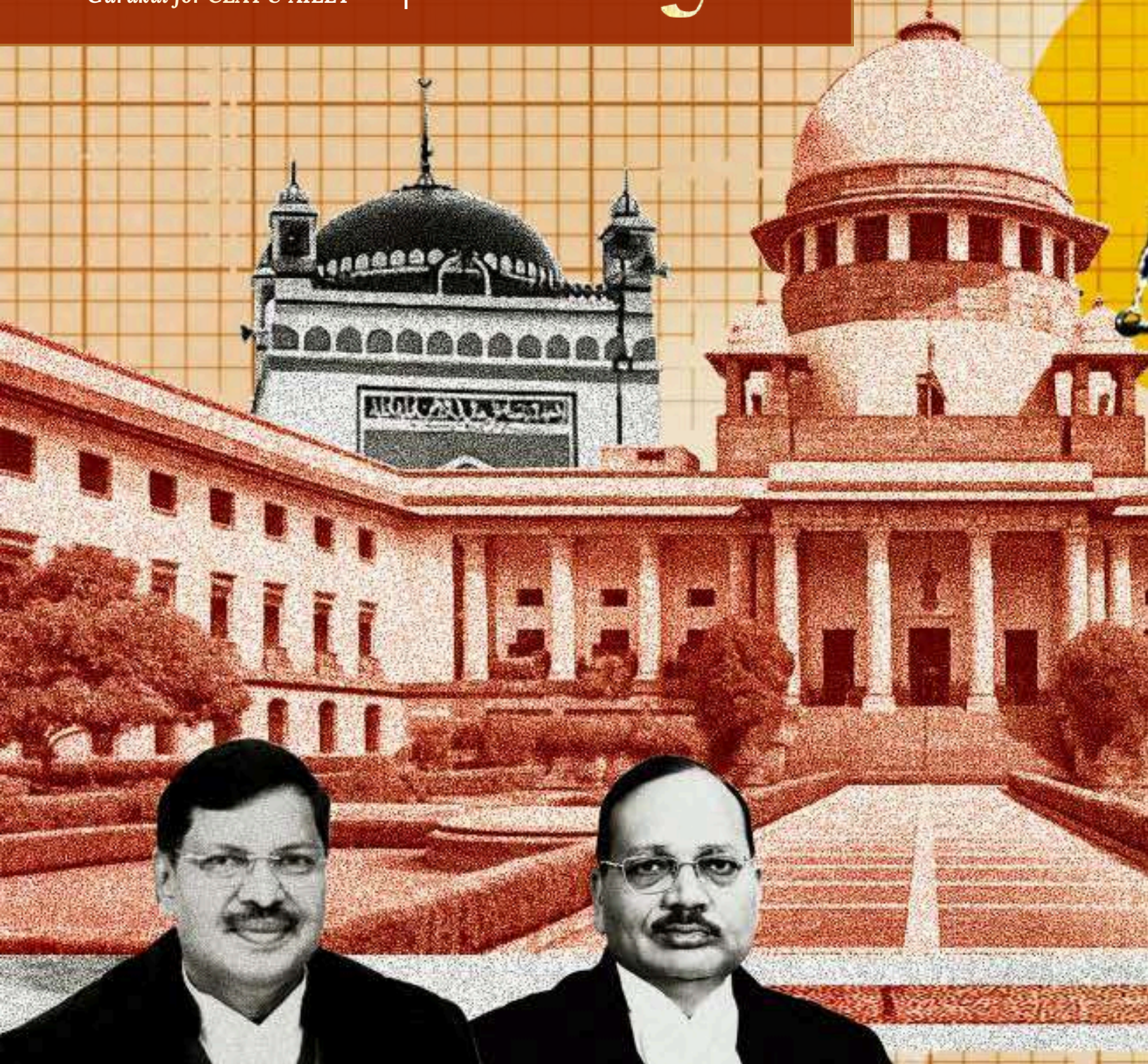


NISHANT PRAKASH  
LAW CLASSES

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# Legal Tathya

NOVEMBER 2025



Your Monthly Guide to Legal Reasoning and Legal Current Affairs



# NPLC's TOP 10 GLORY 2025

A salute to our five toppers who turned pressure into purpose – their journey fuels the ambition of every student aiming for the top.



**Aditya Gautam  
Ankhad**



**Chaitanya Ghosh**



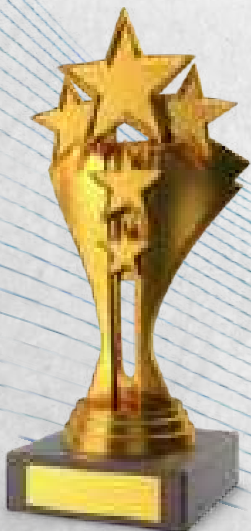
**Daiwik Agarwala**



**Dhruv Kamath**



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**AIR 02, CLAT**



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**Aditya Ankhad**



**AIR 6, AILET**



**Dhruv Kamath**



**AIR 10, AILET**



**Vidisha Singh**



**AIR 24, AILET**



**Samyuktha Kovilakath**



**AIR 30, AILET**



**Goohika Joshi**



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# Nishant Prakash



Nishant Prakash, founder and chief mentor at NPLC, is a nationally recognized legal educator and policy advisor. An alumnus of one of India's premier National Law Schools, Nishant left a thriving corporate law career to dedicate himself fully to teaching and mentoring the next generation of legal leaders. For over 13 years, he has built an unparalleled reputation as a transformational teacher, guiding students with precision, compassion, and personal accountability.

He has been associated with some of the country's top-tier law firms, including Luthra & Luthra, and holds expertise in Intellectual Property, Insurance, and Trade Law, with over 30 national and international publications to his credit.

A firm believer in long-term academic mentorship, Nishant combines academic rigour with real-world legal insights to prepare students for top law schools and successful careers. His work consistently bridges the gap between textbook learning and practical application, equipping students with a clear understanding of how law operates in the real world.

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What sets Nishant apart is not just his knowledge, but his unwavering dedication to each student's growth. Every batch under his guidance is not just taught, but molded. He pushes students beyond their limits—while offering the support, discipline, and insight they need to thrive in competitive legal exams and beyond.

For parents looking for a mentor who truly takes ownership, and for students seeking more than just lectures—Nishant Prakash is the mentor who stays with you, every step of the way.

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# SUPREME COURT

Landmark Judgements



## 1 Knowledge of Caste Identity under the Atrocities Act

### Background

- The accused, **Shivkumar @ Baleshwar Yadav**, lived in the same locality as the victim, a **minor girl belonging to a Scheduled Caste**. Their families knew each other well.
- The prosecution alleged that the accused **abducted and sexually assaulted** the minor after luring her away from home.
- The victim's **caste certificate** established her membership of a Scheduled Caste. The investigating officer also confirmed that the accused had been a **neighbour and frequent visitor**, implying **personal acquaintance**.
- The **Trial Court convicted** him under IPC offences for rape, under the POCSO Act, and under **Section 3(2)(v)** of the Atrocities Act, awarding **life imprisonment**.
- The **High Court of Chhattisgarh upheld** the conviction, finding that the accused's knowledge of the girl's caste was implicit because of his close acquaintance with the family.
- On **appeal to the Supreme Court**, the defence argued that there was **no evidence** that the offence was committed "on the ground of caste" or that the accused knew the girl's caste identity, challenging the invocation of the Atrocities Act.

### Judgement of the Court

- The Court held that, after the **2016 amendment**, Section 3(2)(v) requires only that the accused **knew** the victim was a member of a Scheduled Caste or Scheduled Tribe; the earlier phrase "*on the ground*

### Case Details

**Case Title:** Shivkumar @Baleshwar Yadav v. State of Chhattisgarh  
**Citation:** 2025 INSC 1231  
**Bench** Justice B.V. Nagarathna & Justice K.V. Viswanathan

### Issue Before the Court

1. **Whether mere knowledge** of the victim's caste identity is sufficient to attract liability under **Section 3(2)(v)** of the Atrocities Act, or whether it must be shown that the offence was committed *on the ground of caste*.
2. **Whether personal acquaintance** with the victim or her family raises a **presumption of knowledge** of caste identity under **Section 8(c)** of the Act.
3. **Whether the evidence** on record was sufficient to sustain conviction under the Atrocities Act, considering the defence argument that the prosecution failed to prove motive based on caste.
4. **Whether the prosecution's conduct** in declaring a key witness "hostile" was justified, and how courts should handle inconsistencies in witness testimony in sensitive criminal cases.



that such person is a member..." was removed to widen protection.

- **Section 8(c)** of the Act establishes a **rebuttable presumption**: when an accused is personally acquainted with the victim, it will be presumed that he **knew the caste identity**, unless he proves otherwise. In this case, his neighbourhood proximity and frequent contact satisfied that requirement.
- The Court reaffirmed that the **burden of rebuttal** lies with the accused once the prosecution establishes acquaintance. Mere denial or lack of explicit reference to caste does not rebut the presumption.
- It relied on **legislative intent**—to strengthen protection for SC/ST victims—and noted that requiring direct evidence of caste motive would defeat that object.
- The Bench criticised the prosecution for casually declaring the victim's father hostile, stating that **minor inconsistencies** cannot justify such action. Courts must read the evidence as a whole.
- Since the victim's minority was proved, her testimony was credible, and acquaintance established, the **conviction under Section 3(2)(v)** was upheld

### Reasoning of the Court

- The Court held that under the Domestic Violence Act, 2005, a victim — whether an estranged wife or a live-in partner — is entitled to broader relief than mere maintenance under Section 125 CrPC, including the right to reside in a shared household.
- It explained that the DVC Act creates civil and protective remedies, not limited to subsistence, but extending to residence, protection, and compensation, ensuring the victim's right to live with dignity.
- The Court emphasized that the definition of "domestic relationship" under Section 2(f) of the DVC Act covers live-in partners, and thus protection cannot be restricted only to legally married women.
- It reasoned that the DVC Act is a special welfare legislation and must be interpreted liberally to advance its object — providing effective relief to women facing economic or emotional abuse.
- The Court clarified that the DVC Act operates independently of Section 125 CrPC; both may coexist, but DVC remedies are supplementary and wider in scope, ensuring the right to residence and dignity beyond mere monetary maintenance.

### Key Takeaway for CLAT Aspirant

#### 1. Section 3(2)(v) — Enhanced Punishment on Knowledge of Caste

This section provides that any person who commits an offence punishable under the IPC with imprisonment of ten years or more **against a person known to belong to SC/ST** is liable to enhanced punishment. The **2016 amendment** replaced "on the ground that" with "knowing that," shifting focus from motive to knowledge. Thus, mere **awareness of caste identity** suffices for liability; proof of caste-based intent is not essential.

#### 2. Section 8(c) — Statutory Presumption of Knowledge

Section 8(c) directs that if the accused was personally acquainted with the victim or her family, the court shall presume that he knew her caste identity, unless rebutted. This presumption aligns with evidentiary



rules under the Bharatiya Sakshya Adhiniyam, 2023 (Sections 120–125), where presumptions shift burdens to the accused in special statutes.

### 3. Burden of Proof and Rebuttal under Protective Laws

In such statutes, once the prosecution establishes acquaintance and the victim's caste, the **burden shifts** to the accused to disprove knowledge. This principle parallels the **reverse burden clause** in laws like the NDPS Act (Section 54) and POCSO Act (Section 29), showing a legislative trend toward strengthening victim protection.

### 4. Hostile Witness Doctrine

The Court clarified that declaring a witness “hostile” under **Section 154 of the Evidence Act (now Section 157 of the Bharatiya Sakshya Adhiniyam)** is an **exception**, not the norm. Minor contradictions or fading memory cannot justify hostility. Courts must weigh testimony holistically; even a hostile witness's credible portions can be relied upon.

### 5. Rule of Proportionality and Concurrent Findings

Appellate courts defer to concurrent findings of fact unless perverse or unsupported by evidence. Here, both lower courts had found acquaintance and proof of knowledge; hence, the Supreme Court refused interference. This reinforces the **doctrine of finality** and the principle that **factual re-appreciation is limited in criminal appeals**.

### 6. Legislative Intent and Social Justice Interpretation

The Court applied a **purposive interpretation** to the Atrocities Act, viewing it as a remedial statute aimed at eliminating caste-based discrimination. It reiterated that protective laws must be **interpreted liberally** in favour of victims, drawing from precedents like *State of Maharashtra v. Baliram Waman Patil* (1983) and *Patan Jamal Vali v. State of Andhra Pradesh* (2021).

### 7. Interplay with POCSO and IPC

When an offence under the IPC or POCSO Act is committed against a SC/ST victim, the same act may attract **enhanced punishment under Section 3(2)(v)** of the Atrocities Act. This dual application does not amount to double jeopardy since the aggravating factor (victim's caste) creates a **distinct statutory offence**.

### 8. Constitutional Dimension

The judgment also reflects Articles 15(2) and 17 of the Constitution—prohibiting caste-based discrimination—and Article 46, a Directive Principle directing the State to protect SC/ST interests. The Atrocities Act operationalises these principles through criminal sanctions.

### 9. Evidence of Acquaintance and Proof of Caste

The prosecution must prove (i) the victim's caste status through documentary or witness evidence, and (ii) the accused's familiarity or proximity. Once these are established, **knowledge is presumed**. This evidentiary chain is crucial for case-based questions in CLAT or judiciary exams.

### 10. Broader Impact

This case clarifies that caste-based offences no longer require proof of motive or verbal caste insult. Instead, **knowledge derived from social relationship or locality** suffices. It strengthens the protective scope of the Atrocities Act, balancing it with due process safeguards.



## Practice Questions

1. Amit, a college student, assaulted his classmate Dinesh with a hockey stick, causing grievous hurt. During trial, it was established that Amit and Dinesh lived in the same neighborhood for five years and their families attended community events together. Dinesh belongs to a Scheduled Caste. The prosecution proved the assault but could not show any caste-related slur or discriminatory motive. Amit argued he acted in a personal dispute over a cricket match and was unaware of Dinesh's caste despite the acquaintance. Can Amit be held liable under Section 3(2)(v) of the Atrocities Act?

- (a) Yes, because the 2016 amendment requires only knowledge of caste identity, not caste-based motive, and acquaintance raises a statutory presumption.
- (b) No, because enhanced punishment requires proof that the offence was committed "on the ground of caste," which the prosecution failed to establish.
- (c) No, because personal disputes between acquaintances are presumed to be non-casteist unless explicit caste insults are proven.
- (d) Yes, but only if Amit made any reference to Dinesh's caste during or after the assault, as knowledge alone is insufficient.

2. Vikram was prosecuted for rape under IPC Section 376 against Priya, who belongs to a Scheduled Tribe. The prosecution proved the rape charge and Priya's tribal status through caste certificates. However, the prosecution produced no evidence that Vikram knew Priya personally or was familiar with her family before the incident, which occurred in a city 200 km from both their native villages. Vikram claimed he never knew her caste. Under what circumstances can the court presume Vikram's knowledge of Priya's caste under Section 8(c)?

- (a) The court must presume knowledge because the victim's caste was proven, and ignorance cannot be a defense in protective statutes.
- (b) The court cannot presume knowledge absent proof of personal acquaintance, as Section 8(c) requires established familiarity with the victim or her family.
- (c) The court may presume knowledge if Vikram and Priya belong to the same district, as regional proximity substitutes for personal acquaintance.
- (d) The court must presume knowledge because the act of rape itself demonstrates sufficient interaction to infer awareness of caste.

3. In a trial under the Atrocities Act, the victim's father testified that the accused, Ranjit, knew the family well as they were co-villagers. During cross-examination, he could not recall the exact date of a prior meeting he had mentioned in his police statement, and gave a slightly different account of a conversation. The defense moved to declare him hostile and requested the court to discard his entire testimony. The trial judge refused, stating that minor inconsistencies do not warrant hostility. Was the trial judge's approach correct?

- (a) No, because any contradiction between examination-in-chief and police statement justifies declaring a witness hostile to protect the accused's right to fair trial.



(b) No, because the father's inability to recall dates shows unreliability, and hostile declaration allows the defense to impeach the entire testimony.

(c) Yes, because declaring a witness hostile is exceptional and reserved for material contradictions, not minor memory lapses, and even hostile testimony can be partly relied upon.

(d) Yes, because in protective statutes like the Atrocities Act, witnesses cannot be declared hostile to ensure victim-centric justice.

4. Suresh was convicted under POCSO Act Section 4 (penetrative sexual assault on a minor) for assaulting a 15-year-old girl belonging to a Scheduled Caste. The trial court also convicted him under IPC Section 376 and Section 3(2)(v) of the Atrocities Act, awarding separate sentences: 10 years under POCSO, 7 years under IPC 376, and enhanced punishment of 12 years under Section 3(2)(v). Suresh appealed, arguing this constitutes double jeopardy for the same act as Article 20(2) prohibits multiple punishments for one offense. Is Suresh's contention valid?

(a) Yes, because the same physical act cannot attract three separate convictions, and the court should have imposed only the highest sentence under POCSO.

(b) Yes, because Section 3(2)(v) is only an enhancement clause that modifies IPC punishment, not an independent offense, making triple conviction impermissible.

(c) No, because POCSO and the Atrocities Act serve different legislative purposes—child protection and caste equality—justifying concurrent convictions.

(d) No, because Section 3(2)(v) creates a distinct statutory offense where the victim's caste is an aggravating element, and this does not amount to double jeopardy.

5. Kailash was prosecuted for causing hurt to Mahesh under IPC Section 323 and Section 3(2)(v) of the Atrocities Act. The prosecution produced Mahesh's caste certificate proving SC status and a school attendance register showing both attended the same village school for six years. Kailash testified that he never spoke to Mahesh in school, belonged to a different class, and had no idea of his caste. The Sessions Court convicted him, and the High Court upheld it on concurrent findings. In appeal, the Supreme Court should:

(a) Reverse the conviction because mere school attendance without social interaction cannot establish personal acquaintance required for presumption under Section 8(c).

(b) Uphold the conviction because six years of school attendance in the same village school establishes sufficient proximity to presume knowledge, and concurrent findings are not lightly interfered with.

(c) Reverse the conviction because Kailash's testimony denying knowledge rebuts the presumption, and the burden on the prosecution to prove knowledge independently was not discharged.

(d) Uphold the conviction only if additional evidence shows Kailash's family and Mahesh's family had social or professional interactions beyond schooling.



# SUPREME COURT

## Landmark Judgements



## 2

## Article 19(1)(g) of Indian Constitution

### Background

- The appellant, Vinishma Technologies Pvt. Ltd., a company registered under the Companies Act, claimed to have experience supplying sports kits to various state governments (Bihar, Karnataka, Gujarat) and to the Government of NCT Delhi.
- The respondent (State of Chhattisgarh) through its Samagra Shiksha Chhattisgarh State Project Office (School Education Department) issued three tender notices dated 21 July 2025, via Government-e-Marketplace, for the supply of sports kits to government primary, upper primary, high & higher secondary schools in the State. The total contract values were large (₹15.24 crores, ₹13.08 crores, ₹11.49 crores) covering 5,540 cluster resource centres across 33 districts.
- The tenders set out eligibility or qualification criteria. Among them, one condition (Condition 4) required that bidders must have **supplied sports goods worth at least ₹6.00 crores (cumulative) to State Government agencies of Chhattisgarh** in the last three financial years.
- The appellant challenged this condition because although it had ample experience in other states, it had not supplied to Chhattisgarh during the stipulated period and was thereby excluded from participation. The appellant filed writ petitions in the Chhattisgarh High Court.
- The High Court upheld the tender condition, holding that the State was entitled to prescribe such a condition to ensure capable and reliable

### Case Details

**Case Title:** Ramesh Chand (D) Thr. Lrs. v. Suresh Chand And Anr  
**Citation:** 2025 INSC 1182\_  
**Bench** Justices Sanjay Kumar & Alok Aradhe

### Issue Before the Court

1. Whether the tender condition restricting eligibility to bidders who had prior supply experience *within the State of Chhattisgarh* (specifically to State Government agencies of Chhattisgarh) bore a **rational nexus** with the object of the procurement and was **reasonable**.
2. Whether such a state-specific past-performance criterion amounted to an **artificial barrier** to competition, thus violating the doctrine of **level playing field** and infringing the fundamental right under Article 19(1)(g) to carry on business.
3. Whether the condition discriminated among bidders and therefore offended Article 14 of the Constitution.



bidders and that the condition did not violate Articles 14 or 19(1)(g).

- The Supreme Court granted leave and heard the appeal.

### Judgement of the Court

- The Court reaffirmed that while a State has substantial discretion in framing tender conditions, that discretion is **not unlimited**. The procurement of public contracts involves a **public element** and must adhere to fairness, rationality and equality.
- The Court noted that the provision of Article 19(1)(g) (business freedom) must be interpreted alongside the doctrine of **level playing field**, which requires that all equally placed competitors should have equal opportunity to participate in commerce.
- The Court held that the tender condition in question lacked a **rational nexus** to the object of the procurement. The objective was to supply sports kits across the State. A condition limiting eligibility only to those with prior supply in the State was **disproportionate** – the State could have required experience in similar supply contracts *anywhere*, not just within the State.
- The Court found that the condition had the effect of excluding competent bidders from other states (or central contracts) who may have superior experience, thereby curtailing competition and raising the risk of **cartelisation**. This was held to offend the doctrine of level playing field under Article 19(1)(g) and equality under Article 14.
- The State's justification – that Chhattisgarh is Naxal-affected and that prior experience in the State ensured timely delivery – was rejected. The Court observed that the tender was for supply of sports kits (non-security sensitive), the Maoist/Naxal problem did not affect the entire State uniformly, and logistical risks could be addressed by local supply partner arrangements rather than wholesale exclusion of outside bidders.
- On these grounds, the Court held the impugned tender condition was **arbitrary, unreasonable and discriminatory**, in violation of Articles 14 and 19(1)(g). The High Court orders upholding the tenders were quashed and set aside. The State was directed to issue fresh tenders in conformity with constitutional norms.

### Issue Before the Court

4. Whether the restriction could be justified under Article 19(6) as a *reasonable restriction* in the interest of public procurement efficiency, logistics, local conditions including Naxal-affected areas etc.

### Key Takeaway for CLAT Aspirant

#### 1. Article 19(1)(g) – Freedom to Carry on Trade or Business

Article 19(1)(g) guarantees to all citizens the right to practise any profession or to carry on any occupation, trade or business. While private corporations can also engage in trade, the right implies that the State cannot arbitrarily impose conditions that effectively exclude legitimate businesses from participation. In procurement contexts, eligibility criteria can interfere with this right, so they must meet tests under Article 19(6) and the doctrine of level playing field.

#### 2. Article 14 – Equality Before Law and Non-Arbitrariness

Article 14 ensures equality before law and equal protection of laws. In the context of tenders, this means similar bidders must be treated alike, and eligibility criteria must not discriminate arbitrarily.

Any exclusion must have a rational basis linked to the objective. Here, limiting past-experience eligibility only to the State's agencies was found discriminatory as it excluded equally placed outside bidders.

### 3. Doctrine of Level Playing Field in Public Procurement

This doctrine, as approved by the Supreme Court, emerges from Articles 14 and 19(1)(g). It means that procurement processes must ensure **equal opportunity** to all qualified participants without artificial barriers. The State must not skew competition in favour of local or incumbent suppliers unless there is a compelling, evidence-based reason. The tender criteria challenged in this case violated that doctrine by erecting a geofenced requirement.

### 4. Rational Nexus and Proportionality Test for Tender Conditions

Eligibility conditions must have a **rational connection** (nexus) to the object of the procurement (quality, timely supply, value for money) and must be **proportionate** (least restrictive means available). A condition that is overly restrictive or lacks justification undermines these tests. The Court found that requiring past State-specific supply did not logically ensure better performance for sports kits; hence the condition failed rationality and proportionality.

### 5. Role of Judicial Review in Tender Matters

While courts generally defer to the discretion of the procuring authority (balancing business judgment and public procurement sensitivity), review is warranted when the eligibility criteria are **arbitrary, discriminatory, mala fide or lack rational nexus**. In this case, although the State argued reasonable grounds (topography, security risk), the Court held those grounds lacked specific justification for the items tendered (sports kits). The Court thus intervened.

### 6. Impact on Bidders & Procurement Policy

For bidders: They must carefully scrutinise tender qualification criteria for hidden barriers (e.g., State-specific past experience, local logistics clauses) and be ready to challenge them if they impede the level playing field.

For procurement policy: This judgment signals that States must avoid eligibility filters that geographically restrict participation without clear justification. Instead, they should rely on neutral, performance-based criteria (financial capacity, technical experience, past performance globally or within similar contracts, supply chain reliability) and allow local partner arrangements.

### 7. Relationship Between Articles 14 & 19(1)(g) and Procurement

The case illustrates how the constitutional guarantee of business freedom (Article 19(1)(g)) and equality (Article 14) apply in public procurement. Although procurement is not traditional trade but governmental contracting, the courts consistently hold that when a contract is opened for competitive bidding, **fundamental rights to business and equality flow into the process**, preventing exclusionary practices.

### 8. Justification of Restrictions under Article 19(6)

Even when the State seeks to impose restrictions on business for public interest, such restrictions must be reasonable. The past performance requirement might have been justifiable if clearly connected to the risk profile of the contract (e.g., remote terrain, specialised supply). But the Court found the restriction disproportionate and unjustified for sports kits. Thus the restriction failed Article 19(6) analysis – it was neither suitable nor necessary.

### 9. Cartelisation & Open Competition Considerations

Restrictive eligibility conditions that exclude external bidders may facilitate **cartelisation** among a limited set of local suppliers, leading to higher costs, reduced innovation, and poor value for the public exchequer. The Court noted that the barrier created by the tender clause increased risk of cartel formation and therefore compromised procurement integrity.



**10. Precedential Importance & Future Procurement Design**

This judgment is a landmark in procurement jurisprudence: it clarifies that *State-specific past performance filters* are inherently suspect unless justified with strong specific reasons. For future tender design, procuring agencies must:

- Use performance criteria (past experience) in a **geography-neutral** manner.
- Link criteria to contract risk profile with evidence-based justification.
- Ensure eligibility criteria open participation while safeguarding quality and delivery.
- Document reasons and allow bidders to challenge restrictions on constitutional grounds.



## Practice Questions

1. The Maharashtra State Education Department issued a tender for supplying 50,000 school uniforms. The eligibility clause required bidders to have "supplied similar items worth ₹50 lakh to any Maharashtra state agency in the past three years." A Gujarat-based manufacturer, who had supplied uniforms worth ₹2 crore to Gujarat government schools, challenged this clause. The State argued that familiarity with Maharashtra's fabric preferences and delivery network justified the restriction. Is the eligibility clause legally sustainable?

- (a) No, because restricting past experience to only Maharashtra agencies violates the level playing field doctrine and lacks rational nexus to quality or performance.
- (b) Yes, because the State has legitimate discretion to prefer suppliers familiar with local preferences and logistics under Article 19(6).
- (c) Yes, because the tenderer can satisfy the clause by partnering with a Maharashtra-based entity having the required experience.
- (d) No, but only if the Gujarat manufacturer proves that the restriction was imposed with mala fide intent to favour local suppliers.

2. The Himachal Pradesh Public Works Department invited tenders for construction of a bridge in a remote district. The tender specified that bidders must demonstrate "experience in completing at least one bridge project in hilly terrain above 2000m altitude in the past five years." A Delhi-based firm with extensive bridge experience in plains and coastal areas challenged this, arguing it violated Article 19(1)(g). The State defended it citing specific engineering challenges of high-altitude construction. How should the court rule?

- (a) Strike down the clause as it discriminates against plains-based contractors and violates the level playing field doctrine applicable to all procurement.
- (b) Uphold the clause because altitude-specific experience has clear rational nexus to technical requirements and safety considerations in high-altitude bridge construction.
- (c) Strike down the clause unless the State proves that no plains-based contractor can successfully complete high-altitude projects through consultants.
- (d) Uphold the clause only if modified to allow bidders to partner with firms having the specific altitude experience.

3. The Kerala State Medical Services Corporation issued a tender for surgical equipment requiring bidders to have "supplied to any Kerala government hospital in the past two years." A Karnataka company specializing in surgical equipment with supply history to AIIMS Delhi and major private hospitals in Bangalore challenged this clause. Kerala argued that its government hospitals use a unique digital integration system requiring vendor familiarity. The High Court must decide if this justification validates the restriction under Article 19(6). What should be the court's ruling?

- (a) The clause is valid as States have wide latitude under Article 19(6) to impose conditions ensuring seamless integration with existing systems.



- (b) The clause is invalid as private hospitals often have more advanced systems than government hospitals, making past private supply equally relevant.
- (c) The clause is invalid unless Kerala demonstrates that the digital integration requirement is unique and cannot be met through training or technical specifications in the contract.
- (d) The clause is valid because medical equipment requires state-specific regulatory compliance that can only be verified through past state-level supply.

4. The Rajasthan State Road Transport Corporation (RSRTC) floated a tender for bus spare parts requiring bidders to have "maintained a service centre in Rajasthan for minimum two years." Only three local firms qualified, and they quoted prices 40% higher than national suppliers. An automotive parts manufacturer from Pune with pan-India service network challenged the clause. RSRTC defended it citing need for quick response time for breakdowns. The Pune firm argued this creates a cartel. Which legal principle should primarily govern the court's decision?

- (a) The doctrine of business judgment, deferring to RSRTC's operational assessment of response time needs for public transport reliability.
- (b) The principle that tender conditions requiring physical presence may be justified for service contracts unlike goods supply contracts.
- (c) Article 19(6) analysis, evaluating whether alternative means like regional response commitments can meet the legitimate objective without geographic restriction.
- (d) The level playing field doctrine, as the restrictive clause excludes qualified national suppliers, facilitates cartelisation, and lacks proportionate nexus to the procurement goal.

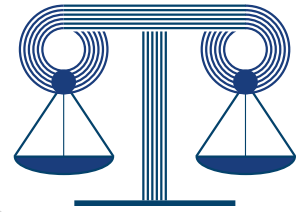
5. The Gujarat Tribal Development Department issued a tender for supplying laptops to tribal schools in remote forest areas accessible only by foot or boat. The tender required "past experience of delivering electronic goods to tribal or remote areas in Gujarat" and specified biodegradable packaging. A multinational supplier with experience in African remote areas and eco-packaging challenged the Gujarat-specific clause. The State justified it citing security sensitivities in Naxal-affected areas and knowledge of local tribal languages for training. Should the court intervene?

- (a) Yes, because any state-specific geographic restriction in eligibility violates the level playing field doctrine established by Supreme Court precedent.
- (b) No, because the combined factors of Naxal security concerns, forest terrain accessibility, and tribal language requirements create sufficient rational nexus for the geographic restriction.
- (c) Yes, unless the State proves with evidence that African remote area experience cannot translate to Gujarat tribal areas despite similar logistical challenges.
- (d) No, because tribal welfare being a Directive Principle under Article 46 allows States wider discretion to impose protective conditions even if restrictive.



# SUPREME COURT

## Landmark Judgements



### 3 Bystander Liability Test

#### Background

- The case arose from a **communal altercation** in Bihar's Muzaffarpur district, where an alleged **mob of 14-15 persons** attacked the complainant party during a village dispute over land and water access.
- The FIR broadly named several accused, including **Zainul**, but the complaint contained **general and omnibus allegations** against all accused without assigning specific roles or acts.
- The Trial Court convicted multiple persons under **Sections 302/149 and 147 IPC** (murder with unlawful assembly and rioting), holding that all were members of the same assembly sharing a common object.
- The **Patna High Court** affirmed the conviction, reasoning that the number of accused and the nature of the assault established a common object to commit murder.
- Zainul appealed to the **Supreme Court**, arguing that:
  - There was **no specific overt act** attributed to him;
  - His **mere presence** at the scene was insufficient;
  - The evidence of witnesses contained contradictions about his participation.

#### Judgement of the Court

- The Court emphasised that **criminal liability is personal**, and vicarious guilt under Section 149 must be **strictly construed**.

Section 149 creates constructive liability only when:

- (a) The accused is a **member of an unlawful assembly** as defined in Section 141; and

#### Case Details

**Case Title:** Zainul v. The State of Bihar

**Citation:** 2025 INSC 1204 | 2025 SCO.LR 10(3)[21]

**Bench** Justice Vikram Nath and Justice Sanjay Karol

#### Issue Before the Court

1. Whether **mere presence** of a person at the scene of a crime involving an unlawful assembly is sufficient to attract **Section 149 IPC (vicarious liability)**.
2. What **tests** should be applied to distinguish a **bystander** or passive spectator from a **participant** in the common object of an unlawful assembly.
3. Whether **general allegations** without credible identification or consistent evidence can sustain conviction under **Sections 147-149 IPC**.
4. Whether failure to prove **specific overt acts** or **consistent presence** negates the inference of "common object."



- (b) The offence committed is **in prosecution of the common object**, or such that the members **knew it was likely** to be committed.
- However, **mere presence** at the scene **does not automatically establish membership** in an unlawful assembly. The prosecution must prove:
    - **Active participation**, or
    - **Conscious sharing of the common object**, or
    - **Conduct** that manifests **approval or facilitation** of the offence.
  - The Court introduced what it called the “**Bystander Liability Test**”, derived from precedents such as *Masalti v. State of U.P.* (1964) and *Lalji v. State of U.P.* (1989):
    - **Step 1:** Identify whether the accused was consistently present during the incident (proved by credible witnesses).
    - **Step 2:** Assess whether the accused performed any *specific overt act* (such as instigation, assault, obstruction, or aiding escape).
    - **Step 3:** If not, examine whether the accused’s conduct still *signified active participation* or encouragement.
    - **Step 4:** In the absence of these, classify him as a *bystander* not liable under Section 149.
  - Applying this test, the Court found that witness statements regarding Zainul’s participation were **vague and inconsistent**, lacking clarity on whether he wielded a weapon or instigated others.
  - The Court held that **omnibus allegations** against all accused are insufficient for conviction. It quashed Zainul’s conviction, distinguishing **passive presence** from **active membership** of the unlawful assembly.
  - The Bench reiterated that courts must guard against **mechanical application** of Section 149 in group incidents and should ensure that the “**common object**” is **inferred from credible evidence**, not conjecture.

## Key Takeaway for CLAT Aspirant

### 1. Unlawful Assembly under IPC / Sections 188–196 BNS

An *unlawful assembly* requires **five or more persons** with a common object falling within Section 141 IPC (now Section 188 BNS). The “common object” must be pre-arranged or develop spontaneously but must be shared consciously. Membership alone attracts liability under Section 149 IPC if the offence was committed in prosecution of that object. However, mere crowd presence or proximity does not make one a “member.”

### 2. Section 149 IPC – Vicarious / Constructive Liability

Section 149 imposes vicarious liability, making every member of the assembly guilty of the offence committed in furtherance of its common object. But this liability arises only when there is **credible evidence of membership** and **participation in the shared purpose**. Passive onlookers or those who happen to be present without intent cannot be punished. The doctrine is narrower than it appears.

### 3. Distinction Between Section 34 and Section 149

While **Section 34** (common intention) requires prior meeting of minds among fewer persons, **Section 149** (common object) applies to larger groups (5 or more). But both require proof of **mental participation**. The Court in *Zainul* clarified that **mental unity or awareness of object** must still exist – otherwise, the individual cannot be held liable under either section.

#### 4. Bystander Liability Test – Key Principles

The **Bystander Liability Test** developed here has three essential components:

- **Consistent Presence:** The accused must be proved beyond reasonable doubt to have remained at the scene throughout.
- **Specific Overt Act:** Some evidence of participation – whether physical (attack, weapon use) or moral (instigation, aiding) – must be shown.
- **Shared Object:** Even absent direct act, evidence must indicate conscious alignment with the unlawful object.

If any of these fail, the accused is treated as a **bystander**, not liable under Section 149. This test curbs over-criminalisation in mob violence cases.

#### 5. Doctrine of Common Object – Evidentiary Threshold

The Court clarified that the “common object” cannot be presumed merely from numerical strength or group presence. It must be established through conduct, prior association, or collective behaviour. The prosecution must show that the accused **knew** the group’s intention or had **reasonable foresight** of the likely offence.

#### 6. Article 21 and Fair Trial Principles

Convicting a person solely based on general allegations violates **Article 21**, as it undermines the right to fair trial and due process. The Court reiterated that guilt must be **individualised**, especially in group offences. This ensures procedural fairness and protects against arbitrary convictions.

#### 7. Omnibus Allegations and Evidentiary Safeguards

Courts must be cautious where FIRs or witness statements **name many accused collectively**. Such omnibus allegations should be corroborated by material particulars – weapon description, role, or sequence of acts. Without these, the benefit of doubt must go to the accused.

#### 8. Comparative Precedents

- **Masalti v. State of U.P. (AIR 1965 SC 202)** – Conviction of multiple accused sustained only where evidence clearly established common object and specific participation.
- **Lalji v. State of U.P. (1989 2 SCC 602)** – Common object can form suddenly, but membership requires active participation, not mere presence.
- **Krishna Govind Patil v. State of Maharashtra (1964)** – Vicarious liability under Section 149 arises only when prosecution proves both membership and object.
- **Kuldip Yadav v. State of Bihar (2011 5 SCC 324)** – Mere presence or knowledge without participation does not attract Section 149 liability.
- **Shambhu Nath Singh v. State of Bihar (1960)** – Suspicion, however strong, cannot replace proof of participation.

#### 9. Alignment with BNS (2023)

Under the **Bharatiya Nyaya Sanhita, 2023**, these principles continue under **Sections 188–196**, which retain the concept of unlawful assembly and common object. The *Zainul* ruling will guide courts applying the BNS to distinguish **participants from bystanders** to ensure only culpable members are punished.

#### 10. Doctrinal Importance

This decision strengthens **individual criminal responsibility** within collective violence jurisprudence. It balances deterrence of mob crime with protection against wrongful conviction. For CLAT or judiciary exams, it illustrates the interplay of **mens rea**, **act reus**, and **constructive liability**, highlighting that both physical and mental participation are essential under Section 149 IPC / BNS.





## Practice Questions

1. During a clash between two student groups at a university, six persons—Arun, Bharat, Chetan, Dev, Eshan, and Faisal—were present. Arun and Bharat attacked a rival student with cricket bats. Chetan, Dev, Eshan, and Faisal stood nearby but did not participate. Investigation revealed Arun and Bharat had planned the attack via WhatsApp the previous night, while the other four arrived coincidentally for a football match. The prosecution charged all six under Section 149 IPC for unlawful assembly. Can Section 149 be applied in this case?

- (a) Yes, because six persons were present during the offence, exceeding the minimum threshold of five required for unlawful assembly under Section 141 IPC.
- (b) No, because Section 149 requires five or more persons sharing a common object, which only Arun and Bharat had, making Section 34 applicable instead.
- (c) Yes, because presence of four additional persons during commission of the offence creates constructive membership in the unlawful assembly regardless of their intent.
- (d) No, because when prior planning exists between fewer than five persons, only Section 34 for common intention can be applied, not Section 149.

2. Twenty-five villagers gathered at a community meeting to discuss water shortage. A heated argument erupted, and five persons from the group suddenly attacked the village headman with sticks. The remaining twenty fled immediately when violence started. Police charged all twenty-five under Section 149 IPC. The prosecution argued that gathering of twenty-five persons and subsequent commission of assault by some members proves common object existed among all. The defence argued no common object was established. Should all twenty-five be convicted under Section 149?

- (a) Yes, because a large gathering followed by violence creates legal presumption of common object among all present, making individual proof unnecessary.
- (b) No, because common object cannot be presumed from numerical strength or group presence and must be established through conduct, prior association, or collective behaviour.
- (c) Yes, because when an offence emerges from a group meeting, all attendees share vicarious liability as the violence arose from the gathering's context.
- (d) No, because those who fled immediately demonstrated dissociation, but the five who attacked and any others who remained can be convicted under Section 149.

3. In a land dispute case, seven brothers jointly attacked a rival family, causing death. The prosecution's case relied entirely on the victim's father's statement naming "the seven brothers" without describing individual roles. At trial, he testified: "All seven came together and killed my son." Under cross-examination, he admitted he could not specify who struck the fatal blow or what each brother did. Medical evidence showed death from a single stab wound. The prosecution argued that joint family members in a land dispute inherently share common object. Can all seven be convicted under Section 149?

- (a) Yes, because family disputes create reasonable inference of shared motive among relatives, satisfying the common object requirement for Section 149 liability.

(b) No, because medical evidence of single stab wound proves only one person caused death, and without individual role identification, others cannot be convicted.

(c) Yes, because the witness testified all seven participated collectively, and requiring individual role specification in group crimes would make prosecution impossible.

(d) No, because omnibus allegations without material particulars like weapon description, specific acts, or sequence violate fair trial principles and require acquittal.

4. During a religious procession, tension arose when the procession route was blocked. Twelve persons, including Karim, confronted the blockers. Ten persons physically attacked the blockers while Karim stood at a distance shouting "Teach them a lesson!" and "Don't let them escape!" He did not physically touch anyone. Police witnesses confirmed Karim's shouts emboldened the attackers. Karim was charged under Section 149 along with others. He argued that mere verbal encouragement without physical participation cannot attract Section 149 liability. Is Karim's defence valid?

(a) Yes, because Section 149 requires specific overt acts in the form of physical participation, and verbal encouragement without direct involvement is insufficient.

(b) No, because instigation and verbal encouragement constitute moral participation that satisfies the "specific overt act" requirement even without physical involvement in the assault.

(c) Yes, because shouting slogans at public gatherings is protected expression under Article 19(1)(a) and cannot be criminalized as participation in unlawful assembly.

(d) No, because presence during commission of offence with awareness of the common object automatically creates vicarious liability regardless of nature of participation.

5. Eight factory workers planned to gherao (surround) the manager to demand bonus payment. During execution, two workers suddenly assaulted the manager with iron chains, causing grievous injuries. The other six immediately tried to stop them and called security. Investigation revealed no prior discussion of violence—only peaceful gherao was planned. All eight were charged under Section 149 IPC. The six who intervened argued that the common object was only peaceful gherao, not assault. Can the six who tried to stop the violence be convicted under Section 149?

(a) Yes, because they were part of the initial assembly for gherao, and when violence occurred in prosecution of that gathering's objective, all members share vicarious liability.

(b) No, because the common object was only peaceful demonstration, and spontaneous violence by two members beyond the shared object does not make others liable under Section 149.

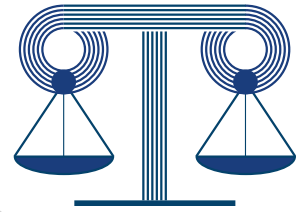
(c) Yes, because failure to dissociate by immediately leaving when violence started shows continued membership, making their subsequent intervention attempts irrelevant for conviction.

(d) No, because they actively opposed the violence by trying to stop it, proving they did not share the common object of assault required for Section 149.



# SUPREME COURT

Landmark Judgements



## 4

## Essentials of Oral Gift Under Mohammedan Law

### Background

- The dispute concerned **ownership of immovable property** originally belonging to one **Syed Akbar Ali**, a Muslim governed by **Hanafi Law**.
- After his death, his daughter **Syeda Arifa Parveen (respondent)** claimed ownership on the ground that the deceased had **made an oral gift (hiba)** in her favour during his lifetime.
- The appellants (collateral relatives) disputed this, arguing that:
  - There was **no documentary proof** of the gift;
  - The alleged oral gift was **not contemporaneously recorded** or witnessed;
  - The property continued in the **possession of the donor** until his death; and
  - The claim of oral gift was **invented posthumously** to defeat inheritance rights.
- The **Trial Court dismissed** the oral gift claim, finding lack of proof of delivery of possession.
- The **High Court reversed** the decision, holding that the oral gift was valid as the donor had orally declared it before relatives.
- On appeal, the **Supreme Court** examined whether the alleged oral gift satisfied the **three essential conditions of a valid hiba** under Mohammedan Law and whether the High Court's findings were legally sustainable.

### Case Details

**Case Title:** Dharmrao Sharanappa Shabadi & Others v. Syeda Arifa Parveen  
**Citation:** 2025 INSC 1187  
**Bench** Justice Ahsanuddin Amanullah & Justice S.V.N. Bhatti

### Issue Before the Court

- What are the **essential conditions** of a valid *oral gift (hiba)* under Mohammedan Law?
- Whether the **proof of delivery of possession** is mandatory for completing an oral gift, especially when no written deed exists.
- What **standard of scrutiny** should courts apply when an oral gift is alleged **after the donor's death** and when the claim affects inheritance rights of other heirs.

### Judgement of the Court

- The Supreme Court reaffirmed that under **Hanafi Mohammedan Law**, a *hiba* or gift can be made **orally**, without a written instrument, but such oral gift must satisfy **three essential conditions**:
  - Declaration of Gift (Ijab)** – a clear and unambiguous declaration by the donor.
  - Acceptance of Gift (Qabul)** – express or implied acceptance by the donee during the donor's lifetime.



- **Delivery of Possession (Qabza)** – transfer of possession by the donor and taking of possession by the donee, either actual or constructive.
- The Court observed that **delivery of possession is the sine qua non** for the validity of a gift. Without delivery, the gift remains incomplete and unenforceable.
- Relying on classical authorities (*Hedaya*, *Fatawa-i-Alamgiri*) and precedents such as *Mahboob Sahab v. Syed Ismail* (1995) and *Abdul Rahim v. Sk. Abdul Zabar* (2009), the Bench held that **delivery of possession must be proved like any other fact** by cogent evidence – oral, documentary, or circumstantial.
- The Court noted that when an oral gift is claimed **after the donor's death**, the claim must be **scrutinized with greatest care and perhaps with suspicion**, since such allegations often arise to exclude rightful heirs.
- The Bench found that in this case:
  - There was **no independent witness** to the declaration or delivery of possession;
  - The property records, tax receipts, and possession documents **remained in the donor's name** until death;
  - The donee continued living with the donor and did not exercise exclusive ownership; hence, **no transfer of possession** occurred.
- Therefore, the essential condition of *delivery of possession* was missing, rendering the oral gift **invalid and incomplete**.
- The Court set aside the High Court's order and **restored the Trial Court's decision**, rejecting the oral gift claim.

## Key Takeaway for CLAT Aspirant

### 1. Essentials of a Valid Hiba (Gift) under Mohammedan Law

Under Muslim Law, a gift (*hiba*) is a voluntary transfer of property made immediately and without consideration by one person (donor) to another (donee) and accepted by or on behalf of the donee. The three essentials are:

- **(a) Declaration (Ijab):** The donor must clearly express the intention to make the gift. Ambiguous statements or casual expressions do not suffice.
- **(b) Acceptance (Qabul):** The donee must accept the gift during the lifetime of the donor and while the donor is capable of giving.
- **(c) Delivery of Possession (Qabza):** The donor must divest himself of ownership and put the donee in possession, either physically or constructively.

Without delivery, the gift is **inchoate** (incomplete). Courts presume that if the donor and donee continue to live together and the property remains under donor's control, the gift is **not perfected**.

### 2. Oral Gift and Burden of Proof

- Since Muslim Law allows oral gifts, courts treat them as valid only if the essentials are **clearly proved**.
- The **burden of proof** lies heavily on the donee, particularly when the oral gift is claimed after the donor's death.
- Courts demand **clear, unequivocal, and convincing evidence** of the donor's declaration and the donee's possession, not merely verbal assertions.
- The principle follows the maxim "*Possessio est quasi titulus*" – possession is equivalent to title in such cases.

### 3. Delivery of Possession – The Cornerstone of Hiba

- Delivery of possession may be **actual** (handing over keys, documents, or physical control) or **constructive** (change of possession through acknowledgment by tenants or mutation in records).
- Where donor and donee reside together (e.g., parent-child), the donee must show **clear change in control**, such as exclusive use, payment of taxes, or maintenance of property as owner.
- The Court reiterated that “mere declaration without change in possession” is insufficient; the transfer must be **complete and immediate**.

### 4. Judicial Scrutiny of Oral Gifts Claimed Posthumously

- When oral gifts are alleged **after the donor's death**, courts adopt a **heightened standard of scrutiny**:
  - The claim is inherently suspicious as it excludes other heirs.
  - The donee must produce **independent witnesses** or documentary evidence (mutation, tax receipts, utility bills) proving exclusive possession.
  - Courts may apply the “**Suspicious Circumstances Test**” similar to that used in Will disputes – any delay, inconsistency, or lack of corroboration weakens the claim.

### 5. Distinction Between Hiba and Other Transfers

- Unlike a **sale (bay')** or **exchange (muqayaza)**, a *hiba* requires no consideration.
- Unlike a **will (wasiyat)**, a gift takes effect **immediately**, not after death.
- The absence of consideration makes **delivery of possession the only safeguard** to confirm the donor's true intention.

### 6. Evidentiary Standards and the Bharatiya Sakshya Adhiniyam, 2023

- Under Sections 101–104 of the Bharatiya Sakshya Adhiniyam (formerly Evidence Act), the burden of proof lies on the person asserting ownership through an oral transaction.
- Since the transaction bypasses formal documentation, **oral testimony must be corroborated** by acts of possession or public records.
- The Court reaffirmed that oral gifts must satisfy the “**preponderance of probabilities**” test in civil disputes but subject to strict scrutiny of credibility.

### 7. Comparative Precedents

- **Mahboob Sahab v. Syed Ismail (1995) 3 SCC 693** – Oral gift valid only if possession delivered; declaration alone insufficient.
- **Abdul Rahim v. Sk. Abdul Zabbar (2009) 6 SCC 160** – Oral gift alleged after donor's death must be proved beyond reasonable doubt; heavy burden on donee.
- **Hafeeza Bibi v. Shaikh Farid (2011) 5 SCC 654** – Even registered gift deed invalid if possession not transferred; possession is essence of gift.
- **Nasib Singh v. Col. Surinder Singh (2013) 5 SCC 331** – Constructive possession acceptable if mutation and acknowledgment of title shown.
- **Gulam Abbas v. Razia (2016) 3 SCC 613** – Oral gift scrutinized strictly; donor's intention and delivery are crucial.

### 8. Doctrine of Immediate and Absolute Transfer

Under Mohammedan Law, a gift must take effect **immediately**. Any condition postponing transfer till donor's death or event contingency makes the gift void. The donor must **divest control instantly**. This contrasts with wills, which operate posthumously.

**9. Role of Intention and Conduct**

Courts assess not only verbal declaration but also the **conduct** of the donor and donee. Payment of property tax, mutation in municipal records, and maintenance responsibilities are strong indicators of completed gift. In *Dharmrao Shabadi*, none of these existed – showing lack of donor's intention to divest ownership.

**10. Broader Legal Significance**

This judgment reaffirms the **conservative judicial approach** to oral gifts under personal law. It strengthens property certainty and prevents abuse of unwritten transfers. It harmonises personal law principles with evidentiary standards under general law, ensuring fairness in inheritance disputes. For CLAT and judiciary aspirants, this case exemplifies how **customary law principles** (Mohammedan Law) operate within **constitutional and evidentiary frameworks**.





## Practice Questions

1. Fatima orally declared to her daughter Ayesha: "I am gifting you this house." Ayesha accepted the gift with gratitude. Both continued living in the house together for the next five years, with Fatima managing all household affairs, paying property taxes, and holding the title documents. After Fatima's death, Ayesha claimed ownership based on the oral gift. Fatima's son challenged this, arguing no valid gift existed. What is the legal position?

- (a) The gift is valid because declaration and acceptance occurred during Fatima's lifetime, and delivery is presumed when parties cohabit.
- (b) The gift is invalid because without actual delivery of possession showing change of control, the gift remains inchoate despite declaration and acceptance.
- (c) The gift is valid because Muslim Law permits oral gifts, and Ayesha's continued residence for five years establishes constructive possession.
- (d) The gift is invalid only if Ayesha cannot produce two witnesses who heard Fatima's declaration, as oral gifts require corroboration.

2. Rashid, a wealthy merchant, verbally told his nephew Salman: "After my death, this shop will be yours." Salman replied, "Thank you, uncle." Rashid continued operating the shop, collecting rent from tenants, and maintaining accounts until his death three years later. After Rashid's death, Salman claimed ownership based on this oral statement. Rashid's other heirs challenged this, arguing it was merely a promise of future inheritance. Is Salman's claim valid?

- (a) Yes, because the statement constitutes valid declaration, Salman's response shows acceptance, and Muslim Law recognizes oral transfers between relatives.
- (b) No, because Salman failed to take possession during Rashid's lifetime, rendering the gift incomplete despite valid declaration and acceptance.
- (c) Yes, because Salman's acceptance and three-year waiting period demonstrate his reliance on the gift, creating equitable rights enforceable against other heirs.
- (d) No, because a gift conditioned on or postponed to the donor's death is void under Mohammedan Law, making this a failed gift, not a valid hiba.

3. Ibrahim executed a registered gift deed transferring his agricultural land to his son Karim. The deed was properly stamped, registered, and signed by witnesses. However, Ibrahim continued cultivating the land, collecting harvests, paying land revenue, and dealing with tenants for four more years until his death. After Ibrahim's death, his daughter Zainab challenged Karim's ownership, claiming the gift was incomplete. Karim argued the registered deed is conclusive proof. Who should succeed?

- (a) Karim, because a registered gift deed creates irrebuttable presumption of valid transfer, and subsequent possession is merely evidentiary, not essential.
- (b) Karim, because registration under Transfer of Property Act fulfills all requirements, and possession retention by donor is permissible in parent-child gifts.
- (c) Zainab, because even a registered gift deed is invalid without delivery of possession, as possession is the essence of gift under Muslim Law.

d) Zainab, but only if she proves Ibrahim explicitly revoked the gift before death, as registration creates presumption of valid transfer until revoked.

4. Hamida orally gifted her jewelry worth ₹10 lakhs to her granddaughter Nazia when Nazia was 8 years old. Hamida's daughter-in-law Tasneem, Nazia's mother, accepted the gift on behalf of Nazia. Hamida immediately handed over the jewelry box to Tasneem with instructions to keep it for Nazia. Tasneem stored it in her personal locker. Five years later, after Hamida's death, Hamida's sons challenged the gift claiming minors cannot receive gifts and no valid acceptance occurred. Is the gift valid?

- (a) Yes, because a minor's guardian can accept gifts on the minor's behalf, and physical delivery to the guardian constitutes valid qabza.
- (b) No, because minors lack legal capacity to be donees, and gifts to minors are void under Muslim Law until they attain majority.
- (c) No, because the jewelry remained in Tasneem's locker rather than Nazia's exclusive possession, failing the delivery requirement for valid gifts.
- (d) Yes, because the gift became complete when Hamida expressed clear intention and divested herself by parting with the jewelry box physically.

5. Ahmed owned a commercial building with three shops. He orally gifted the entire building to his business partner Yusuf, and Yusuf accepted. Ahmed then got the municipal records mutated in Yusuf's name, and instructed the three shopkeeper-tenants to pay rent to Yusuf henceforth. The tenants acknowledged Yusuf as the new landlord and paid rent to him for two years. Ahmed never handed over the title deed or physically vacated any part of the building. After Ahmed's death, his widow claimed the oral gift was invalid for lack of physical delivery. Is the gift valid?

- (a) No, because physical delivery of immovable property requires handing over title documents and symbolic keys, which Ahmed failed to do.
- (b) No, because oral gifts of immovable property are invalid under Muslim Law and must be in writing to satisfy delivery requirements.
- (c) Yes, because Ahmad divested ownership by mutation, and tenant acknowledgment proves complete transfer despite absence of physical delivery.
- (d) Yes, because constructive possession through mutation and tenant recognition of Yusuf's title constitutes valid delivery for immovable property.

# Their Next Chapter



## NLSIU - Bengaluru

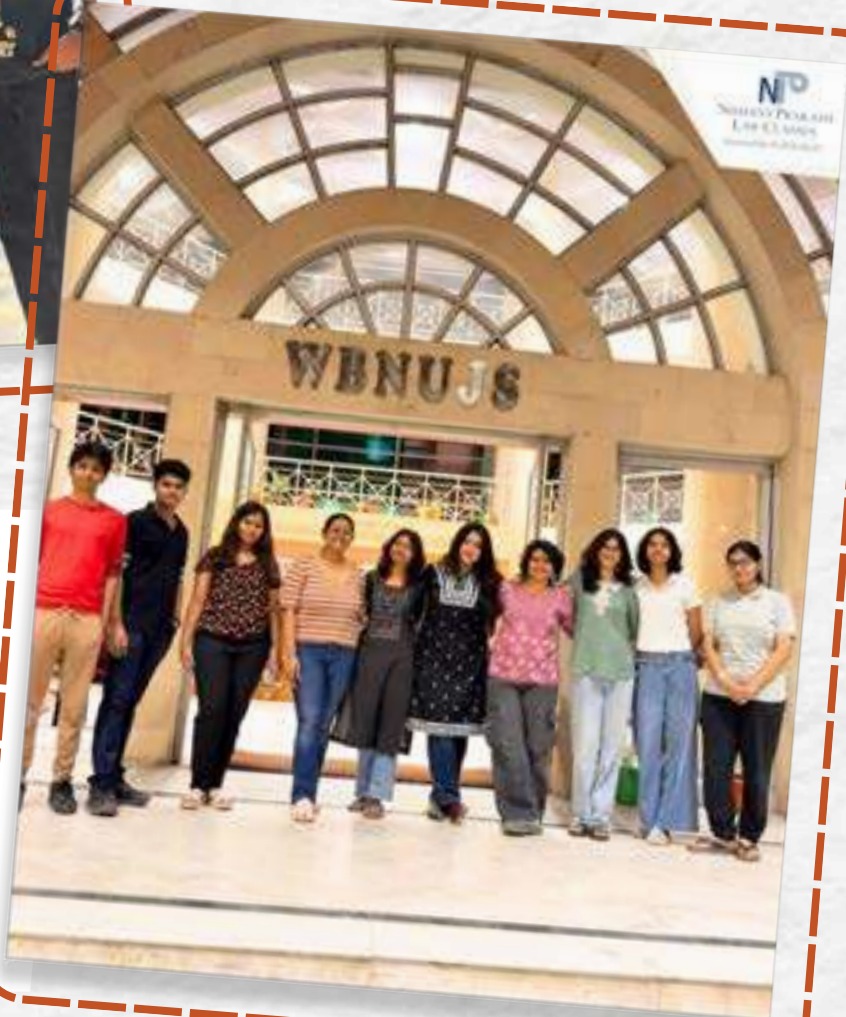
*(Left to Right)*

**Dainik Agarwala  
Daksh Balakrishnan  
Dhruv Kamath  
Aditya Ankhad**

## WBNUJS - Kolkata

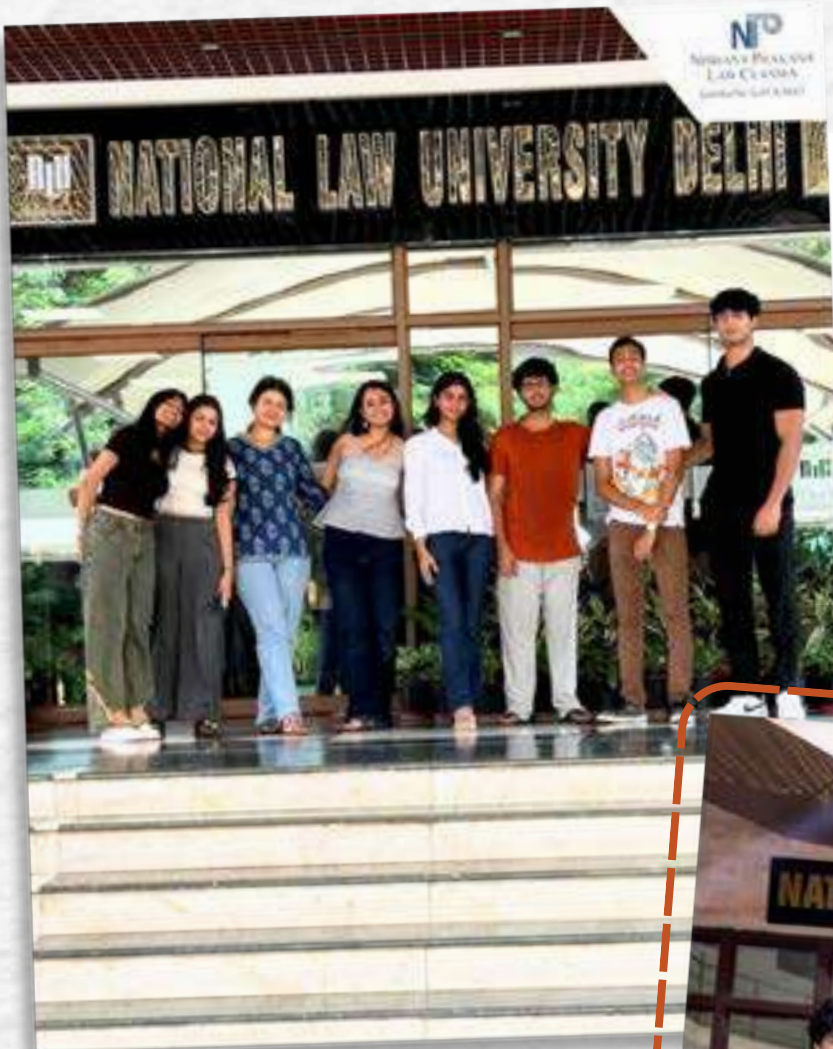
*(Left to Right)*

**Reyhaan Aryan, Shashwat  
Singh, Aanya Arora,  
Shivakshi Dixit, Dhara  
Mittal, Vaishali Bhatra,  
Labonyo Banerjee, Yutika  
Kumar, Janani Murugan,  
Megha Malhotra**





# Their Next Chapter



## NLU - Delhi

*(Left to Right)*  
**Ananya Prakash,**  
**Amoolya Kapani, Vidisha**  
**Singh, Goohika Joshi,**  
**Masirah Hussain, Krish**  
**Walia, Chaitanya Ghosh,**  
**Aditya Mehta**

## NLU - Jodhpur

*(Left to Right)*

**Vivaan Mehta**  
**Khushi Gaur**  
**Maahi Yadav**  
**Shefali Talwar**  
**Kaushtubh Anand**





# SUPREME COURT

Landmark Judgements



## 5 Voice Samples Do Not Violate Article 20(3) of the Constitution

### Background

- The case arose from an ongoing criminal investigation involving allegations of dowry harassment and misappropriation of valuables following the death of a young married woman in West Bengal.
- During the investigation, the police obtained certain **voice recordings of alleged threats** made by one of the suspects to a witness.
- To verify authenticity, the **Investigating Officer moved an application** before the Judicial Magistrate seeking permission to obtain a **voice sample** from the suspect for spectrographic analysis.
- The Magistrate allowed the request. However, the **Calcutta High Court quashed the order**, holding that the Magistrate had no express statutory power under the Code of Criminal Procedure (CrPC) to compel a person to give a voice sample.
- On appeal, the Supreme Court examined whether such an order was lawful and whether compelling a person to give a voice sample amounted to **self-incrimination** prohibited under **Article 20(3)** of the Constitution.

### Judgement of the Court

- The Supreme Court upheld the Magistrate's power and clarified that the act of giving a **voice sample is not testimonial in nature**, and hence does not attract the protection of Article 20(3).
- The Bench relied on the landmark precedent **Ritesh Sinha v. State of Uttar Pradesh (2019) 8 SCC 1**, wherein a three-judge Bench had authoritatively held that even in the absence of an explicit statutory provision, a Magistrate can direct any person to provide a voice sample for investigation purposes.

### Case Details

**Case Title:** Rahul Agarwal v. The State of West Bengal & Anr.,  
**Citation:** (2025) INSC 1223  
**Bench** Justice B.R. Gavai (CJI) & Justice K. Vinod Chandran

### Issue Before the Court

1. Whether a **Judicial Magistrate** has the legal authority to direct any person to provide a **voice sample** during investigation.
2. Whether compelling a person to provide a **voice sample** amounts to a violation of the **right against self-incrimination under Article 20(3)** of the Constitution.



- The Court reasoned that a **voice sample is only a physical characteristic**, like fingerprints, handwriting, or DNA, and does not communicate the contents of the person's mind. Therefore, it **cannot be equated with a testimonial statement** or confession.
- Referring to **State of Bombay v. Kathi Kalu Oghad (1961 AIR SC 1808)**, the Court reaffirmed that the constitutional protection against self-incrimination applies only to **personal testimony** or **communicative evidence**, not to physical evidence that merely helps in identification or comparison.
- The Court also took note of **Section 349 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, which now explicitly empowers a Magistrate to order the collection of **voice samples**. The provision codifies the principle previously recognised in *Ritesh Sinha*, giving legislative sanction to such practice.
- Consequently, the Supreme Court held that compelling a person (accused or otherwise) to give a voice sample for forensic comparison **does not violate Article 20(3)** and restored the Magistrate's order.

## Key Takeaway for CLAT Aspirant

### 1. Article 20(3) – The Constitutional Protection Against Self-Incrimination

Article 20(3) guarantees that “No person accused of an offence shall be compelled to be a witness against himself.” The essence of this protection lies in **testimonial compulsion** – compelling an accused to reveal personal knowledge or make a statement that could be incriminating.

The Supreme Court reaffirmed that this right does not extend to **physical evidence** that merely aids identification or investigation, such as fingerprints, handwriting, DNA, or voice samples. Such evidence is non-testimonial because it does not disclose mental content or confession of guilt. The principle originates from **Kathi Kalu Oghad (1961)**, where an eleven-judge Bench held that giving a handwriting or fingerprint specimen does not amount to “being a witness against oneself.”

### 2. Voice Samples as Non-Testimonial Physical Evidence

A **voice sample** is a physical trait – a measurable sound pattern unique to an individual – used for comparison through spectrographic analysis. Since the act of providing a voice sample merely assists in identification and does not involve any mental process or volition, it is **material evidence**, not testimonial evidence. The Court clarified that **the privilege under Article 20(3)** applies only where the accused is compelled to make an oral or written statement based on personal knowledge that could directly establish guilt. Thus, obtaining a voice sample is similar to taking **biometric data, blood samples, or DNA profiles**, which have repeatedly been held outside the ambit of Article 20(3).

### 3. Judicial Magistrate's Power to Compel Voice Samples

Even before explicit statutory recognition, the Supreme Court in **Ritesh Sinha (2019)** held that a Magistrate could direct any person, including an accused, to give a voice sample in the interest of justice. This power was derived from the **inherent authority of criminal courts under Sections 53 and 54 CrPC** (now reflected in **Sections 349 and 351 of the BNSS, 2023**) which allow examination and collection of physical evidence during investigation. The Court held that the term “person” in these provisions is not confined to the accused but includes any individual whose voice or identity is material to the investigation. Hence, a Magistrate's direction to collect a voice sample is a **procedural aid for investigation**, not an infringement of personal liberty.



#### 4. Legislative Reinforcement under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

Section 349 of the **BNSS, 2023** now explicitly provides that a Magistrate may order any person to provide **handwriting, fingerprints, photographs, and voice samples** for investigation purposes. This provision gives **statutory recognition** to what was earlier a matter of judicial interpretation. It eliminates previous ambiguities and brings procedural uniformity. The inclusion of “voice samples” alongside traditional identifiers reflects the legislature’s acknowledgment of **technological advancements** in forensic science. The Court’s judgment aligns constitutional interpretation with this modern statutory framework, ensuring that investigative efficiency coexists with due process.

#### 5. Distinction Between Testimonial and Material Compulsion

The judgment reinforces the doctrinal distinction between **testimonial compulsion** (protected) and **material compulsion** (not protected). Testimonial compulsion involves forcing an individual to disclose information that is the product of his intellect or memory, whereas material compulsion involves obtaining objective evidence that exists independent of his volition. Thus, compelling someone to speak specific words for identification is akin to **measuring handwriting or fingerprints**, not extracting a confession. This distinction preserves the integrity of the right under Article 20(3) while enabling legitimate criminal investigation.

#### 6. Procedural Safeguards and Fairness

Although the collection of voice samples is constitutionally valid, it must be carried out under **judicial supervision** to ensure procedural fairness. The Court emphasised that directions for such collection must come from a **Magistrate**, not merely from the police, ensuring that the process is both authorised and necessary. The sample collection must be restricted to **non-incriminatory words or sounds**, used solely for comparison and not for eliciting confessional material. These procedural safeguards balance **individual rights with investigative needs**, reflecting the spirit of Article 21’s “fair procedure” guarantee.

#### 7. Doctrinal Continuity and Precedential Hierarchy

The Supreme Court clarified that the **Calcutta High Court erred** in disregarding *Ritesh Sinha* (2019) merely because the issue was referred to a larger Bench. Under **Article 141 of the Constitution**, Supreme Court judgments remain binding on all courts unless expressly overruled. This reinforces the doctrine of **stare decisis**, ensuring stability and predictability in the law. The decision exemplifies how constitutional interpretation maintains continuity while adapting to technological evolution in criminal justice.

#### 8. Integration of Forensic Science with Constitutional Rights

The judgment represents the Court’s pragmatic approach to incorporating **scientific and technological methods** into criminal investigation. By distinguishing between “investigative aid” and “incriminatory evidence,” it allows law enforcement agencies to use modern tools without violating constitutional safeguards. It harmonises the **constitutional right to privacy (Article 21)** with the State’s **duty to investigate crime effectively**, maintaining the equilibrium between liberty and justice.

#### 9. Comparative Precedents

- **State of Bombay v. Kathi Kalu Oghad (1961)** – Physical evidence like fingerprints or handwriting does not violate Article 20(3).
- **Selvi v. State of Karnataka (2010) 7 SCC 263** – Narco-analysis and brain mapping violate Article 20(3) as they extract mental testimony.
- **Ritesh Sinha v. State of Uttar Pradesh (2019)** – Magistrate can direct a person to give voice sample; no violation of Article 20(3).
- **K.S. Puttaswamy v. Union of India (2017)** – Right to privacy subject to reasonable restrictions; investigative measures justified by law and proportionality.



## Practice Questions

1. During investigation of a kidnapping case, police suspected Arjun based on a ransom call recording. The investigating officer directly approached Arjun at his residence and asked him to repeat certain phrases from the ransom call for voice matching analysis. Arjun refused, citing Article 20(3) protection. The officer argued that voice samples are physical evidence and don't require judicial authorization. Is the officer's action legally sustainable?

- (a) Yes, because voice samples are non-testimonial physical evidence and police can collect them during investigation without Magistrate's order under Section 351 BNSS.
- (b) No, because although voice samples don't violate Article 20(3), their collection must be ordered by a Magistrate to ensure procedural fairness and judicial supervision.
- (c) Yes, because the Supreme Court has held voice samples equivalent to fingerprints, and police routinely collect fingerprints without judicial authorization during investigation.
- (d) No, because compelling an accused to repeat specific words from a ransom call amounts to extracting confession and violates Article 20(3) protection.

2. A trial court in a cybercrime case ordered the accused to undergo a polygraph (lie detector) test and simultaneously provide voice samples by reading out the FIR contents. The accused challenged both, citing Article 20(3) and the Supreme Court's judgment in Selvi v. State of Karnataka (2010). The prosecution argued that since voice samples are permissible, combining them with polygraph test in one sitting improves investigative efficiency. Should both directions be upheld?

- (a) No, because polygraph test extracts testimonial evidence through physiological responses indicating guilt, violating Article 20(3), while voice sample direction is valid as it collects non-testimonial physical evidence.
- (b) Yes, because both are scientific investigative tools that don't involve direct oral confession, and modern criminal investigation requires integrated forensic approaches.
- (c) Yes, because the Selvi judgment only prohibits involuntary narco-analysis and brain mapping, not polygraph tests, making both directions constitutionally valid.
- (d) No, because making the accused read FIR contents converts the voice sample into testimonial evidence containing incriminating facts, violating Article 20(3).

4. In a terror conspiracy case, the National Investigation Agency sought a Magistrate's order directing 15 suspects (not yet formally arrested or accused) to provide voice samples by reading out jihadi literature allegedly used for radicalization. The suspects challenged this, arguing they are not "accused" and compelling them to read extremist content violates their right against self-incrimination and freedom of conscience. Should the Magistrate's order be upheld?

- (a) No, because Article 20(3) protects only formally accused persons, but compelling non-accused to read extremist literature violates Article 21's right to dignity and conscience.
- (b) No, because the content chosen for voice sample (jihadi literature) transforms the exercise into testimonial evidence by associating suspects with incriminating material publicly.

(c) Yes, because Section 349 BNSS authorizes Magistrates to direct "any person" including non-accused to provide voice samples, and the content is irrelevant to physical voice characteristics.

(d) Yes, but only if the voice samples are collected using neutral, non-incriminatory words as procedural safeguards require sample content to avoid testimonial character.

4. A Sessions Court in Kerala directed the accused in a rape case to undergo DNA profiling, provide voice samples, and give a blood sample for alcohol content verification (relevant to the defense of intoxication). The accused consented to DNA and blood tests but refused voice sample, arguing that unlike DNA and blood which reveal only biological facts, voice sample in a rape case has no relevance and amounts to harassment. Is the accused's objection valid?

(a) Yes, because voice sample collection requires demonstration of necessity and relevance to the case, which is absent in rape cases where identity is typically established through other means.

(b) No, because once DNA and blood samples are permitted as physical evidence, voice samples—being equally non-testimonial—are automatically permissible regardless of specific case relevance.

(c) Yes, because selective consent to some physical evidence creates a reasonable expectation that the accused should not be compelled to provide additional samples absent compelling necessity.

(d) No, because relevance and necessity are for the Magistrate to determine based on investigation needs, and all three types of samples are constitutionally permissible non-testimonial physical evidence.

5. The Calcutta High Court, while dealing with a voice sample direction in 2022, noted that the Supreme Court's judgment in Ritesh Sinha (2019) had been referred to a larger Bench for reconsideration in another pending matter. The High Court therefore declined to follow Ritesh Sinha and quashed the Magistrate's order directing voice sample collection. The State appealed to the Supreme Court. On what ground should the Supreme Court decide the appeal?

(a) The High Court's approach is correct because when a Supreme Court judgment is referred to a larger Bench, it loses binding force until the larger Bench decides, allowing High Courts to independently interpret constitutional provisions.

(b) The High Court erred because under Article 141, Supreme Court judgments remain binding on all courts unless expressly overruled, and mere reference to a larger Bench doesn't suspend their binding nature.

(c) The High Court's approach is correct because High Courts have concurrent jurisdiction to interpret Article 20(3), and in constitutional matters, they can decline to follow Supreme Court judgments they consider doubtful.

(d) The High Court erred, but only because Ritesh Sinha was reinforced by Section 349 BNSS (2023), which gave statutory recognition to voice samples, thus removing any basis for reconsideration.





# SUPREME COURT

## Landmark Judgements



## 6 Minor's Property Rights After Attaining Majority

### Background

- In 1971, one Rudrappa (father and natural guardian) purchased two adjacent plots (Nos. 56 & 57) in the names of his three minor sons.
- Without obtaining the prior permission of the court (as mandated under Section 8(2) of the HMGA), Rudrappa transferred the first plot (56) by registered sale deed in favour of one S.I. Bidari, who further transferred it to Smt. B.T. Jayadevamma in 1983.
- In respect of the second plot (57), Rudrappa similarly transferred it to Krishnoji Rao in December 1971, again without court permission. Krishnoji Rao later sold the plot to Smt. K. Neelamma via sale deed dated 17 December 1993.
- The minor sons, upon attaining majority, along with their mother, executed a registered sale deed on 3 November 1989 in favour of K. S. Shivappa (appellant) for the properties (including plot 57). They thereby claimed to exercise their right to repudiate the earlier sale executed by their father.
- Smt. K. Neelamma instituted a suit (O.S. No. 76/1997) seeking declaration, possession and injunction in respect of plot 57, claiming title through her vendor Krishnoji Rao. The suit was dismissed by trial court; the first appellate court and the Karnataka High Court reversed in her favour, holding the minors could not have sold the property because no suit was filed by them to cancel the guardianship sale.

### Case Details

- Case Title:** K. S. Shivappa v. Smt. K. Neelamma
- Citation:** 2025 INSC 1195
- Bench** Justices Pankaj Mithal & Prasanna B. Varale

### Issue Before the Court

1. Whether a disposal of a minor's immovable property by the natural guardian **without prior court permission** under Section 8(2) HMGA is **void or voidable**, and what the effect of such disposal is upon the minor attaining majority.
2. Whether, when such a transaction is voidable, the minor must always file a **separate suit** upon attaining majority to set aside the transaction, or whether the minor may **repudiate by conduct** (such as by executing a sale upon attaining majority) within the period of limitation.
3. Whether the subsequent sale deed executed by the formerly minor, after attaining majority, and other acts of unequivocal conduct, suffice to treat the earlier unauthorized transaction as repudiated, thereby enabling the subsequent transferee (Shivappa) to hold a valid title.

- The appeal came to the Supreme Court, where the core question was whether a minor, upon attaining majority, must file a formal suit to set aside a sale by his guardian (without court consent), or whether repudiation by conduct suffices.

### Judgement of the Court

- The Court reaffirmed that **Section 8(2)** of HMGA prohibits a natural guardian from **mortgaging, selling, giving, exchanging or otherwise transferring** any part of the minor's immovable property **without the prior permission of the court**.
- **Section 8(3)** provides that any such alienation is **voidable at the instance of the minor** or his heirs. The Court emphasised that the statute uses the word *voidable* and not *void*. Accordingly the transaction is not automatically null, but can be avoided by the minor when he attains majority.
- The Court held that the statutory language does **not mandate** that the minor must always file a formal civil suit to set aside the guardian's unauthorized transfer. The Court held that repudiation **by clear and unequivocal conduct** upon attaining majority is sufficient, for example by transferring the property, asserting ownership, or treating the transfer as null. This conduct must occur within the applicable period of limitation.
- In the facts of this case, the minors upon attaining majority executed a fresh sale in favour of Shivappa within limitation period, thus fulfilling the requirement of repudiation by conduct. The fact that the respondent's vendor never entered into possession, and the minors' names appeared in revenue records, also supported the finding of repudiation.
- The Court further found that the respondent (Neelamma) failed to establish her title because she did not personally enter the witness box, and her proof relied on a power-of-attorney holder whose testimony was inadmissible for facts within the principal's personal knowledge. Hence, even on that independent ground, her claim failed.
- The Court declared that once the transaction is repudiated, it is treated as **void ab initio** for all practical purposes; the original transferor's sale never vested valid title in the intermediate purchaser.
- The appeal was allowed, High Court's judgment reversed, the trial court's decree upheld in favour of Shivappa.

### Key Takeaway for CLAT Aspirant

#### 1. Nature of Guardian's Unauthorized Alienation – Voidable, not Void

Under Section 8(2) and 8(3) HMGA, an alienation by the natural guardian without court sanction is **voidable** at the minor's option. It does not automatically become void (i.e., legally null) unless and until the minor repudiates it. This means the minor has a **choice** to affirm or avoid the transaction upon attaining majority. Without taking the option, the transaction may stand.

#### 2. Repudiation by Conduct vs. Filing Suit

The statute does not expressly specify the mode of repudiation. The Court held that repudiation may occur either by:

- (i) filing a formal suit for cancellation or declaration (within the limitation period), or

- (ii) by **unequivocal conduct** by the former minor upon attainment of majority (for example, selling the property, taking possession, acknowledging title, asserting ownership).
- This doctrine recognises practical realities – the minor may not always be aware of the transaction or may not be in a position to litigate; yet the law protects his right.

### 3. Limitation and Time-Bar Issues

The option of avoidance must be exercised within the applicable limitation period from attainment of majority, failing which the right may be lost. In this case the minors sold within limitation period, which was held valid. Delay or inaction may result in the alienation acquiring finality, especially if the minor remains silent and other parties act.

### 4. Effect of Repudiation – Relation Back and Title Consequences

When the minor repudiates the transaction, it is treated as **void ab initio** for purposes of rights of subsequent transferees – meaning the guardians' sale never vested valid title. A purchaser who acquired rights from the voidable transaction cannot retain rights if repudiation takes place in time. This maintains the principle of justice and protects the minor's property.

### 5. Burden of Proof in Title Cases Involving Minors

Even though minors have protective rights, the ultimate proof of title lies with the party asserting ownership. Here the respondent failed as she did not personally testify; a power-of-attorney holder cannot substitute her personal witness status for facts in her knowledge. This underscores procedural rigor in property suits.

### 6. Interaction with Guardianship and Property Law Doctrines

This case reinforces the doctrine that guardianship transactions must obtain judicial sanction; unapproved alienations are impermissible. It also clarifies that property law must balance **protection of minors** with **certainty in titles**, and that the law allows flexible modes of repudiation to avoid harsh technical outcomes.

### 7. Significance for Transactional and Title Risk Considerations

For purchasers dealing with property originally owned by minors, this judgment sends a caution: even when a guardian has executed a sale without court permission, the minor may later repudiate it – either by suit or by conduct. That poses a title risk and necessitates due diligence regarding guardianship permissions and potential repudiation.

### 8. Doctrinal Continuity and Precedents

This decision aligns with earlier judgments such as:

- *G. Annamalai Pillai v. D.R.O. Cuddalore & Ors.* (1993) 2 SCC 402 – recognised repudiation by conduct of guardian's unauthorized lease.
- *Madhegowda (D) by LRs vs. Ankegowda by LRs* (2002 1 SCC 178) – guardian's unauthorized sale is voidable; minor may repudiate.
- *Nangali Amma Bhavani Amma v. Gopalkrishnan Nair* (2004 8 SCC 785) – nothing mandates filing of suit in every case; avoidance can be by conduct if facts permit.
- The current decision adds clarity by holding **formal suit is not mandatory**.

### 9. Practical Rules for Property Law Exams

- Whenever a minor's immovable property is disposed of by guardian **without court permission**, the transaction is **voidable, not void**.
- On attaining majority, the minor has two modes of avoidance – suit or unequivocal conduct.
- If the minor sells, leases, dies intestate exercising ownership, it demonstrates repudiation and avoidance of the earlier transaction.



- Purchasers who acquired under the guardianship sale need to check if minor took any avoidance step; absence may help them.
- Title risk remains until the limitation period for avoidance lapses without action.

**10. Constitutional / Policy Implications**

The judgment advances the protective purpose of the HMGA by giving flexibility to minors and preventing technical foreclosures of rights due to inability to sue. It also ensures that guardians cannot easily alienate minors' property without oversight and that such transactions remain open to challenge. At the same time, it imposes practical limitations (limitation period, conduct must be clear), balancing fairness and certainty.



## Practice Questions

1. Rajesh, a natural guardian, sold his minor daughter Priya's ancestral property in 2018 without court permission to Amit for ₹50 lakhs. Priya attained majority in 2023. In 2024, without filing any suit, Priya executed a registered sale deed of the same property to Suresh for ₹75 lakhs and handed over possession. Amit filed a suit claiming his 2018 purchase is valid since Priya never formally challenged it in court. Should Amit's claim succeed?

- (a) Yes, because a voidable transaction by guardian can only be avoided by filing a formal suit for cancellation within limitation period, not by subsequent sale.
- (b) No, because Priya's sale to Suresh constitutes unequivocal conduct repudiating the guardian's unauthorized alienation, making it void ab initio without requiring formal suit.
- (c) Yes, because Priya's sale to Suresh amounts to double alienation creating title dispute, but doesn't automatically invalidate Amit's prior registered purchase from lawful guardian.
- (d) No, because any sale by natural guardian without court permission under Section 8 HMGA is automatically void, not merely voidable, rendering Amit's purchase invalid from inception.

2. Meena's natural guardian father sold her inherited farmland in 2019 without court sanction to Developer X. Meena turned 18 in January 2024. In March 2024, she leased the same farmland to Farmer Y for 5 years, collected advance rent, and issued receipts acknowledging herself as owner. In June 2024, Developer X sought possession. Meena filed a suit in July 2024 for declaration that her father's sale was void. Developer X argued that Meena's March 2024 lease was merely creating a limited tenancy interest that doesn't repudiate the sale. Is Developer X's argument valid?

- (a) Yes, because leasing creates only limited possessory rights for the lessee, not ownership transfer, and cannot constitute repudiation of the guardian's sale which transferred full ownership.
- (b) Yes, because to effectively repudiate, the minor must alienate complete ownership through sale or gift, not create lesser interests like leases or licenses.
- (c) No, because the formal suit filed in July 2024 within limitation is the proper mode of repudiation, and the March lease is merely evidence of her intention.
- (d) No, because leasing the property, collecting rent, and issuing receipts as owner constitute unequivocal conduct asserting ownership rights, effectively repudiating the unauthorized alienation before filing suit.

3. Vivek's natural guardian mother sold his ancestral house in 2015 without court permission to Buyer B. Vivek attained majority in July 2018. In 2021, Vivek visited the property, inspected it, and wrote a letter to Buyer B acknowledging the sale and requesting a small portion of the garden for sentimental reasons. Buyer B refused. In 2025, Vivek filed suit to set aside the 2015 sale. Buyer B claimed Vivek's 2021 letter constitutes affirmation, barring repudiation. Should the suit be dismissed as time-barred or for affirmation?

- (a) Yes, the suit should be dismissed because Vivek's 2021 letter acknowledging the sale and negotiating terms constitutes affirmation with knowledge of his rights, precluding subsequent repudiation.

- (b) No, the suit should proceed because even if the 2021 letter shows some recognition, formal repudiation through suit filed within limitation period overrides any informal prior conduct.
- (c) Yes, the suit is time-barred because limitation runs from 2018 when Vivek attained majority, and the 2025 suit filed seven years later exceeds the three-year limitation for declarations.
- (d) No, the suit should proceed if Vivek proves his 2021 letter was under mistake of law regarding his rights, but otherwise affirmation may bar the claim regardless of limitation.

4. Rohit's natural guardian uncle sold Rohit's commercial property in 2017 without court approval to Company C for ₹1 crore. Company C immediately took possession and constructed a factory building worth ₹5 crores on the land. Rohit turned 18 in January 2020. He remained silent and took no action until January 2024, when he filed suit for declaration and possession. Company C argued that four years of silence after majority with knowledge of the transaction constitutes implied affirmation, and substantial improvements create equitable rights. Should Rohit's suit succeed?

- (a) No, because four years of inaction after attaining majority with knowledge of unauthorized sale constitutes implied affirmation through acquiescence, barring subsequent repudiation.
- (b) No, because Company C's ₹5 crore investment in improvements creates equitable rights and claims for compensation that preclude simple restoration of property to Rohit.
- (c) Yes, because limitation for repudiation runs from attainment of majority, and filing suit within the limitation period validly exercises the option to avoid regardless of prior silence.
- (d) Yes, because as a voidable transaction, the guardian's sale never vested valid title in Company C, and improvements made by one without title don't create ownership rights.

5. Kavita's natural guardian father sold her ancestral property in 2016 without court sanction to Purchaser P. Kavita attained majority in 2019. In 2022, Kavita died intestate without taking any action. Her widower and children filed suit in 2023 to set aside the 2016 sale, claiming Kavita's right to repudiate survives to her heirs. Purchaser P argued that Kavita's death without repudiation validates the sale, and heirs cannot exercise a personal right that died with her. Should the heirs' suit succeed?

- (a) Yes, because the right to repudiate a voidable transaction is a property right that transmits to legal heirs through intestate succession under Hindu Succession Act.
- (b) No, because the right to avoid voidable transactions is a personal right exercisable only by the person who had the option, and doesn't survive to heirs upon death.
- (c) No, because limitation for repudiation expired before Kavita's death in 2022, as three years from majority (2019) lapsed in 2022, barring any subsequent action by heirs.
- (d) Yes, because Kavita's inaction during lifetime is legally neutral, and her heirs inherit the property with all incidents including the right to challenge unauthorized alienations by prior guardians.





# SUPREME COURT

## Landmark Judgements



## 7 Dock Identification Without TIP

### Background

- On the morning of 5 June 2007, a 10-year-old boy, Muntiyaz Ali, went missing from his family's mango orchard near Kishanpur, Uttarakhand. Late that evening and the next morning his body was discovered beneath a mulberry tree by his father and villagers.\_
- The FIR (No. 966 of 2007) was registered under Section 302 IPC by the father (PW-1) on 6 June 2007. He named six co-villagers with whom he allegedly had enmity. Two of the eventual appellants (Nazim and Aftab) were **not** named initially.
- During investigation and trial, the accused were charged under Sections 302, 201, 120-B IPC. The trial court convicted three of them. The High Court at Nainital affirmed the conviction.\_
- The key identification witnesses (PW-3 & PW-4) claimed to identify the accused for the first time in court; no test identification parade (TIP) was conducted. The witnesses admitted they had no prior familiarity with some of the accused.

### Judgement of the Court

- The Court emphasised that when a witness identifies a person for the first time in court (dock identification), and especially when the accused is **a stranger** to that witness, the absence of a prior TIP is a **serious defect**. The Court held that “dock identification without a prior TIP has little evidentiary value where the witness had no prior familiarity with the accused.”
- The Bench noted that TIP is an important safeguard – it enables verification of a stranger witness's ability to identify an accused in a controlled setting, mitigating risks of error or false implication. Failure to hold TIP when required creates **doubt** in the reliability of identification.

### Case Details

**Case Title:** Nazim & Ors. v. The State of Uttarakhand  
**Citation:** 2025 INSC 1184  
**Bench** Justices M.M. Sundresh & Satish Chandra Sharma

### Issue Before the Court

- Whether dock identification of the accused in court **without a prior Test Identification Parade (TIP)** is reliable evidence when the witness had **no prior acquaintance** or familiarity with the accused.
- Whether the prosecution's case based heavily on dock identification combined with “last-seen” evidence and circumstantial linkages satisfied the standard of proof beyond reasonable doubt, given the procedural defects in identification.

- The Court also pointed to other serious weaknesses: omission of names of two accused in the original FIR despite alleged familiarity; failure to examine other actual witnesses; witness's claimed sighting was from a distance, with obstructed view; long time gap between the alleged "last seen" and recovery of body, making the "last seen" inference unsafe.
- Given the unreliable identification and the weak chain of circumstantial evidence, the Court held that the prosecution **failed to establish guilt beyond reasonable doubt**. The convictions were therefore set aside and the accused were acquitted.

## Key Takeaway for CLAT Aspirant

### 1. Dock Identification vs TIP (Test Identification Parade)

When a witness identifies an accused for the first time in court without any prior familiarity, such identification is called **dock identification**. A **TIP** is a staged identification parade conducted early in investigation where witnesses are asked to identify the suspect amongst a group. The TIP helps assess the witness's ability to identify correctly, prevents suggestion, and enhances reliability. In the absence of TIP, especially where the witness did not know the accused previously, courts must treat dock identification with caution. The Supreme Court in this case reaffirmed this principle and held that reliability of identification is significantly undermined without TIP.

### 2. Witness Acquaintance / Prior Familiarity

An essential factor in evaluating identification evidence is whether the witness had *prior acquaintance* with the accused (i.e., knew the person before commission of the crime). When a witness is a stranger to the accused, the potential for error is higher; hence, the absence of TIP in such cases invites strong suspicion. The Court stressed that if the witness himself admits to not knowing the accused earlier, the reliability of subsequent court identification is very weak.

### 3. The Role of Identification in Criminal Law – Evidence and IEA / BSA

Under Section 9 of the Indian Evidence Act, 1872 (now under Section 7 of Bharatiya Sakshya Adhiniyam, 2023), facts necessary to explain or introduce relevant facts (such as identity) may be proved by evidence of the statement of the person who saw the fact, or by inference from circumstances. Identification evidence is relevant to establish a fact in issue (who committed the crime). But identification must be reliable. The Court's judgment emphasises that procedural safeguards (like TIP) serve to support reliability; absence weakens the evidence.

### 4. Circumstantial Evidence & "Last Seen" Theory

The judgment also underscores that identification is often part of a combination of circumstantial links (motive, last seen, recovery, etc.). Even a strong "last seen" link (seeing accused with victim before crime) is insufficient without strong supporting evidence if other links are weak. Here, the Court found that a large time gap between last seen and body recovery, absence of TIP, omission in FIR, all cumulatively broke the chain. This shows that **identification issues** can undermine an entire circumstantial case.

### 5. Burden of Proof – Beyond Reasonable Doubt and Benefit of Doubt

The Court applied the axiomatic principle: in criminal cases the burden lies on prosecution to prove guilt beyond reasonable doubt. Doubts must benefit the accused. When key evidence (identification) is doubtful, the entire case collapses. This case reaffirms that suspicion, however strong, cannot substitute proof. The reliability of identification evidence is foundational to prosecution's ability to meet its burden.

### 6. Practical Implications in Investigations

From an investigative perspective, the judgment serves as a caution: if the accused are strangers to

witnesses, conducting a TIP is highly advisable early. Investigative agencies must ensure TIP is properly recorded, witnesses' prior familiarity is clarified, and identification process is documented. From a trial perspective, courts look for these procedural safeguards when assessing identifications. Without them, the conviction risk is high.

#### **7. Relevance Under BSA / Modern Evidence Law**

With the introduction of the Bharatiya Sakshya Adhiniyam, 2023, which subsumes and clarifies standards of proof, this judgment aligns with the broader movement to fortify evidentiary reliability. For CLAT or legal aspirants, linking identification issues with both IEA and BSA frameworks is important: identity is a relevant fact (Section 120 IEA / Section 7 BSA) and must be proved reliably.





## Practice Questions

1. In a murder case, the star witness Ramesh testified in court that he saw the accused Vijay fleeing the crime scene at night. During cross-examination, Ramesh admitted he had never met Vijay before that night and could not describe any distinctive features. No Test Identification Parade (TIP) was conducted during investigation. The prosecution argued that Ramesh's confident court identification, combined with his presence at the scene, is sufficient for conviction. Should the court rely on Ramesh's identification?

- (a) Yes, because eyewitness testimony of someone present at the crime scene is direct evidence and overcomes the need for TIP when witness confidently identifies in court.
- (b) Yes, because TIP is merely a procedural formality, and if the witness provides a clear court identification, absence of TIP does not materially weaken the case.
- (c) No, because when a witness admits he did not know the accused previously and no TIP was conducted, dock identification is highly unreliable and creates reasonable doubt.
- (d) No, because without a TIP, identification evidence is automatically inadmissible regardless of the witness's certainty or presence at the crime scene.

2. Suresh was prosecuted for robbery. The victim, shopkeeper Mohan, testified that he had known Suresh for three years as Suresh regularly purchased groceries from his shop. Mohan identified Suresh in court and described the robbery in detail. No TIP was conducted during investigation. The defence argued that without TIP, even this identification should be discarded. The prosecution contended that TIP is unnecessary when prior acquaintance exists. What is the correct legal position?

- (a) The identification is reliable because prior familiarity for three years with regular interactions eliminates the need for TIP, as the witness can recognize the accused independently.
- (b) The identification is unreliable because TIP is mandatory in all criminal cases involving serious offences like robbery, regardless of prior acquaintance between witness and accused.
- (c) The identification is reliable only if Mohan can produce independent witnesses who can verify that he knew Suresh for three years before the incident occurred.
- (d) The identification is unreliable unless the prosecution proves through documentary evidence like shop records that Suresh was indeed a regular customer as claimed.

3. In a murder case built on circumstantial evidence, the prosecution established: (i) motive—property dispute between accused Ravi and victim, (ii) last seen—witness Prakash saw Ravi and victim together at 9 PM, (iii) body discovered at midnight in an isolated area, and (iv) Ravi identified by Prakash in court as the person last seen with victim. Prakash admitted during cross-examination that he didn't know Ravi before and no TIP was conducted. The prosecution argued the complete chain of circumstances proves guilt. Should conviction be upheld?

- (a) Yes, because when multiple circumstantial links like motive and last seen exist, a weak identification link is compensated by the strength of other circumstances creating complete chain.
- (b) Yes, because the "last seen" doctrine creates a presumption that the person last seen with the victim

is the murderer, and weak identification only affects sentencing, not conviction.

(c) No, because in circumstantial evidence cases, every link must be strong and reliable, and weak identification due to lack of TIP breaks the chain regardless of other circumstances.

(d) No, because without forensic evidence like DNA or fingerprints connecting Ravi to the crime scene, circumstantial evidence alone cannot support conviction in murder cases.

4. During trial of a theft case, witness Sunita identified accused Karan in court. Defence counsel established that: (i) Sunita saw the thief for 15-20 minutes in broad daylight, (ii) she didn't know Karan before, (iii) no TIP was conducted, and (iv) Sunita gave a consistent physical description matching Karan. The prosecution argued identification is reliable given viewing duration and conditions. Defence insisted without TIP, identification must be rejected. What is the correct legal position?

(a) Identification should be rejected because TIP is mandatory when witness is a stranger to the accused, regardless of viewing duration or lighting conditions.

(b) Identification evidence should be carefully scrutinized but can be relied upon despite absence of TIP if viewing conditions, duration, and consistency support reliability beyond reasonable doubt.

(c) Burden shifts to accused to prove mistaken identity once prosecution presents eyewitness identification testimony, regardless of whether TIP was conducted during investigation.

(d) Identification should be rejected automatically because the prosecution's burden to prove beyond reasonable doubt requires TIP in all cases where witness didn't previously know the accused.

5. Police arrested Deepak for kidnapping based on victim's family's complaint. The victim's father Ramesh, who had never seen Deepak before, claimed someone told him Deepak was the kidnapper. During investigation, police did not conduct a TIP. At trial, Ramesh identified Deepak in court. The investigating officer testified that due to urgency and remote location, conducting TIP was "impractical." The defence also presented two alibi witnesses. Should the court accept Ramesh's identification as sufficient for conviction?

(a) Yes, because investigative constraints like urgency and remote location justify non-conduct of TIP, and court identification can substitute when investigation faced practical difficulties.

(b) Yes, because the burden shifts to the defence once prosecution presents identification testimony, and the alibi witnesses create reasonable doubt about the alibi, not about identification.

(c) No, because practical difficulties in investigation may explain absence of TIP but don't cure the fundamental unreliability of stranger witness dock identification based on hearsay information.

(d) No, because hearsay information combined with stranger witness and absence of TIP renders identification fundamentally unreliable, failing to prove identity beyond reasonable doubt.



# SUPREME COURT

## Landmark Judgements



### 8

## Canteen Workers Employment Status

### Background

- The appellant, U.P. Co-operative Bank Ltd. ("the Bank"), is a cooperative bank registered under the Co-operative Societies Act, 1912, in 1959.
- The employees of the Bank formed a registered society named U.P. Co-operative Bank Employees Society Ltd. to run a canteen for the benefit of Bank employees. The Bank permitted the Society to run the canteen on its premises and provided infrastructure support, subsidies (including paying a large portion of wages, providing space, utilities) etc.
- Four respondents (Achchey Lal, Satya Prakash Srivastava, Vijay Kumar & Leela Dhar) worked in the canteen run by the Society. Formal appointment orders from the Bank were not on record; their salaries were paid by the Society (though subsidised by the Bank) and they were supervised by the Society's Committee.
- On 31 May 1995 the Society resolved to close the canteen due to subsidy issues. The four respondents' employment was terminated. An industrial dispute was referred to the Labour Court: whether termination of their services was "illegal and invalid".
- The Labour Court (14 September 1999) held that the workers were employees of the Bank and directed reinstatement with back wages.
- The High Court (Allahabad, Lucknow Bench) by judgment dated 8 October 2012 dismissed the Bank's writ petitions, thereby affirming the award of the Labour Court.

### Case Details

**Case Title:** General Manager, U.P. Co-operative Bank Ltd. v. Achchey Lal & Anr.

**Citation:** 2025 LiveLaw (SC) 1024

**Bench** Justices J.B. Pardiwala & Sandeep Mehta

### Issue Before the Court

1. Whether the canteen workers working in a canteen run by a Society on the Bank's premises could be deemed employees of the Bank, such that the Bank would bear liabilities of employer-employee relationship.
2. What are the relevant tests / factors to determine whether a "master-servant" relationship (employer-employee) exists – especially in outsourced or welfare-service type arrangements where infrastructure, subsidy or facility is provided by an establishment but the actual employment is through another body (a society or contractor).



- The Bank appealed to the Supreme Court challenging the finding that the Bank was the employer of the canteen workers.

### Judgement of the Court

- The Supreme Court held that **the Bank was not the employer** of the canteen workers engaged by the Society. The appeal of the Bank was allowed; the award of the Labour Court and the High Court's judgment were set aside.
- The Court reaffirmed that to establish an employer-employee relationship, key factors include:
  - (a) who appoints the workers;
  - (b) who pays their wages/remuneration;
  - (c) who has authority to dismiss or discipline them;
  - (d) continuity of service, and
  - (e) extent of control and supervision by the alleged employer – both in what work to be done and how it is to be done.
- The Court observed that although the Bank provided infrastructure, subsidies and benefits, **there was nothing on record** to indicate that the Bank had direct role in appointing the workers, setting service conditions, exercising disciplinary control, supervising daily work or dismissing them. The actual supervision was by the Society committee.
- The Court distinguished earlier canteen-workers cases such as **Employers in Relation to the Management of Reserve Bank of India v. Workmen (1996 3 SCC 267)** and **State Bank of India v. SBI Canteen Employees' Union (2000 5 SCC 531)** on facts where the employer had far greater control and direct involvement. In those precedents, the subsidy and infrastructure support coupled with direct supervision and regulation by the employer led to findings of employment.
- The Court held that provision of subsidy and infrastructure **alone** cannot convert persons into employees of the entity – what matters is the **substance** of control, supervision, appointment, wages payment, discipline, integration with the employer's establishment.
- Since these factors were not present in the Bank's case, the designation of the respondents as employees of the Bank was held to be legally unsustainable.

### Issue Before the Court

3. Whether the provision of subsidies, infrastructure, partial wage contribution and premises by the Bank without direct control and supervision over hiring, discipline, daily work, etc., suffice to treat workers as Bank's employees.

## Key Takeaway for CLAT Aspirant

### 1. Master-Servant Relationship – Core Tests

The Master-Servant (Employer-Employee) relationship is established through certain indicia: ability to appoint and dismiss, pay wages, control the nature and manner of work, disciplinary power, integration with the organisation. Subsidy or provision of infrastructure **without these control factors** is insufficient. The control test remains central: the employer must have a **real right** to control how the work is done, not just result.

### 2. Outsourcing/Welfare Facility Context – Canteen Workers Principles

When a facility (like a canteen) is run by a third party (society/contractor) on the premises of an establishment, mere provision of space or infrastructure by the establishment does not automatically

make the workers its employees. Earlier precedents recognised this distinction:

- In RBI case (1996), the employer had direct control over staff selection, supervision, wages etc., thus employees of Bank.
- In SBI case (2000), similar control factors were present.

This case clarifies that absence of those factors means workers remain employees of the third party (society), not the main establishment.

### 3. Subsidy/Facility vs Employment Relationship

The judgment emphasises that providing subsidy, free premises, detached role of facility-management does not suffice. The substance of employment is examined over form or benefit. For CLAT purposes: know that **“benefit provision ≠ employment”**; the employer must have **control and supervision** over work, not just facilitate the facility.

### 4. Multi-Factor Approach – Composite Test

Courts now adopt a composite/multi-factor approach – including: control, integration, payment of wages, who bears risk-profit, employment terms, disciplinary power, supervision. This approach was affirmed in *Balwant Rai Saluja v. Air India* (2014 9 SCC 407) and was applied in this canteen workers case. For exam preparation, you should identify each factor and apply it in fact patterns.

### 5. Significance for Industrial Disputes & Labour Law

This judgment has important implications in labour law: entities must clearly demarcate relationships when worker engagement is via societies/contractors; employees/workers must scrutinise actual control and terms rather than assume employment simply because work is done on premises. It also impacts contractor liability, outsourcing arrangements, canteen/cleaning/security services issues.

### 6. Evidence and Fact-Specific Inquiry

Every case depends on facts: identity of employer, who pays wages, who hires/fires, who controls work. The judgment emphasises that fact-finding on these factors is critical; there is no automatic conclusion from mere facility provision. For CLAT, this supports the principle that employment status is a **question of fact and law**, not automatic by location.

### 7. Comparative Precedents to Know

- *Employers in Relation to the Management of RBI v Workmen* (1996 3 SCC 267) – subsidy + direct control = employment.
- *State Bank of India v SBI Canteen Employees' Union* (2000 5 SCC 531) – similar principle.
- *Parimal Chandra Raha v LIC* (1995 Supp 2 SCC 611) – welfare facility but employer liability absent without control.
- *Balwant Rai Saluja v Air India* (2014 9 SCC 407) – modern multifactor test.
- This current case stands consistent with these precedents but emphasises the absence of control to deny employer status.



## Practice Questions

1. A manufacturing company provides free premises and subsidises 60% of meal costs for a canteen run by an independent welfare society on its factory premises. The society hires, pays wages to, and supervises all canteen staff. When canteen workers demanded regularisation as company employees, they argued that working on company premises for its benefit for 10 years creates employment relationship. The company denied any employment relationship. What is the correct legal position?

- (a) The workers are company employees because working on company premises exclusively for company's workforce for 10 years creates implied employment relationship through integration.
- (b) The workers are society employees, not company employees, because mere provision of premises and subsidy without control over hiring, supervision, or wages doesn't establish master-servant relationship.
- (c) The workers are company employees because the company's 60% meal subsidy demonstrates financial control and substantial involvement in canteen operations creating employment nexus.
- (d) The workers are society employees initially, but 10 years of continuous service on company premises creates deemed employment with company under doctrine of estoppel.

2. Reserve Bank of India provides premises, pays 80% subsidy for meals, directly supervises canteen operations, approves all staff appointments made by the canteen society, and exercises disciplinary control including power to terminate services. When canteen workers sought benefits claiming RBI as employer, RBI argued the society formally employs them. Applying precedents, who is the employer?

- (a) The society is the employer because it has formal employment contracts, appears in payslips as employer, and makes statutory deductions, making it the legal employer regardless of RBI's involvement.
- (b) RBI and society are joint employers requiring both to provide benefits, as RBI's significant involvement creates shared employment responsibility under doctrine of economic reality.
- (c) The society is the employer but RBI has secondary liability for benefits as principal employer under Contract Labour Act since canteen workers work on its premises.
- (d) RBI is the employer because despite formal arrangements with society, RBI's control over appointments, supervision, and disciplinary authority satisfies the control test for master-servant relationship.

3. A private hospital allows a contractor to run its cafeteria, providing subsidized space and utilities. The contractor independently hires staff, determines wages, manages operations, and bears profit/loss risk. The hospital prescribes food quality standards and service timings but doesn't supervise daily work or control hiring. When cafeteria workers claimed hospital employment based on working on premises and quality standards compliance, who is the employer?

- (a) The contractor is the employer because hospitals prescribing quality standards and timings constitutes control over work results only, not method of work, and contractor retains hiring, wage, supervision, and risk-bearing powers.
- (b) The hospital is the employer because prescribing food quality standards and service timings



demonstrates sufficient supervisory control to establish employment relationship under expanded control test.

(c) The hospital and contractor are co-employers requiring joint liability since hospital controls service parameters while contractor manages personnel, creating divided employment authority.

(d) The contractor is the employer initially, but hospital's prescription of standards creates principal employer liability under Contract Labour Act making hospital responsible for statutory benefits.

4. TechCorp provides office space, computers, internet, and 70% salary subsidy for security guards deployed by SecureMax Ltd., which independently recruits, trains, and supervises the guards. TechCorp specifies security protocols and deployment locations but SecureMax handles all HR matters, performance reviews, and discipline. Guards work exclusively at TechCorp for 8 years. Who is the employer under the multi-factor test?

(a) TechCorp is the employer because providing equipment (computers) and 70% salary subsidy demonstrates substantial economic control that creates employment relationship under economic reality test.

(b) TechCorp is the employer because 8 years of exclusive service at TechCorp premises with TechCorp specifying protocols shows integration into TechCorp's organizational structure creating deemed employment.

(c) SecureMax is the employer because despite equipment provision and subsidy, SecureMax retains control over hiring, training, supervision, HR, performance reviews, and discipline—the core employment functions.

(d) SecureMax is the initial employer but TechCorp becomes joint employer after 8 years under doctrine of continuous service, requiring both to provide employment benefits proportionately.

5. State Bank of India (SBI) runs a canteen through a cooperative society. SBI provides premises free, subsidises meals 75%, requires society to obtain SBI's approval before hiring any canteen staff, directly supervises food quality and service standards, and SBI's officers can recommend disciplinary action against staff. The society formally employs and pays wages. Who is the employer?

(a) The society is the employer because it formally employs staff and pays wages, which are fundamental attributes of employment relationship that cannot be overridden by SBI's supervisory involvement.

(b) The society is the employer but SBI has secondary statutory liability under Shops and Establishments Act since canteen operates on bank premises for bank employees' welfare.

(c) SBI and society are joint employers requiring shared responsibility since SBI controls hiring approvals and discipline while society manages wages and formal employment, dividing employment authority.

(d) SBI is the employer because its approval over hiring, direct supervision, and disciplinary recommendation power demonstrate substantive employment control despite society's formal paymaster role, applying SBI precedent.



# SUPREME COURT

## Landmark Judgements



### 9

## HSA Not Applicable to Scheduled Tribes

### Background

- The matter originated from a property dispute among members of a community recognised as a **Scheduled Tribe under Article 342 of the Constitution**.
- The **High Court of Himachal Pradesh** in 2015 (RSA No. 8 of 2003) issued a direction in paragraph 63 of its judgment stating that daughters in tribal areas of the State shall inherit property under the Hindu Succession Act rather than under customary tribal laws, in order to prevent social injustice and exploitation of women.
- The appellants challenged only the direction contained in paragraph 63 (which applied HSA to tribal daughters) in the Supreme Court, contending that the issue of applicability of HSA to Scheduled Tribes was not raised in pleadings and that Section 2(2) of HSA explicitly excludes Scheduled Tribes unless notified by the Central Government.
- The Supreme Court dealt with the question whether the High Court had the power to extend the HSA to Scheduled Tribes in the absence of a Central Government notification, and whether the direction was beyond the issues before the Court.

### Judgement of the Court

- The Supreme Court reaffirmed that Section 2(2) of the HSA clearly states: "Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs."

### Case Details

**Case Title:** Nawang & Anr. v. Bahadur & Others  
**Citation:** Civil Appeal No. 4980 of 2017  
**Bench** Justices Sanjay Karol & Prashant Kumar Mishra

### Issue Before the Court

1. Whether the HSA, 1956 automatically applies to members of Scheduled Tribes, or whether Section 2(2) excludes them unless the Central Government issues a notification extending the Act.
2. Whether the High Court's direction (that tribal daughters inherit under HSA) was within its jurisdiction, especially when the question of HSA's applicability to Scheduled Tribes was neither raised by parties nor formed part of the issues in the civil litigation.
3. Whether courts can, on their own, extend the benefit of the HSA to tribal communities by judicial direction, bypassing the statutory requirement under Section 2(2).

- The Court held that this provision is **explicit** and leaves no room for judicial extension of the Act to Scheduled Tribes without the Central Government's notification.
- It criticized the High Court for issuing a **direction** (in paragraph 63) that went beyond the pleadings and issues framed in the case. The Court held that the High Court had **no jurisdiction** to grant such wide sweeping directions altering the succession regime of a tribal community.
- The Supreme Court set aside the direction in paragraph 63 of the High Court judgment, noting that the issue of HSA's applicability to Scheduled Tribes was not argued and that the High Court had exceeded its scope.
- It reaffirmed that unless and until the Central Government issues a notification under Section 2(2) of HSA, the Act does **not** apply to Scheduled Tribes, and tribal communities continue to be governed by their customary succession laws (or other applicable laws) as regards inheritance.

## Key Takeaway for CLAT Aspirant

### 1. Section 2(2) of the HSA – Statutory Exclusion of Scheduled Tribes

Section 2(2) is a specific and non-derogable exclusion: the HSA does not apply to members of any Scheduled Tribe unless the Central Government so directs. This means that the Act's provisions on intestate succession, coparcenary rights, daughters' inheritance, etc., will not apply to tribal communities covered by that exclusion. Courts must respect this legislative exclusion; judicial substitution of law is impermissible.

### 2. Respect for Tribal Autonomy and Customary Law

The judgment underscores the constitutional recognition of the unique status of Scheduled Tribes under Articles 341, 342 and the power of the President (and Central Government) to notify tribes and determine the applicability of central laws. The exclusion in Section 2(2) reflects respect for the autonomy of tribal laws, customs and usages, unless the State chooses to integrate them into the HSA regime. This helps maintain cultural pluralism and avoids unilateral imposition of non-tribal law without legislative process.

### 3. Judicial Restraint & Doctrinal Limits of Court-Made Law

The Supreme Court affirmed that High Courts cannot, via judicial orders, alter the applicability of a statute beyond parties' pleadings, issues or statutory framework. The direction to apply the HSA to tribal daughters was held beyond the scope of the litigation and hence invalid. This holds an important lesson: courts must confine themselves to issues raised and cannot act as legislators to integrate excluded communities into statutes without legislative backing.

### 4. Implications for Gender Equality vs Legal Process

While gender equality and daughters' inheritance rights under HSA (amended 2005) are important, this judgment clarifies that the route to extend such benefits to tribal communities lies in legislation and notification by Central Government, not by judicial decree. This emphasises the separation of powers: reforms for tribal communities must typically come through Parliament or Executive action under statute, not judicial fiat.

### 5. Comparative Precedents and Continuity

The Court referred to earlier precedents such as *Madhu Kishwar v. State of Bihar* (1996) and *Ahmedabad Women Action Group v. Union of India* which held that personal laws like HSA or Indian Succession Act do not apply to custom-governed tribal communities unless notification is issued. This decision reaffirms that line of jurisprudence, providing consistency and predictability. For students, recognising this lineage is vital.



**6. Practical Consequences for Succession Disputes in Tribal Areas**

In tribal areas where the HSA is not notified, inheritance and succession rights must be adjudicated under customary law, local statutes or tribal usage, and not assume HSA provisions like daughters' equal share, coparcenary rights, etc. Litigants and practitioners must check whether the Act is notified in the relevant tribal area before invoking its provisions.

**7. Legislative Gap & Future Policy Action**

The judgment highlights a policy gap: While HSA provides equality rights to many Hindus, its exclusion of Scheduled Tribes (unless notified) means that many tribal communities do not benefit. The Court has implicitly urged the Central Government to consider issuing notifications under Section 2(2) if extension is deemed desirable – reflecting the interplay between law and policy in personal law reform.



## Practice Questions

1. Priya, a member of a Scheduled Tribe in Jharkhand, filed a suit claiming equal share in her deceased father's ancestral property under the Hindu Succession Act (Amendment) 2005, which grants daughters coparcenary rights. Her brothers opposed, stating the family follows customary tribal law that excludes daughters from ancestral property. The Central Government has not issued any notification under Section 2(2) HSA making the Act applicable to her tribe. Should the court apply HSA provisions to Priya's claim?

- (a) Yes, because the 2005 Amendment to HSA grants fundamental rights to daughters that override customary exclusions, applying to all Hindu communities including Scheduled Tribes.
- (b) No, because Section 2(2) HSA creates a statutory exclusion for Scheduled Tribes unless Central Government notifies applicability, and no such notification exists for her tribe.
- (c) Yes, because gender equality under Articles 14 and 15 of the Constitution requires courts to apply HSA provisions to tribal daughters despite Section 2(2) exclusion.
- (d) No, but the court can direct the Central Government to issue notification under Section 2(2) making HSA applicable to protect Priya's inheritance rights.

2. A High Court, while deciding a succession dispute involving a tribal family in Meghalaya, observed that denying tribal daughters equal inheritance rights violates constitutional equality. Without any party raising the issue or Central Government notification under Section 2(2) HSA, the Court directed that HSA provisions shall apply to all Scheduled Tribes in the state henceforth to ensure gender justice. Is this judicial direction valid?

- (a) Yes, because High Courts have constitutional power under Article 226 to issue directions ensuring gender equality and removing discriminatory customary practices.
- (b) Yes, because when statutory law is silent on gender equality in tribal succession, courts can fill the legislative gap through progressive interpretation.
- (c) No, because the direction is invalid only if no party specifically pleaded for HSA application, but otherwise High Courts can extend statutory benefits to excluded communities.
- (d) No, because courts cannot alter statutory applicability beyond pleadings and legislative framework, and extending HSA to tribes requires Central Government notification, not judicial decree.

3. The Central Government is considering whether to issue a notification under Section 2(2) HSA extending the Act to certain Scheduled Tribes in Odisha. Tribal community leaders oppose this, arguing it would destroy their customary inheritance system and violate their cultural autonomy. Women's groups support it for gender equality. What legal principle should guide this decision?

- (a) The notification should be issued because gender equality under Articles 14 and 15 is a fundamental right that overrides cultural autonomy claims in matters of property inheritance.
- (b) The notification decision lies within Executive discretion under Section 2(2) HSA, balancing tribal autonomy recognized under Articles 341-342 with reform objectives, not subject to judicial substitution.
- (c) The notification cannot be issued without Parliament amending HSA to specifically include each tribe

as Executive notifications cannot expand statutory applicability to excluded categories.

(d) The notification should be withheld because constitutional protection of Scheduled Tribes under Fifth and Sixth Schedules prohibits application of general personal laws without tribal consent.

4. Ramesh, a member of a Scheduled Tribe in Chhattisgarh, died intestate leaving behind his widow, two daughters, and a son. His daughters filed suit claiming equal share under HSA provisions. During trial, it was discovered that 15 years ago, the Central Government had issued a notification under Section 2(2) HSA making the Act applicable to Ramesh's tribe, but this notification was not widely publicized. Should HSA provisions apply?

(a) Yes, because once a valid notification under Section 2(2) is issued by Central Government, HSA provisions apply to that tribe regardless of publication or awareness level.

(b) No, because for notification to be effective, it must be notified to the tribal community and published in local languages, failing which customary law continues to apply.

(c) Yes, but only prospectively from the date parties became aware of the notification, not retrospectively to succession matters that arose when customary law was being followed.

(d) No, because lack of publication violates natural justice principles, making the notification void, and courts should apply customary tribal law until proper notification is issued.

5. In a tribal succession case, the trial court applied customary law excluding daughters from inheritance as HSA was not notified for that tribe. On appeal, the High Court, citing the precedent in *Madhu Kishwar v. State of Bihar* (1996), held that while HSA doesn't apply, the court can still apply principles of gender equality as constitutional courts must ensure justice. The High Court modified the customary law to grant daughters half share. Is this approach correct?

(a) Yes, because *Madhu Kishwar* recognizes courts' power to modify customary practices that violate constitutional equality even when statutory law doesn't apply.

(b) Yes, because when both HSA and customary law are available options, courts must choose the interpretation that advances gender justice under constitutional values.

(c) No, because *Madhu Kishwar* held that personal laws don't apply to custom-governed tribal communities unless notified, and courts cannot judicially modify customary law without legislative basis.

(d) No, because tribal customary law has constitutional protection under Fifth and Sixth Schedules that prevents judicial modification even for gender equality purposes.



# SUPREME COURT

Landmark Judgements



## 10 Preference Share Holders Are Investors

### Background

1. The appellant company (EPC Constructions India Ltd., formerly Essar Projects India Ltd.) entered into contracts with the respondent company, Matix Fertilizers & Chemicals, for engineering, procurement and construction of a fertilizer complex. An on-shore supply contract and an off-shore supply contract were executed in 2010.
2. Under these contracts, the appellant claimed that Matix owed it ₹ 572.72 crores for work done.
3. In July/August 2015, Matix proposed, and the appellant accepted, converting a part of the outstanding dues (up to ₹ 400 crores) into **8% Cumulative Redeemable Preference Shares (CRPS)** of Matix, to be issued in one or more tranches; 25 crore CRPS were allotted (face value ₹ 10 each) amounting to ₹ 250 crores.
4. The resolution of the appellant's board approved the investment, noting that there would be *no outflow of funds* but only conversion of receivables into CRPS.
5. Later, the appellant itself went into a Corporate Insolvency Resolution Process (CIRP) under the IBC in April 2018. In its liquidation, the Liquidator made a claim against Matix for ~₹ 310 crores (redemption value of CRPS plus accrued dividends) and sought to initiate a Section 7 application under the IBC alleging default by Matix.
6. Before the adjudicating authority (NCLT) and the NCLAT, it was held that the CRPS held by appellant were in nature of investment/share-capital and

### Case Details

**Case Title:** EPC Constructions India Limited (through its Liquidator) v. M/s Matix Fertilizers & Chemicals Limited

**Citation:** 2025 INSC 1259

**Bench** Justices J.B. Pardiwala & K.V. Viswanathan

### Issue Before the Court

1. Whether the allotment of CRPS by Matix to the appellant (in lieu of dues) created a financial debt such that the appellant could initiate insolvency proceedings under Section 7 of the IBC.
2. Whether the nature of CRPS is such that a preference shareholder can be a "financial creditor" under the IBC definition (Section 5(8)(f)) – i.e., whether preference share capital qualifies as debt for purposes of IBC.
3. The legal distinction between "share capital" and "loan/debt" under the Companies Act, and how that distinction interacts with the statutory architecture of IBC, especially the meaning of "default" under Section 3(12) IBC.



- not debt; hence, the appellant was not a financial creditor under the IBC, and the Section 7 petition could not be maintained.
- The matter reached the Supreme Court, which affirmed the above concurrent findings, held that preference shares form part of the company's share capital and not debt, and that non-redemption did not automatically create a debt or default under the IBC.

### Judgement of the Court

- The Supreme Court observed that under Section 43(b) of the Companies Act, 2013, preference share capital is a part of the company's share capital, not loans or borrowings.\_
- Section 55(2) of the Companies Act stipulates that preference shares "shall be redeemed only out of the profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purpose of such redemption."\_
- Because Matix had no profits and had not made a fresh issue of shares for the purposes of redemption, redemption was legally not permissible or due; hence, from a legal point of view no enforceable obligation had arisen.\_
- The Court held that for invoking Section 7 of the IBC, there must be (a) a "debt" or "financial debt" under Section 3(11)/(3(12) IBC, and (b) a "default" in payment thereof. Since CRPS were share capital, not debt, and the redemption conditions had not been met, there was neither a debt nor a default.\_
- The conversion of receivables into CRPS extinguished the original creditor-debtor relationship; the appellant thereby became a preference shareholder, not a creditor. The Court rejected the substance-over-form argument (i.e., that it was in substance a disguised loan) on the legal characterisation.\_
- The Court emphasised that accounting entries or classification in books of account (treating CRPS as unsecured liability) cannot override statutory definitions and legal nature of the instrument.\_
- Accordingly, the appeal was dismissed; the appellant was held not to be a financial creditor and could not maintain Section 7 IBC proceedings.

### Key Takeaway for CLAT Aspirant

#### 1. Preference Shares vs Debt – Legal Characterisation

Preference shares, even redeemable ones, are part of the company's **equity capital**, not its borrowings or debts. Under the Companies Act, dividends on preference shares can only be declared out of profits, and redemption is subject to statutory conditions. This legal characterisation has direct consequences under insolvency law because a "financial debt" requires an enforceable obligation to pay money. In this case, since preference shares lacked that enforceable obligation, they could not be treated as debt.

#### 2. Financial Creditor & Default under IBC

Under Section 5(8)(f) of the IBC, a financial debt is one disbursed against the consideration for time value of money. Section 3(12) defines default as non-payment of a debt when whole or part has become due. This judgement clarifies that mere expiry of redemption period does not automatically convert share capital into a debt; unless the conditions under the Companies Act are met (profits/fresh issue for redemption), no debt is "due". Without a debt, no default, and hence no Section 7 filing.

**3. Form vs Substance – Legal Reality Prevails**

The Court reaffirmed that while commercial realities matter, the legal nature of an instrument depends on statutory definitions, nature of rights conferred, and legal obligations. The fact that a receivable was converted into CRPS did not convert the transaction into debt; the parties' intent and form of instrument were relevant, but they could not override the statutory nature of share capital. For CLAT aspirants: always identify whether the statutory regime classifies an instrument as equity or debt; substance cannot defeat clear statutory classification.

**4. Implications for Investors, Creditors and Insolvency Practice**

This ruling has major practical significance: holders of preference shares cannot initiate insolvency under Section 7 as financial creditors merely because redemption has matured. It places a limitation on using IBC as a recovery tool for equity-type investments. For companies and investors, this emphasises the need to distinguish between credit instruments and share capital investments at the structuring stage.

**5. Related Doctrines & Comparative Precedents**

- In *Lalchand Surana v. Hyderabad Vanaspathy Ltd.* (1990 AP) it was held that unredeemed preference shareholders do not become creditors.
- The Court cited *Radha Exports (India) Pvt. Ltd. v. K.P. Jayaram* (2020 10 SCC 538) which held that payment for shares cannot be construed as financial debt.
- The decision reaffirms earlier jurisprudence under the IBC and Companies Act that equity remains distinct from debt. For CLAT: you should remember the quoted line “preference shareholder is a shareholder, not a creditor”.

**6. Linking Corporate Law & Insolvency Law**

The judgement elegantly integrates corporate law (preference share regime under Companies Act) with insolvency law (definition of financial debt under IBC). For merit-based exams, grasping this interplay is critical: you should be able to state how a company's share capital instrument is treated under insolvency law, reference to statutory conditions (profit, fresh issue) for redemption, and denial of creditor status.

**7. Structure of Ratio & Holding**

The holding is: “Preference shares form part of a company's share capital, not loans; hence, amounts paid on them are not debts, and non-redemption does not give rise to default for IBC purposes.” This is the key principle derived.



## Practice Questions

1. ABC Ltd. issued Compulsorily Redeemable Preference Shares (CRPS) to XYZ Investments with a redemption period of 5 years. After 5 years, ABC Ltd. failed to redeem the shares due to lack of profits. XYZ Investments filed an application under Section 7 of IBC claiming to be a financial creditor, arguing that the matured CRPS amount is now a "debt" since redemption period has expired. Should the NCLT admit this application?

- (a) Yes, because expiry of redemption period converts the preference share amount into an enforceable debt obligation, making XYZ a financial creditor under IBC.
- (b) No, because preference shares remain share capital and not debt; mere expiry of redemption period without satisfaction of Companies Act conditions doesn't create a debt.
- (c) Yes, because CRPS holders are entitled to return of capital, making them creditors when redemption becomes due regardless of profit availability.
- (d) No, but only if ABC Ltd. proves it has genuine financial difficulty preventing redemption, otherwise the application should be admitted for default.

2. PQR Ltd. issued preference shares to Investor A with a fixed 12% dividend and 3-year redemption clause. The subscription agreement explicitly stated that amounts paid for shares would be treated as "loans" for recovery purposes. After 3 years, PQR failed to redeem. Investor A invoked Section 7 of IBC, citing the contractual characterization as loans and the 12% return as interest demonstrating "time value of money." Can Investor A maintain this petition?

- (a) Yes, because the parties' contractual intention to treat subscription as loans, combined with fixed return, satisfies the financial debt definition under Section 5(8)(f) IBC.
- (b) Yes, because the 12% fixed return demonstrates consideration for time value of money, bringing it within Section 5(8)(f) regardless of legal form.
- (c) No, because while contractual terms matter, parties cannot override statutory classification, and payments for shares cannot be construed as financial debt despite labeling.
- (d) No, because the subscription agreement's characterization as loans is valid, but Investor A must first obtain a decree converting shares to debt through Company Law proceedings.

3. MNO Ltd. owed trade payables of ₹50 lakhs to Supplier S. To settle this, MNO issued CRPS worth ₹50 lakhs to S, converting the payable into share capital through a debt-to-equity swap. Two years later, redemption became due but MNO couldn't redeem due to losses. S filed Section 7 application claiming the original trade debt character should determine his status as financial creditor. What is the correct legal position?

- (a) S cannot maintain Section 7 application because the debt-to-equity conversion transformed the trade payable into share capital, and unredeemed shares don't create debt.
- (b) S can maintain Section 7 application because the underlying transaction was a debt that was merely restructured, and substance should prevail over form.
- (c) S can maintain Section 7 application but only for the original ₹50 lakhs trade debt amount, not including any dividend or redemption premium on CRPS.

(d) S cannot maintain Section 7 application under financial creditor category but can file as operational creditor based on the original trade payable relationship.

4. Tech Startup Ltd. issued CRPS to Venture Fund V with a 7-year redemption term. In year 6, the startup generated substantial profits and created a Capital Redemption Reserve. However, before redemption could be effected, the startup's business collapsed in year 7, wiping out all profits and reserves. V filed Section 7 petition claiming that since redemption became feasible in year 6 with profits, a debt crystallized then, and current inability doesn't negate the default. Should this argument succeed?

- (a) Yes, because once profits became available and redemption became feasible, a debt crystallized at that point, and subsequent loss of profits doesn't extinguish the debt.
- (b) Yes, because the creation of Capital Redemption Reserve demonstrated the company's acknowledgment of redemption liability, converting it into an enforceable debt obligation.
- (c) No, because redemption of preference shares requires satisfaction of Companies Act conditions at the time of redemption, and subsequent loss of profits means no debt is "due."
- (d) No, but V can file a suit for specific performance of redemption obligation based on year 6 circumstances, which if decreed, would create debt for IBC purposes.

5. LMN Ltd. issued instruments called "Secured Redeemable Preference Shares" (SRPS) with a fixed 15% annual return, redemption in 4 years, and secured by mortgage of company assets. The instrument explicitly stated it was "debt-like equity" to enjoy favorable tax treatment. After maturity, the holder filed Section 7 petition, arguing that security interest, fixed return, and debt-like label demonstrate financial debt character. What principle governs this determination?

- (a) The instrument qualifies as financial debt because the combination of security interest, fixed return, and contractual labeling demonstrates the parties' intention to create debt.
- (b) The legal characterization depends on statutory classification under Companies Act; preference shares with security remain share capital, and form cannot override legal nature.
- (c) The instrument qualifies as financial debt because Section 5(8)(f) IBC focuses on economic substance, and secured fixed-return instruments are economically equivalent to debt.
- (d) The characterization is ambiguous and should be resolved by examining whether the holder has voting rights; if yes, it's equity; if no, it's debt.



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# SUPREME COURT

## Landmark Judgements



### 11 Widowed Sisters as Dependents under Employee's Compensation Act, 1923

#### Background

- A workman employed by a company died in the course of employment, leaving behind two **widowed sisters** who were wholly or partly dependent on his earnings.
- The Employees' Compensation Commissioner awarded compensation in favour of those two widowed sisters, treating them as dependents under the 1923 Act.
- The insurer (New India Assurance) challenged the award on the ground that, under Section 2(1)(d)(iii) (d) of the Act, a "widowed sister if a minor" qualifies as a dependent – and in this case the widowed sisters were *not minors* at the time of the employee's death.
- The High Court of Karnataka upheld the Commissioner's award, and the case ultimately reached the Supreme Court, which noted the statutory definition's out-dated phrasing and broader implications.

#### Judgement of the Court

- The Court observed that Section 2(1)(d) of the Act defines "dependent" to include, inter alia, "a *minor brother, or an unmarried sister or a widowed sister if a minor*". The Court noted that the phrase "widowed sister if a minor" reflects a legal reality of an era when child marriages were commonplace.
- It held that in *modern times*, particularly after the enactment of the Hindu Marriage Act, 1955 and

#### Case Details

**Case Title:** The New India Assurance Company Ltd. v. Kogga & Ors.  
**Citation:** 2025 INSC 1107  
**Bench** Justices J.B. Pardiwala & R. Mahadevan

#### Issue Before the Court

1. Whether adult widowed sisters of a deceased employee can be treated as "dependents" under the 1923 Act even though the statutory definition speaks of a "widowed sister if a minor".
2. Whether the literal wording of the statute should be strictly applied, or whether the Court should interpret or direct amendment of the definition in light of changed social conditions.
3. Whether the insurer's appeal should succeed and the award to the widowed sisters be set aside, or whether the Court should uphold the award but still flag the need for legislative amendment.

related reforms, the concept of a “widowed sister who is a minor” is virtually non-existent. The Court flagged that the statute’s language has become **anachronistic**.

- While the Court dismissed the insurer’s appeal (thus not disturbing the award held in favour of the widowed sisters), it **referred the matter to the Law Commission of India** for suitable amendment of the definition of “dependent” under the Act. The Court directed the Secretary, Ministry of Law and Justice to forward a copy of the order to the Chairperson of the Law Commission.
- The Court found that although the literal statutory language appears restrictive, equity and the social welfare purpose of the Act support the inclusion of adult widowed sisters as dependents. However, the Court emphasised that **judicial amendment** is not appropriate; instead, legislative reform is required.

## Key Takeaway for CLAT Aspirant

### 1. Statutory Definition of ‘Dependent’ under the Employees’ Compensation Act, 1923

The **Employees’ Compensation Act, 1923** (originally the *Workmen’s Compensation Act*) defines “dependent” in **Section 2(1)(d)**. This provision classifies dependents into three categories—(a) wholly dependent members such as the widow, minor children, and widowed mother; (b) partially dependent relatives such as a widower, parents, and certain siblings; and (c) other specified relations like *a minor brother or an unmarried sister or a widowed sister if a minor*. The inclusion of the qualifier “if a minor” after “widowed sister” shows that the statute contemplates dependency only where the sister is both widowed and under age. The Supreme Court observed that this language, drafted in the colonial era, is now obsolete and socially unrealistic, since **the very existence of “minor widowed sisters” is practically impossible in modern legal and social conditions**.

The takeaway is that while statutory text governs immediate rights, courts may highlight where **legislative language no longer aligns with present-day realities**, particularly in welfare legislation. It also illustrates the difference between *literal construction* (applying the words as written) and *updating construction* (interpreting to reflect current context).

### 2. Doctrinal Conflict: Literal Interpretation vs. Purposive Interpretation

The Court’s reasoning demonstrates a classic conflict in statutory interpretation. On the one hand, welfare statutes like the Employees’ Compensation Act require a beneficial interpretation that advances the purpose of protecting dependents of deceased workers. On the other hand, courts cannot rewrite statutes or expand beneficiary categories beyond those expressly mentioned. The Court reconciled these competing doctrines by acknowledging the welfare purpose but refraining from judicial legislation. It stated that expansion of the definition of “dependent” must come from Parliament, not the judiciary. This preserves the constitutional doctrine of separation of powers, ensuring that courts interpret but do not amend legislation.

For legal reasoning, the case exemplifies how purposive interpretation must operate within statutory boundaries — a key principle relevant to constitutional and administrative law as well.

### 3. Judicial Referral to the Law Commission – Institutional Dialogue

Instead of overstepping its interpretive role, the Supreme Court invoked the mechanism of **institutional**



**dialogue** between the judiciary and the legislature. It directed the **Law Commission of India** to examine and recommend suitable amendments to Section 2(1)(d).

This approach reflects judicial restraint coupled with policy engagement. The Court recognised that while it cannot itself amend the Act, it can flag obsolete provisions for reform.

This illustrates a crucial constitutional concept: judicial law-reform referrals—where courts identify legislative lacunae but leave correction to Parliament. It ensures that social justice is advanced through proper democratic channels rather than through judicial overreach.

#### 4. Constitutional Context – Article 21 and Social Welfare

The Employees' Compensation Act is a **social welfare legislation** traceable to the Directive Principles of State Policy, particularly **Article 41** (right to public assistance in cases of disablement), **Article 42** (just and humane conditions of work), and **Article 43** (living wages). By ensuring compensation to dependents of workers, the Act operationalises the **constitutional guarantee of dignity and livelihood under Article 21**. The Court's concern that "minor widowed sisters" are an anachronism ties back to the constitutional duty of the State to modernise welfare laws so that they remain effective instruments of social justice. This connection demonstrates how statutory welfare rights are embedded in broader constitutional morality.

#### 5. Interplay Between Family Law and Labour Welfare Law

The judgment also highlights how changes in **family law** have rendered certain labour-welfare provisions outdated. The **Hindu Marriage Act, 1955**, the **Prohibition of Child Marriage Act, 2006**, and amendments raising the legal age of marriage have eliminated the possibility of legally recognised "minor widows." However, the Employees' Compensation Act still reflects early 20th-century family structures, assuming dependence of women primarily through male relatives. The Court implicitly suggested that Parliament should realign such provisions with modern family realities, recognising **adult widowed sisters, unmarried adult daughters, or dependent women relatives** as legitimate beneficiaries under the statute. This connects family-law evolution to welfare-law modernisation – an analytical bridge essential for exam discussions.

#### 6. Welfare Statutes and the Doctrine of Beneficial Construction

In interpreting welfare legislation, courts generally apply the **doctrine of beneficial construction**, meaning that where two interpretations are possible, the one that furthers the remedial object must be adopted. The Supreme Court reaffirmed that this doctrine has limits: it can expand interpretive reach but not **judicially create new classes of beneficiaries**. Thus, while the Commissioner's liberal reading to include adult widowed sisters aligned with the welfare objective, the Supreme Court clarified that a *beneficial interpretation cannot substitute legislative amendment*. This doctrinal boundary is fundamental for understanding how courts balance sympathy with legality.

#### 7. Comparative and Precedential Value

The decision aligns with earlier rulings on the **scope of "dependents"** under the Employees' Compensation Act, such as *Kamal Kishore v. Union of India* (1984) and *Oriental Insurance Co. Ltd. v. Siby George* (2012), where the Court insisted that inclusion within "dependents" must be statutorily supported. However, unlike earlier decisions which applied the definition literally, this case goes further by explicitly acknowledging the need for legislative revision. Therefore, it marks an important shift from mere application of law to **law-reform advocacy by the judiciary**.



**8. Doctrinal Intersection – Outdated Legislation and Living Law**

The case exemplifies the principle that **law is a living instrument**. When a statute survives long after social conditions have changed, courts must draw attention to its obsolescence. The Employees' Compensation Act, enacted in 1923, still uses terminology reflecting colonial and patriarchal assumptions. By directing the Law Commission to modernise it, the Supreme Court reaffirmed that **living law must evolve with living society**, a theme also seen in constitutional jurisprudence on dynamic interpretation (e.g., *Navtej Singh Johar v. Union of India*, *Joseph Shine v. Union of India*).



## Practice Questions

1. A female worker died in a factory accident. Her 28-year-old widowed sister, who was financially dependent on her and living with her for 10 years, claimed compensation under the Employees' Compensation Act, 1923. The Commissioner awarded compensation applying beneficial interpretation to include adult widowed sisters as "dependents." The employer challenged this, citing Section 2(1)(d) which mentions only "widowed sister if a minor." Should the award be upheld?
  - (a) Yes, because welfare statutes must be interpreted beneficially to include all financially dependent family members, and the sister's 10-year dependency proves her status.
  - (b) Yes, because the phrase "if a minor" is obsolete given modern marriage laws, and courts can update statutory language to reflect current social realities.
  - (c) No, because while beneficial interpretation can expand the scope within statutory boundaries, courts cannot judicially add new categories of dependents beyond those expressly mentioned.
  - (d) No, because the employer's liability is strictly limited to dependents listed in the statute, and any expansion requires the employer's consent or insurance coverage modification.
  
2. The Employees' Compensation Act, 1923 defines "dependent" to include "a minor brother or an unmarried sister or a widowed sister if a minor." A 22-year-old unmarried sister of a deceased worker claimed compensation. The employer argued that since "if a minor" appears only after "widowed sister," it doesn't qualify "unmarried sister," making all unmarried sisters eligible. Should this interpretation be accepted?
  - (a) Yes, because grammatically "if a minor" qualifies only the immediately preceding phrase "widowed sister," not "unmarried sister," making unmarried sisters of any age eligible as dependents.
  - (b) Yes, because the beneficial interpretation doctrine requires reading welfare statutes liberally, and excluding adult unmarried sisters would defeat the Act's protective purpose.
  - (c) No, because the entire phrase must be read harmoniously to mean all sisters mentioned must be minors, otherwise the statute would create irrational distinctions.
  - (d) No, because the phrase "unmarried sister" and "widowed sister if a minor" must both be read as requiring minority status to maintain parity in dependency presumption.
  
3. After the Supreme Court highlighted that "minor widowed sisters" is an obsolete category under the Employees' Compensation Act, 1923, the High Court in a subsequent case allowed compensation to a 30-year-old widowed sister by interpreting "minor" as "economically minor" meaning financially dependent. The employer challenged this creative interpretation. Is the High Court's approach valid?
  - (a) Yes, because the Supreme Court's acknowledgment of obsolescence permits lower courts to adapt statutory language through contextual interpretation to fulfill legislative purpose.
  - (b) Yes, because Article 21 and Directive Principles require courts to ensure social welfare, and denying compensation based on outdated text violates constitutional obligations.
  - (c) No, because creative reinterpretation of clear statutory terms amounts to judicial legislation, and High Courts cannot expand beneficiary categories pending legislative amendment.

(d) No, because only the Supreme Court has power to declare statutory provisions obsolete and modify their application, not High Courts in individual cases.

4. Following the Supreme Court's direction, the Law Commission recommended amending Section 2(1)(d) of the Employees' Compensation Act to include "adult widowed sisters" and "adult unmarried daughters" as dependents. Before Parliament could act, a High Court cited this recommendation to allow compensation to an adult widowed sister, reasoning that pending reforms should inform interpretation. Is this approach justified?

(a) No, because Law Commission recommendations, even when judicially solicited, do not have legal force until enacted by Parliament, and cannot guide judicial interpretation of existing law.

(b) No, because courts must apply statutory law as it exists, not as it might be amended, and Law Commission reports are aids for legislative reform, not judicial interpretation.

(c) Yes, because Law Commission recommendations represent expert legal opinion that courts can rely upon as persuasive authority when interpreting ambiguous or outdated provisions.

(d) Yes, because when the Supreme Court specifically directs law reform, lower courts should give effect to the identified legislative intent pending formal amendment.

5. A State Legislature, noting the Supreme Court's observations on obsolete provisions in the Employees' Compensation Act, 1923, enacted a state amendment expanding "dependent" to include adult widowed sisters and financially dependent adult relatives. The Centre challenged this, arguing compensation law is a Central subject under the Concurrent List, and states cannot amend Central Acts. Is the state amendment valid?

(a) Yes, because welfare legislation falls under State List Entry 24 (industries), and states have plenary power to expand benefits under labour welfare laws.

(b) Yes, because when the Centre fails to update outdated legislation despite judicial observations, states can exercise residuary powers to protect workers' rights.

(c) No, because the Employees' Compensation Act, 1923 is a Central legislation under Entry 23 of Concurrent List, and states cannot amend Central Acts even to expand benefits.

(d) No, because the Supreme Court's referral to Law Commission indicates that amendment is exclusively within Central Government's domain, precluding state legislative action.



# SUPREME COURT

## Landmark Judgements

**12**

## 2018 Amendment to SRA not Retrospective

### Background

- The case arises out of two suits for specific performance of a contract for sale of immovable property entered into in January 2010.
- The agreement fixed a sale consideration of ₹4,80,000, of which ₹4,70,000 was paid; the balance ₹10,000 was to be paid within six months. Later, the vendor demanded an additional ₹2,00,000, of which the appellant paid ₹1,95,000 by June 2010 (endorsed on the back of the agreement).
- The vendors sent a termination notice dated 20.08.2010. The appellant asserted ready and willing to pay the balance and claimed entitlement to specific performance. Meanwhile the respondent had sold the property to a third-party in August 2010.
- The Trial Court dismissed the appellant's suit for specific performance; the First Appellate Court reversed and decreed in favour of the appellant; the High Court then allowed the second appeal(s) and directed refund of the earnest money.
- A critical issue: the High Court's judgment (impugned) was delivered on 02.02.2018, **prior** to the coming into force of the 2018 amendment to the SRA (which commenced from 1 October 2018).

### Judgement of the Court

The Court held that the 2018 Amendment to the SRA is **prospective** and **not retrospective**; therefore it does **not apply** to suits or transactions which arose before its enforcement on 1 October 2018.

### Case Details

**Case Title:** Annamalai v. Vasanthi & Others  
**Citation:** 2025 INSC 1267  
**Bench** Justices J.B. Pardiwala & Manoj Misra

### Issue Before the Court

1. Whether the 2018 Amendment to the Specific Relief Act (making grant of specific performance a **mandatory relief** rather than purely discretionary) has **retrospective effect**, i.e., applies to suits/transactions entered into before 1 October 2018.
2. Whether, in this particular contract entered 2010 and suit instituted earlier than 2018, the pre-amendment law (i.e., discretionary regime) applies.
3. Whether the appellant's suit for specific performance could be maintained without a separate declaratory suit for invalidation of termination notice, under the law as it stood before the amendment.



- The Court noted that prior to the amendment, the grant of specific performance under the SRA was within **judicial discretion** (see Section 20 of the SRA as then in force). After the amendment, under Section 16A (inserted), specific performance became a *right* subject to conditions.
- Since the High Court judgment addressed a contract initiated in 2010 and the appealable decision was in early 2018, the legal regime applicable was the **pre-amendment discretionary law**. The Court applied that law accordingly.
- On the other issue of maintainability: The Court reaffirmed that when there is a **doubt or cloud** on the subsistence of the contract (for example due to a termination clause exercised), a **declaratory relief** may be necessary before seeking specific performance. However, where no such cloud exists (as where vendor accepts additional payment post-six-months), the suit for specific performance may proceed without separate declaration.

## Key Takeaway for CLAT Aspirant

### 1. Retrospective vs Prospective Application of Statutory Amendments

When Parliament amends a statute (here, the Specific Relief Act, 1963 via Amendment Act 18 of 2018), the court must examine whether the amendment clearly indicates **retrospective operation**. Absent clear intent, the general rule is **prospective effect** – the amendment applies only to suits/transactions arising after the date of its enforcement. This decision reaffirms the canonical doctrine of non-retrospectivity of civil statutes unless expressly provided.

### 2. Nature of the 2018 Amendment to SRA

Under the pre-amendment SRA, relief of specific performance was **discretionary**, i.e., even if all conditions were satisfied, the court could still refuse on equitable grounds (Section 20 then). The 2018 Amendment inserted Section 16A making specific performance a **mandatory relief**, subject to payment of consideration and readiness/willingness. This is a substantive change altering parties' rights. Such substantive changes, when they affect vested rights, are normally applied prospectively unless stated otherwise.

### 3. Change of Legal Regime and Contractual Timing

When a contract was entered and suit instituted **before** the amendment date, the applicable regime is the one in force at that time. Parties rely on and contract under that regime; hence courts cannot apply a later legal regime to disadvantage or surprise them. In this case, contract 2010 → suit before 2018 → amendment afterwards → Court held pre-amendment law applicable.

### 4. Interlink between Specific Performance and Declaratory Relief

Even under the pre-amendment regime, the Court re-emphasised that when a termination notice has been issued or right to rescind claimed by vendor, a cloud may exist on the contractual right. In such cases a plaintiff may need to first obtain **declaratory relief** that the contract subsists before seeking specific performance. The principle ensures the court does not forcibly enforce a contract whose existence is uncertain. The Court thus clarified criteria for when a declaratory action is required versus when it can be dispensed with.

### 5. Doctrine of Vested Rights and Fair Warning

Parties must have fair warning of the rules. When statutory amendments change rights (from discretion to mandatory), applying them retrospectively would affect vested rights and legitimate expectations. The Court's ruling preserves the doctrine of **vested rights**, ensuring that parties engaging under old regime are not unfairly disadvantaged by subsequent legislative change.

**6. Contractual Suitability & Clause of Time Being Essence**

In the facts of the case, vendor had demanded additional payment, accepted same, which the Court treated as waiver of termination rights. It reaffirmed contract law principle that conduct of parties may alter the rights originally reserved (e.g., vendor accepting extra payment recognises subsistence). This is under contract law interplay with specific performance relief – readiness and willingness is essential.

**7. Comparative Precedents**

- The decision references *Katta Sujatha Reddy v. Siddamsetty Infra Projects (P) Ltd.* (2024) where the Court held similarly the amendment was prospective.
- Earlier jurisprudence establishing discretion of courts under SRA pre-2018 is relevant (e.g., *Chandrakant Hindurao Jargut v. Savaliya*). Understanding the shift is key for doctrinal clarity.



## Practice Questions

1. A and B entered into a sale agreement for immovable property in March 2017. A (purchaser) filed a suit for specific performance in January 2018. The Specific Relief (Amendment) Act, 2018 came into force in October 2018, making specific performance mandatory under Section 16A. In December 2018, the trial court dismissed A's suit exercising discretion under the pre-amendment Section 20. A appealed, arguing that since the case was pending when the amendment came into force, Section 16A should apply mandatorily. Should the appellate court apply the amended law?

- (a) Yes, because the amendment came into force while the suit was pending, and procedural amendments apply to pending proceedings regardless of when the contract was executed.
- (b) Yes, because Section 16A is a beneficial provision strengthening purchasers' rights, and beneficial amendments should be applied retrospectively to advance justice.
- (c) No, because the contract was entered and suit instituted before the amendment, so the pre-amendment discretionary regime applies absent express retrospective intent.
- (d) No, because appellate courts cannot apply new law to overturn trial court decisions that were correct when rendered, even if law changes during appeal.

2. X and Y executed a sale agreement in June 2019 (after the 2018 Amendment). X filed suit for specific performance in August 2019. Y argued the contract had been validly terminated due to X's delay, and sought dismissal. X claimed that under the amended Section 16A, the court must grant specific performance mandatorily if consideration is paid and readiness shown, regardless of termination. Y countered that declaratory relief on contract's subsistence is required first. What is the correct legal position?

- (a) X must first obtain declaratory relief that the contract subsists, as specific performance cannot be granted when the contract's very existence/validity is disputed by termination.
- (b) Under amended Section 16A, specific performance is mandatory if statutory conditions are met, eliminating the need for prior declaratory relief even when termination is claimed.
- (c) Since the contract and suit are post-amendment, X can directly seek specific performance, and the court must grant it unless Y proves valid termination.
- (d) The court should exercise discretion to determine whether declaratory relief is needed, as Section 16A's mandatory nature doesn't eliminate judicial discretion on procedural matters.

3. P and Q entered a sale agreement in 2016 with a clause making time of essence. P filed suit for specific performance in 2017. During trial (in 2019, post-amendment), Q demanded additional payment citing increased property value, and P paid this amount. Q then argued the contract was void for lack of consideration for the additional payment. P argued that Q's acceptance of extra payment waived the termination/time-essence clause. Under which legal regime should the court adjudicate these contractual rights and defenses?

- (a) The court should apply the amended Section 16A since adjudication occurred post-2018, making specific performance mandatory if P shows readiness and the extra payment proves willingness.

- (b) The court should apply a mixed approach: pre-amendment law for contractual interpretation (as contract pre-dates 2018) but amended law for relief determination (as trial is post-2018).
- (c) The court should apply the 2018 Amendment because Q's demand and P's payment of additional amounts in 2019 constitutes a novation creating a new contract post-amendment.
- (d) The court should apply pre-amendment law as the contract, suit, and parties' vested rights arose before the amendment, and Q's acceptance of payment is analyzed under contract principles, not statutory relief provisions.

4. M and N entered a property sale agreement in November 2018 (one month after the Amendment came into force). M (vendor) issued a termination notice citing N's (purchaser's) failure to pay installments. N filed suit for specific performance in December 2018 under amended Section 16A, arguing that since the contract and suit are post-amendment, specific performance is mandatory upon payment of consideration. M argued that the termination notice predated the suit, creating a cloud on the contract requiring declaratory relief first. Should the court directly grant specific performance under Section 16A?

- (a) Yes, because both contract and suit are post-amendment, so Section 16A applies mandatorily, and N can pay the consideration during proceedings to satisfy the statutory requirement.
- (b) No, because when a vendor has issued termination notice claiming the contract is no longer subsisting, the purchaser must first obtain declaratory relief that the contract exists before seeking specific performance.
- (c) Yes, because Section 16A makes specific performance mandatory without preserving the vendor's right to unilaterally terminate, rendering pre-suit termination notices ineffective post-amendment.
- (d) No, because even post-amendment, the court must first determine if time was of essence and whether valid termination occurred before applying Section 16A's mandatory relief framework.

5. R entered into a sale agreement with S in 2015. R filed suit for specific performance in 2016. In 2020 (during pendency), Parliament enacted a new amendment (hypothetical) making the 2018 Amendment explicitly retrospective "to all pending suits regardless of when the contract was executed." R sought application of this retrospective clarification. S argued that retrospective application would violate the vested rights doctrine as the 2015 contract was entered under the discretionary regime. Should the court apply the retrospective amendment?

- (a) Yes, because when Parliament expressly provides for retrospective application through unambiguous statutory language, courts must give effect to clear legislative intent despite impact on vested rights.
- (b) Yes, because the amendment merely clarifies the 2018 Amendment's intended scope rather than creating new rights, and clarificatory amendments apply retrospectively even to vested rights.
- (c) No, because retrospective amendments affecting substantive contractual rights violate the constitutional guarantee against retrospective laws under Article 20, making such amendments void.
- (d) No, because even when Parliament declares retrospectivity, courts must protect vested rights and legitimate expectations by applying the presumption against retrospectivity to civil matters.





**Policy in Assam**  
Indian sprinter Hemu Das, General Secretary of Assam Cricket Association Dinesh Barua, and scientist Uditabha Bhattacharya are also in the committee.

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# SUPREME COURT

## Landmark Judgements



### 13 Beyond the Binary: Supreme Court reclaims the promise of transgender equality

#### Background

- The petitioner, a transwoman teacher named Jane Kaushik, was employed as a teacher by a private school in Uttar Pradesh. In December 2022, she alleged that her services were terminated solely because she revealed her gender identity.
- Subsequently, she also applied for employment at another private school in Gujarat in July 2023. That institution likewise refused to continue or offer employment, allegedly on grounds of her gender identity.
- The petition challenged the dismissals and employment refusals, relying on the TPA, 2019 and fundamental rights under the Constitution, and sought reinstatement, compensation, and directions to the Union and States (Gujarat, Uttar Pradesh) to provide redressal mechanisms for gender-non-conforming persons.
- The Supreme Court took up the matter and on 17 October 2025 passed its decision awarding compensation, establishing guidelines, and directing governments and schools to constitute grievance mechanisms.

#### Judgement of the Court

- The Supreme Court held that termination or refusal of employment solely on account of an individual's gender identity is unjustified discrimination and violates Articles 14 (equality), 15 (non-discrimination), 19 (right to profession) and 21 (life, dignity) of the Constitution, as well as contravening the TPA, 2019.

#### Case Details

- Case Title:** Jane Kaushik v Union of India & Ors.
- Citation:** Writ Petition (C) No. 1405 of 2023
- Bench** Justices J.B. Pardiwala & R. Mahadevan

#### Issue Before the Court

1. Whether the termination/refusal of employment of the petitioner on account of her gender identity constituted discrimination prohibited under the Constitution (Articles 14, 15, 19, 21) and under the TPA, 2019.
2. Whether the private schools and the respective State/Union governments bore liability for failing to implement or provide the redressal mechanisms envisaged under the TPA, 2019 (such as grievance committees, equal-opportunity policy) in employment contexts.
3. What remedial measures are appropriate: whether compensation is warranted, whether reinstatement should be directed, and whether broader structural directions (policy, committees) need to be issued for protection of transgender persons in employment.



- The Court found fault not only with the private schools but also with the State governments and Union for failing to comply with their statutory obligations under TPA, 2019 – specifically, to set up grievance redressal mechanisms, equal-opportunity policies, and awareness/training modules for employment and education sectors. Accordingly, the Court directed that both the Union and the States of Gujarat and Uttar Pradesh pay ₹ 50,000 each to the petitioner as compensation for the violation of rights.
- The Court further constituted a high-level **committee**, including civil-society members (transgender activists, academicians, health experts) headed by former Delhi High Court judge Asha Menon, to recommend a **comprehensive equal-opportunity policy** for gender-diverse persons in employment, and to monitor implementation of the TPA in private educational institutions. It directed the policy be prepared within three months from the report of the committee.
- The Court also ordered that in the interim, pending adoption of a formal policy, any establishment which lacks its own equal-opportunity policy must adopt the guidelines framed by the Supreme Court for protection of gender-non-conforming persons, including training of staff, non-discrimination clauses in employment contracts, and grievance mechanisms.

## Key Takeaways for CLAT Aspirants

### 1. Articles 14, 15, 19 and 21 – The Constitutional Foundation of Transgender Equality

This case reaffirms that the guarantees of **equality (Article 14)**, **non-discrimination (Article 15)**, **freedom of profession (Article 19(1)(g))**, and **dignity and life (Article 21)** extend fully to transgender persons.

The Court interpreted “sex” in Article 15 to include **gender identity and expression**, consistent with *NALSA v. Union of India* (2014), which held that discrimination against transgender persons amounts to sex-based discrimination.

Under **Article 14**, equal protection requires that individuals be treated alike in similar circumstances, and differential treatment based solely on gender identity violates that guarantee.

**Article 19(1)(g)** protects every individual’s right to pursue an occupation; dismissing someone because of identity directly infringes that liberty.

Lastly, **Article 21** safeguards life and dignity – the Court stressed that dignity includes the autonomy to express one’s gender identity without fear of exclusion.

Together, these provisions establish a **composite constitutional right to gender identity**, now judicially enforced against both state and private actors.

### 2. Transgender Persons (Protection of Rights) Act, 2019 – Statutory Duty of Non-Discrimination

The judgment places the **Transgender Persons (Protection of Rights) Act, 2019 (TPA)** at the centre of state accountability. Under **Sections 3 and 9**, discrimination against a transgender person in education or employment is explicitly prohibited. **Section 9(2)** obliges every establishment (public or private) to designate a complaint officer to handle grievances. **Section 10** requires the appropriate government to ensure non-discriminatory policies, while **Section 11** directs the formulation of welfare schemes.

The Court found that the failure of both the Union and States to constitute such **grievance redressal mechanisms** and enforce compliance rendered them **jointly liable** for the violation of the petitioner’s statutory rights. Hence, the TPA was interpreted as a **positive-obligation statute**, compelling affirmative action by authorities to create institutional safeguards – not merely prohibiting discrimination in words.

### 3. Horizontal Application of Fundamental Rights and State Responsibility

A notable doctrinal development here is the **horizontal application of fundamental rights**.

While private schools are not “State” under Article 12, the Court extended constitutional scrutiny to them through the lens of the TPA and the **doctrine of constitutional obligations in private relations**. Following *Vishaka v. State of Rajasthan* (1997) and *Kaushal Kishor v. State of U.P.* (2023), the Court held that fundamental rights can indirectly bind private entities when performing functions affecting basic human dignity or public interest. Therefore, the private school’s termination of the petitioner was judged unconstitutional through this **indirect horizontality**, since private actors cannot disregard fundamental values embedded in equality and dignity.

### 4. Article 38 and Directive Principles – Social Justice and State Accountability

The Court invoked **Article 38(1)**, which directs the State to secure a social order based on justice – social, economic, and political – and **Article 46**, mandating promotion of the educational and economic interests of weaker sections. The failure of governments to establish mechanisms envisaged under the TPA was seen as contrary to these directive principles. By linking enforceable fundamental rights to **Directive Principles of State Policy**, the Court emphasised that the **Constitution’s transformative purpose** requires active State participation in securing substantive equality for gender minorities.

### 5. Principle of Substantive Equality and Anti-Stereotyping

The judgment applies the **principle of substantive equality**, moving beyond formal equality (treating everyone the same) to ensure that historically marginalised communities can equally enjoy rights and opportunities. The Court condemned the persistence of gender stereotypes that treat transgender persons as “unfit” for educational or teaching roles. By recognising the harm of stereotypes, it reaffirmed the **anti-stereotyping doctrine** articulated in *Navtej Singh Johar v. Union of India* (2018) and *Lt. Col. Nitisha v. Union of India* (2021). This doctrine obliges courts to dismantle systemic prejudice and hold both state and private institutions accountable for perpetuating such discrimination.

### 6. Doctrine of Positive Obligations and Structural Remedies

A key jurisprudential advance lies in the Court’s reliance on **positive obligations** under Articles 14 and 21 – the State must **create enabling structures** for realising rights, not merely refrain from violations. Accordingly, the Court issued **structural directions**: establishing a national committee (chaired by Justice Asha Menon), framing of equal-opportunity policies, and time-bound compliance monitoring. This mirrors the **Vishaka Guidelines** and the **DK Basu** approach, where interim judicial frameworks operate until legislative or executive mechanisms are in place. The principle reinforces that judicial power extends to enforcing the **architecture of rights protection**, not just granting declaratory reliefs.

### 7. Constitutional Morality and Transformative Constitutionalism

The decision draws upon the ideals of **constitutional morality** – the commitment to uphold liberty, equality, and fraternity over societal prejudices – and **transformative constitutionalism**, which views the Constitution as a living document aimed at social change. By reaffirming dignity and inclusion of transgender persons, the Court reiterated that the Constitution is a vehicle for transformation from social exclusion to equality of status. These doctrines originate from *Navtej Singh Johar* (2018) and *NALSA* (2014), which together form the jurisprudential foundation for gender-identity rights in India.



**9. Precedential Continuity – Building upon NALSA, Navtej, and Puttaswamy**

This judgment completes the triadic evolution of Indian gender-rights jurisprudence:

- **NALSA v. Union of India (2014)**: Recognised “third gender” identity and directed affirmative action.
- **Navtej Singh Johar v. Union of India (2018)**: Decriminalised consensual same-sex relations, expanded privacy and dignity.
- **Justice K.S. Puttaswamy v. Union of India (2017)**: Affirmed privacy as part of dignity and autonomy.
- *Jane Kaushik* operationalises these principles by applying them in an **employment-discrimination context**, thereby integrating identity rights with socio-economic entitlements.

**10. Doctrinal Intersection – Equality, Dignity, and Positive Duty**

Finally, the ruling harmonises three core doctrines:

1. **Equality** (Articles 14–15) – requiring removal of both overt and structural discrimination.
2. **Dignity and Autonomy** (Article 21) – protecting self-definition of gender.
3. **Positive Duty of the State** – mandating institutional and procedural mechanisms to secure these rights.
4. This triad embodies India’s evolving **jurisprudence of transformative inclusion**, ensuring that constitutional promises translate into lived equality.



## Practice Questions

1. A private IT company terminated a transgender software engineer citing "cultural misfit" and "team discomfort" despite exemplary performance. The employee filed a writ petition under Article 226 challenging the termination. The company argued that fundamental rights under Articles 14, 15, and 21 apply only to State actions under Article 12, and private companies cannot be held liable for constitutional violations. Should the High Court entertain the petition?

- (a) No, because private companies are not "State" under Article 12, and fundamental rights create vertical obligations only against State actors, not horizontal obligations against private entities.
- (b) No, because employment contracts are governed by private law and contractual remedies, and constitutional remedies under Article 226 are available only when State or instrumentality of State is the employer.
- (c) Yes, because following horizontal application doctrine and TPA, 2019, private entities performing functions affecting dignity cannot disregard constitutional values of equality and non-discrimination against transgender persons.
- (d) Yes, because any discrimination against transgender persons automatically converts the private entity into "State" under expanded Article 12 definition, making fundamental rights directly applicable.

2. Three years after the enactment of the Transgender Persons (Protection of Rights) Act, 2019, a transgender person faced discrimination in a government college but found no grievance redressal mechanism under Section 9(2) had been constituted. The State Government argued that Section 9(2) is a directory provision requiring progressive implementation, not mandatory immediate compliance. Is the State's defense valid?

- (a) No, because Sections 3, 9, and 10 of TPA create positive obligations requiring affirmative State action, and failure to establish statutory mechanisms renders the State liable for rights violation.
- (b) No, because all provisions of welfare legislation are mandatory and must be implemented immediately upon enactment, regardless of whether they're phrased as directory or mandatory.
- (c) Yes, because welfare legislation provisions requiring infrastructure creation are directory and subject to progressive realization depending on State's resource availability and administrative capacity.
- (d) Yes, because the transgender person's remedy lies in approaching civil courts for damages under private law, not in challenging State's non-implementation of infrastructure provisions.

3. A state university maintained a policy of treating all students "equally" by not creating any special facilities or separate hostels for transgender students, arguing that formal equality requires treating everyone identically regardless of gender identity. A transgender student challenged this policy claiming discrimination. Should the policy be struck down?

- (a) No, because formal equality under Article 14 requires identical treatment of all persons, and creating separate facilities would itself constitute discrimination and violate equal protection.
- (b) No, because the policy is facially neutral and applies uniformly to all students, satisfying the constitutional requirement of non-discrimination under Articles 14 and 15

(c) Yes, because Article 14 permits reasonable classification, and transgender students can be classified separately to provide special facilities without violating equality guarantees.

(d) Yes, because constitutional equality requires substantive equality addressing historical marginalization, and identical treatment perpetuating disadvantage violates Articles 14, 15, and Directive Principles under Articles 38 and 46.

4. Following the Jane Kaushik precedent, a High Court in a PIL ordered the State Government to pay ₹1 lakh compensation to each of 50 transgender persons who faced discrimination in public employment due to absence of grievance redressal mechanisms. The State argued that compensation in public law can only be awarded for illegal detention or custodial torture, not for administrative failures. Is the compensation award sustainable?

(a) No, because constitutional compensation under Articles 32 and 226 is available only for physical liberty violations like illegal detention, not for discrimination or administrative non-compliance with statutory duties.

(b) Yes, because compensation is a constitutional remedy for violations of fundamental rights including discrimination, extending the public-law damages doctrine beyond detention cases to anti-discrimination contexts.

(c) No, because PIL cannot be used to claim monetary compensation, as such relief is personal to individual petitioners and cannot be granted in representative public interest litigation.

(d) Yes, because once discrimination is proved, Article 300A requires the State to provide monetary compensation as it amounts to deprivation of property rights in employment opportunities.

5. A private school association challenged a High Court direction requiring all private schools to frame anti-discrimination policies for transgender teachers and students, arguing this violates their autonomy under Article 19(1)(g) to manage institutions. The association contended that constitutional morality cannot override their religious and cultural ethos. Should the direction be upheld?

(a) No, because Article 19(1)(g) protects institutional autonomy, and imposing constitutional morality on private institutions violates their freedom to operate according to their own values and ethos.

(b) No, because constitutional morality binds only State institutions under Article 12, and extending it to private schools violates the constitutional scheme of vertical application of fundamental rights.

(c) Yes, because constitutional morality and transformative constitutionalism require that fundamental values of dignity and equality prevail over private prejudices, and institutional autonomy cannot justify discrimination violating basic human rights.

(d) Yes, because all educational institutions, whether private or public, automatically become "State" under Article 12 when performing educational functions, making them directly bound by constitutional morality.



# SUPREME COURT

## Landmark Judgements



### 14 Procedural Failure Cannot Result in Denial of Substantial Right of Defence

#### Background

- The plaintiff, M/s Aroush Motors, entered into a dealership arrangement with the defendant, M/s Anvita Auto Tech Works Pvt. Ltd., under a Letter of Intent dated 03 Sept 2019. The plaintiff paid large sums (security deposit, showroom setup, initial stock) and the defendant supplied BS-IV motorcycles. Subsequently, due to regulatory ban on BS-IV vehicles, the defendant failed to supply upgrade kits, the plaintiff's business stalled, and the dealership was terminated on 14 Sept 2020.
- Suit for recovery (Commercial O.S. No. 372 of 2021) was filed on 18 June 2021. Summons were served on the defendant on 17 July 2021. The defendant appeared on 07 August 2021 but did **not** file the written statement within the 120-day outer limit (which expired 14 November 2021).
- The defendant applied for extension several times (IAs) citing COVID-19 delays but the Court rejected the Written Statement and proceeded with the plaintiff's evidence. Cross-examination of plaintiff's witnesses was recorded as "nil" because the defendant had no written statement. Trial court partly decreed the suit on 15 November 2022. High Court upheld the decree on appeal on 20 May 2025; the matter reached the Supreme Court.

#### Judgement of the Court

The Supreme Court reaffirmed the rule that in commercial suits the 120-day outer limit for filing a written statement under the proviso to Order VIII Rule 1 CPC is mandatory (per SCG Contracts (India) Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd. (2019 12 SCC 210)).

#### Case Details

**Case Title:** M/s Anvita Auto Tech Works Pvt. Ltd. v. M/s Aroush Motors & Anr.

**Citation:** 2025 INSC 1202

**Bench** Justices Aravind Kumar & N.V. Anjaria

#### Issue Before the Court

1. Whether non-filing of the Written Statement within the timeline under Order VIII Rule 1(1) CPC (and its proviso for commercial suits) results in the **automatic forfeiture** of the defendant's right to cross-examine the plaintiff's witnesses.
2. Whether the timeline of 120-days for filing a Written Statement in commercial suits remains **strictly mandatory**, or whether exceptional circumstances (e.g., the COVID-19 limitation exclusion order) can relax the bar.
3. Whether procedural rules (timelines) can override a defendant's **substantial right of defence**, especially the right to fair trial and cross-examination.



- However, applying the Court's own exemption orders (suo motu under Article 142) excluding 15 March 2020 to 28 February 2022 from computation of limitation (see *In Re: Cognizance for Extension of Limitation* (2022 3 SCC 117)), the Court found that the period during which the 120-day timeline expired fell wholly within the excluded COVID-19 limitation period. Hence, the defendant's failure could not be regarded as time-barred.
- Critically, the Court held that even if a written statement is not filed or is struck off, the defendant retains the **right to cross-examine** the plaintiff's witnesses. The Trial Court's denial of cross-examination solely because no written statement was filed was termed "absolutely perverse" and a violation of the defendant's substantial right of defence.
- The Court set aside the decree against the defendant (Defendant No. 1), remanded the case to permit filing of the written statement (subject to cost of ₹1,00,000) and directed that cross-examination be allowed. Trial court was directed to conclude the matter expeditiously (preferably within six months).

## Key Takeaways for CLAT Aspirants

### 1. Mandatory Timelines vs Substantial Justice

Order VIII Rule 1(1) CPC (and proviso) mandates that a defendant in a commercial suit must file their written statement within 30 days of summons, extendable by court, but in any event **not later than 120 days**. Failure to do so ordinarily leads to forfeiture of the right to file the statement and the court may proceed. This mandatory timeline, as held in *SCG Contracts*, is not directory but mandatory for commercial proceedings. However, the Supreme Court in this case emphasised that **procedure must serve justice** – and where special circumstances (COVID-19 exclusion) apply, rigid adherence may deny a party's right to defend.

### 2. Right to Cross-Examination as a Fundamental Procedural Safeguard

The judgment affirms that the right to cross-examine a party's witnesses is a cornerstone of fair trial and natural justice. Even if a defendant fails to file a written statement, the court cannot mechanically deny cross-examination. Denial of cross-examination due solely to procedural default is an infringement of the defendant's substantial right of defence. The Court relies on the doctrine that procedural rules exist to **facilitate**, not **prejudice**, justice (echoing Justice V.R. Krishna Iyer's phrase: "Procedural law is not to be a tyrant but a servant ...").

### 3. Application of the COVID-19 Limitation Exclusion to Commercial Suit Timelines

The Court clarifies that the exclusion of limitation period from 15 March 2020 to 28 February 2022 by virtue of its Article 142 orders also applies to the computation of time under the proviso to Order VIII Rule 1 CPC in commercial suits. When the 120-day timeline falls wholly or partly within that excluded period, the default cannot be held against the defendant unless they have had a fair opportunity. This harmonises procedural strictness with extraordinary public-health circumstances, showing how statutory procedural bars may be interpreted in light of special orders.

### 4. Balance Between Efficiency in Commercial Litigation and Fairness

Commercial disputes often press for expedition and mandatory timelines under the Commercial Courts Act, 2015. The Court reaffirmed the imperative of efficiency but stressed that **efficiency cannot come at the cost of fairness**. Where the defendant was deprived of the opportunity to defend because of procedural default beyond the exclusion period, the decree must be set aside. This judgement therefore emphasises the doctrine of **substantial justice** over mere procedural formality.

### 5. Remedial Mechanism and Judicial Discretion

The Court exercised its discretionary power to allow the written statement to be taken on record subject to cost, and to remand the matter for cross-examination. While it upheld mandatory timelines in principle, it also indicated that courts have the power to **mitigate unfairness** by ordering retrial or reopening stages where procedural default collides with denial of defence. For exam purposes: this illustrates the interplay of **mandatory timelines**, **judicial discretion**, and **remedial justice** in civil procedure.



## Practice Questions

1. In a commercial suit filed on 1st January 2020, the defendant was served summons on 10th March 2020. The defendant attempted to file a written statement on 15th September 2020 (189 days after summons), which was rejected by the Commercial Court citing the mandatory 120-day limit under Order VIII Rule 1 CPC. The defendant argued that the COVID-19 exclusion period (15 March 2020 to 28 February 2022) should be excluded from computation, making the filing timely. The plaintiff contended that the 120-day timeline is mandatory and the Supreme Court's limitation exclusion applies only to Limitation Act, not procedural timelines in CPC. Should the written statement be accepted?

- (a) No, because 120-day timeline is mandatory and COVID-19 exclusion applies only to Limitation Act, not CPC procedural timelines.
- (b) No, because defendant had 30 days before 15 March 2020, and subsequent delay cannot be condoned beyond mandatory 120-day limit.
- (c) Yes, because COVID-19 exclusion applies to Order VIII Rule 1 computation, making the filing timely after excluding the period.
- (d) Yes, because COVID-19 citation requires automatic condonation of all delays in commercial suits during 2020-2022 regardless of computation.

2. A defendant in a commercial suit failed to file a written statement within the 120-day period and the Commercial Court refused to accept it thereafter. At trial, the plaintiff led evidence through three witnesses. When the defendant sought to cross-examine these witnesses, the court denied this right, stating that since the defendant had forfeited the right to file a written statement by missing the mandatory deadline, they also lost the right to participate in evidence proceedings including cross-examination. The defendant appealed. Should the denial of cross-examination be upheld?

- (a) No, because right to cross-examination is fundamental to fair trial and cannot be denied solely due to procedural default.
- (b) Yes, because forfeiture of written statement includes forfeiture of all participatory rights including cross-examination in commercial suits.
- (c) Yes, because Commercial Courts Act emphasizes expedition, and allowing cross-examination by defaulting defendants defeats speedy disposal intent.
- (d) No, but only if defendant files written statement with costs before cross-examination, as right to defend requires compliance.

3. In a commercial dispute, the defendant filed their written statement on the 135th day after service of summons, citing genuine difficulties in engaging counsel during the COVID-19 pandemic. The period from day 30 to day 120 fell entirely within the COVID-19 exclusion period (15 March 2020 to 28 February 2022). The trial court rejected the written statement as time-barred and proceeded ex parte, delivering judgment for the plaintiff. On appeal, the defendant argued for substantial justice over procedural technicality. The plaintiff relied on SCG Contracts holding that the 120-day limit is mandatory. What should be the appellate court's approach?

- (a) Uphold trial court because SCG Contracts establishes 120-day limit is mandatory and courts cannot extend it even for COVID-19.
- (b) Uphold trial court because 15-day delay beyond 120 days demonstrates lack of bona fides, and substantial justice cannot excuse default.
- (c) Uphold trial court because allowing belated filing would undermine Commercial Courts Act's objective of expeditious disposal through strict timelines.
- (d) Set aside decree and allow written statement, because 120-day period within COVID-19 exclusion requires flexible interpretation preventing denial of defense.

4. A Commercial Court, after rejecting a defendant's written statement for being filed beyond 120 days, proceeded with the trial and granted an ex parte decree to the plaintiff. The High Court, in appeal, noted that: (i) the delay was partly attributable to the COVID-19 period; (ii) the defendant had a prima facie strong defense on merits; (iii) the plaintiff would suffer no irreparable prejudice if the matter were reheard. However, the High Court was concerned about setting a precedent that might encourage casual approach to mandatory timelines in commercial litigation. Should the High Court interfere?

- (a) No, because interfering would create dangerous precedent encouraging non-compliance and defeating objective of speedy commercial dispute resolution.
- (b) Yes, because courts have discretionary power to mitigate unfairness where procedural default collides with denial of defense during special circumstances.
- (c) No, because defendant's remedy lies in Supreme Court under Article 136, as High Courts must respect Commercial Court's procedural determinations.
- (d) Yes, but only if defendant deposits entire decretal amount as condition, balancing plaintiff's expectation with defendant's right to defend.

5. In a commercial suit, the plaintiff examined witnesses after the defendant's written statement was rejected as time-barred. The defendant did not cross-examine, and the trial court passed a decree. In appeal, the defendant argued: (i) the written statement should have been accepted considering COVID-19 exclusion; (ii) alternatively, they should have been allowed to cross-examine even without a written statement. The appellate court agreed that the written statement timing was within the extended period after excluding COVID-19 days. What should be the appropriate remedial order?

- (a) Allow appeal and accept written statement, but uphold decree since defendant waived cross-examination by not exercising it at trial.
- (b) Allow appeal, accept written statement, and direct trial court to provide opportunity for defendant to cross-examine plaintiff's witnesses.
- (c) Allow appeal, accept written statement, and order fresh trial de novo as entire proceeding was vitiated by erroneous rejection.
- (d) Dismiss appeal because failure to cross-examine constitutes acquiescence, and belated written statement acceptance cannot revive lost opportunities.





# SUPREME COURT

## Landmark Judgements

**15**

## Appointment of Waitlisted Candidate after Expiry of Selection List

### Background

- The respondent, *Subit Kumar Das*, had applied for a government post under a recruitment notification issued by the Union of India in 2019.
- After a written examination and interview, a **final select list** and a **waitlist** were prepared. Das's name appeared in the waitlist.
- Subsequently, a few selected candidates either did not join or resigned. The respondent claimed appointment against one such resultant vacancy, citing his waitlist position.
- However, by that time, the **validity period of the selection list had expired**, and a **fresh recruitment notification** had already been issued.
- The Central Administrative Tribunal (CAT) and later the High Court directed the authorities to consider Das's case for appointment.
- The Union of India appealed to the Supreme Court, challenging these directions on the ground that the waitlist had expired and conferred **no enforceable right**.

### Judgement of the Court

- The Supreme Court allowed the appeal and **set aside** the directions of the High Court and Tribunal.
- It reiterated that **mere inclusion in a waitlist does not create a vested right to appointment**. The waitlist is an **auxiliary tool** meant only to fill existing or anticipated vacancies within its validity period.
- The Court clarified that once the selection list expires, or a new recruitment process begins, the waitlist automatically lapses. Appointing candidates thereafter would amount to backdoor entry, violating **Articles 14 and 16**.

### Case Details

- Case Title:** Union of India v. Subit Kumar Das
- Citation:** 2025 INSC 1075
- Bench** Justice Abhay S. Oka & Justice Rajesh Bindal

### Issue Before the Court

1. Whether a candidate placed on a **waitlist** has any **legal or vested right** to be appointed against vacancies arising after the expiry of the selection list.
2. Whether the **administration can be compelled** to fill unfilled or subsequent vacancies from an expired waitlist rather than initiating a fresh recruitment process.
3. Whether a **waitlist continues to operate** after the publication of a new recruitment notification.

- It was held that administrative efficiency and fairness require adherence to clear timelines; otherwise, indefinite operation of waitlists could prejudice future aspirants and lead to arbitrariness.
- The Court also observed that the power to fill vacancies from a waitlist lies with the **employer's discretion**, not as a candidate's right, and such discretion must be exercised strictly within the **rules or recruitment policy**.
- Relying on *Shankarsan Dash v. Union of India* (1991 3 SCC 47), the Bench emphasized that inclusion in a select list does not confer an indefeasible right to appointment unless the appointing authority decides to fill the vacancy and acts arbitrarily in doing so.

## Key Takeaways for CLAT Aspirants

### 1. Article 16(1): Equality of Opportunity in Public Employment

Article 16(1) guarantees equal opportunity in matters of public employment. The Court reiterated that this includes not only equality in selection but also **equality of future opportunity** for all eligible candidates.

If a waitlist were allowed to operate indefinitely, it would violate this principle by excluding new aspirants from fair competition. Thus, the expiry of a select list upholds the **constitutional right to open and equal access** to government jobs.

### 2. Doctrine of Vested Right and Legitimate Expectation

The Court reaffirmed the difference between “**legitimate expectation**” and “**vested right**.”

A candidate on a waitlist may have a legitimate expectation to be considered for appointment **if** a vacancy arises within the list's validity period – but **no vested right** exists to claim appointment after that period lapses.

This distinction prevents courts from converting expectations into enforceable entitlements absent a clear statutory or policy foundation.

### 3. Administrative Law Principle – Validity and Operation of Waitlists

Under established service jurisprudence, a **waitlist** is intended to fill seats that fall vacant due to non-joining, resignation, or cancellation **within a defined period**.

Most recruitment rules and DoPT guidelines prescribe a **validity period (usually one year)**, extendable only through express administrative order.

The Supreme Court clarified that once this period expires, the waitlist ceases to exist in law; **no extension can be presumed**, and appointments from such expired lists would be ultra vires and arbitrary.

### 4. Article 14 and the Doctrine of Arbitrariness

Invoking **Article 14**, the Court underscored that continuing to appoint candidates from an expired waitlist after initiating a fresh recruitment process would amount to **arbitrariness** and **discrimination** against new candidates.

The **doctrine of arbitrariness**, first articulated in *E.P. Royappa v. State of Tamil Nadu* (1974 4 SCC 3), requires all administrative actions to be fair, non-capricious, and non-discriminatory. The decision ensures a **level playing field** by preventing unequal access to employment opportunities.

### 5. Fresh Recruitment and Finality of Selection Process

The judgment affirms the **principle of finality** in public recruitment. Once a selection cycle concludes and a fresh process begins, the old list cannot be reopened.

This ensures predictability and transparency in administrative action and prevents **perpetual claims** from past candidates. The recruitment process must have a **definite life cycle**, respecting both efficiency and fairness in governance.

#### 6. Doctrinal Link: Shankarsan Dash Principle

The decision relies heavily on the precedent *Shankarsan Dash v. Union of India* (1991 3 SCC 47), where the Court held that mere inclusion in a select list does not confer a right to appointment unless the government's decision not to appoint is shown to be **arbitrary or mala fide**.

By reaffirming this principle, *Subit Kumar Das* clarifies that the right of appointment arises **only when the employer decides to fill vacancies** within the operative period and does so unfairly.

#### 7. Article 309 and Executive Power in Service Rules

Under **Article 309**, recruitment and service conditions of public servants are regulated by rules framed by the President or the Governor. The Court reiterated that courts cannot direct appointment in violation of those recruitment rules or extend their operation judicially. Only the rule-making authority can decide on extending or modifying validity periods of select lists.

#### 8. Constitutional Principle of Fair Recruitment

The case reinforces the **doctrine of fair recruitment**, derived from Articles 14, 16, and 309.

Fair recruitment requires transparent procedures, fixed timelines, and equal participation. It also bars *post-expiry revival* of select lists, which can otherwise promote nepotism or arbitrary discretion. Thus, the ruling strengthens meritocracy and institutional integrity in public service selection.



## Practice Questions

1. The State Public Service Commission (SPSC) published a select list for the post of Assistant Engineer on 1st January 2022 with validity of one year, containing 50 selected candidates and 20 waitlisted candidates. By December 2022, only 45 selected candidates joined, leaving 5 vacancies. The SPSC issued appointment letters to the top 5 waitlisted candidates on 15th January 2023 (15 days after the list expired), citing "administrative delays in processing" and arguing that since the vacancies arose within the validity period, the appointments should be valid. Three waitlisted candidates who received letters on 15th January 2023 challenged the appointments of candidates ranked 6-10 on the waitlist, claiming their superior position gave them a vested right to be appointed first. Are the appointments made on 15th January 2023 valid?

- (a) Yes, because vacancies arose during validity period, and 15-day administrative delay is reasonable and doesn't invalidate appointments from waitlist.
- (b) No, because once the one-year validity period expired on 31st December 2022, the waitlist ceased to exist and appointments thereafter are ultra vires.
- (c) Yes, because waitlisted candidates have vested right to appointment if vacancies arise, and brief delay doesn't extinguish their entitlement under Article 16.
- (d) No, but only the appointments of candidates ranked 6-10 are invalid, as candidates ranked 1-5 on waitlist have legitimate expectation maturing into vested right.

2. A University published a select list for Assistant Professor posts on 1st March 2023 with one-year validity. The select list contained 30 candidates, and all were appointed by August 2023. In December 2023, two appointed candidates resigned. The University, instead of appointing from the waitlist (which contained 10 candidates), initiated a fresh recruitment process on 1st January 2024. On 15th January 2024, before the fresh recruitment was completed, the University received a court order to appoint the top two waitlisted candidates to fill the December 2023 vacancies, as the waitlist was still valid until 28th February 2024. The University argues that once fresh recruitment began, the old waitlist should be deemed terminated. Should the court order be complied with?

- (a) Yes, because waitlist remains valid until 28th February 2024, and vacancies arising before expiry must be filled from valid waitlist.
- (b) Yes, because waitlisted candidates have legitimate expectation maturing into enforceable right when vacancies arise during validity period before fresh recruitment concludes.
- (c) No, because once University initiated fresh recruitment process, it exercised administrative discretion to close old cycle, making old waitlist inoperative regardless of validity date.
- (d) No, because initiation of fresh recruitment while old waitlist was valid violates Article 14 against new candidates and renders old waitlist ineffective immediately.

3. A State Government published a select list for police constable posts in January 2021 with validity of one year, extendable by six months. In December 2021, the Government extended validity until June 2022 through an administrative order. In July 2022 (one month after expiry), the Government issued



appointment orders to 50 waitlisted candidates, citing "COVID-19 disruptions" and claiming the waitlist should be deemed extended by applying the Supreme Court's COVID-19 limitation exclusion orders. Waitlisted candidates argue their legitimate expectation should be protected given extraordinary circumstances. Newly selected candidates from a fresh recruitment started in May 2022 challenge these appointments. Are the July 2022 appointments valid?

- (a) No, because validity expired in June 2022 and no further extension was issued; COVID-19 exclusion doesn't automatically extend administrative validity periods beyond express orders.
- (b) Yes, because COVID-19 Supreme Court orders excluded limitation periods, and this exclusion should apply to all time-bound administrative actions including waitlist validity.
- (c) Yes, because legitimate expectation of waitlisted candidates deserves constitutional protection under Article 21, and extraordinary circumstances justify appointment despite technical expiry.
- (d) No, but only because fresh recruitment had started in May 2022; otherwise July 2022 appointments would be valid under COVID-19 exclusion doctrine.

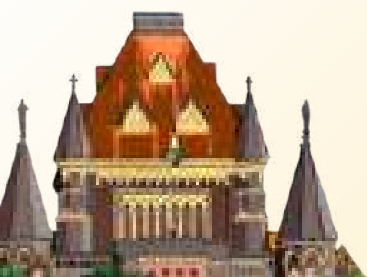
4. A Public Sector Undertaking (PSU) issued a select list for management trainees on 1st April 2022 with one-year validity. By March 2023, all 100 selected candidates were appointed. The waitlist contained 25 candidates. On 1st May 2023 (one month after expiry), 10 selected candidates who had joined resigned within their probation period. The PSU management decided to appoint the top 10 waitlisted candidates, arguing: (i) the vacancies were "sudden and unforeseen"; (ii) fresh recruitment would take 8-10 months; (iii) waitlisted candidates had already been found suitable. The waitlisted candidates relied on Shankarsan Dash principle that non-appointment must be shown to be arbitrary. Should the appointments be allowed?

- (a) Yes, because Shankarsan Dash protects select list candidates against arbitrary non-appointment, and refusing to appoint when suitable candidates are available is arbitrary.
- (b) Yes, because probation resignations creating unforeseen vacancies constitute exceptional circumstances justifying extension of waitlist validity by necessary implication.
- (c) No, because waitlist validity expired on 31st March 2023, and Shankarsan Dash principle applies only during validity period, not after expiry.
- (d) No, because PSU failed to extend validity before expiry, but vacancies can be filled from waitlist if PSU retrospectively validates the extension.

5. A State conducted recruitment for civil judges, publishing a select list on 1st June 2023 with two-year validity containing 50 selected and 30 waitlisted candidates. By May 2024, all 50 selected candidates joined. In June 2024, the State High Court created 20 additional posts through administrative restructuring and directed appointment from the valid waitlist (valid until 31st May 2025). The State Government refused, arguing: (i) these are newly created posts, not "vacancies" within original sanctioned strength; (ii) fresh recruitment should be conducted for new posts to ensure equal opportunity under Article 16(1) to all aspirants. Waitlisted candidates claim legitimate expectation and that treating new posts differently from vacancies violates Article 14. Should the waitlist candidates be appointed to the newly created posts?

- (a) Yes, because treating newly created posts differently from vacancies is arbitrary under Article 14, and waitlist validity extends to both scenarios during operative period.

- (b) Yes, because waitlisted candidates have legitimate expectation to be appointed to any posts arising during validity period, whether through vacancy or new creation.
- (c) No, because newly created posts require fresh recruitment to ensure equal opportunity under Article 16(1) to all candidates, not just those on existing waitlist.
- (d) No, because only High Court under Article 233 can make appointments to judicial posts, and waitlist created by State Government cannot be used for judicial appointments.



# HIGH COURT

## Landmark Judgements



## 16 Grounds for Cancellation of Bail

### Background

- An FIR (No. 193/2025) was registered at the Narela Industrial Area Police Station under Sections 436 (mischief by fire or explosive substance), 457 (house-trespass or house-breaking by night), 380 (theft in dwelling house) and 34 (common intention) IPC.
- The Sessions Court granted bail to the accused (Respondent No. 2) in Bail Application No. 891/2025, noting that investigation was complete and charge-sheet filed; conditions included that the accused should not threaten witnesses, tamper with evidence or commit further offences.
- The complainant (petitioner) filed a petition under Section 483(3) BNSS seeking cancellation of the bail. The complainant alleged that after his release the accused and his associates had celebrated on social media (videos/status messages), flaunting weapons and issuing veiled threats; it was also alleged a co-accused was seen outside the complainant's residence on 12 June 2025.
- The State contended that no complaint was filed post-bail about threats or intimidation; thus the allegations were unsubstantiated.

### Judgement of the Court

- The Court emphasised that cancellation of bail already granted must be based on **very cogent and overwhelming circumstances**, and cannot rest on speculative or unsubstantiated claims.
- It distinguished between refusal of bail in a non-bailable case initially and cancellation of bail already granted: the latter requires stronger material and proof of misuse of bail concession.

### Case Details

<b>Case Title:</b>	Zafeer Alam v. State NCT of Delhi & Anr.
<b>Court</b>	Delhi High Court
<b>Citation:</b>	-
<b>Bench</b>	Justice Ravinder Dudeja

### Issue Before the Court

1. Whether **celebration of bail release on social media** by the accused or his associates (status updates, videos) without any specific threat or intimidation to the complainant is a sufficient ground for cancellation of bail under Section 483(3) BNSS.
2. Whether the **principles for cancellation of bail already granted** differ from those for refusal of bail at the initial stage, and what constitute "very cogent and overwhelming circumstances" justifying cancellation.
3. Whether the complainant's allegations (social media posts, co-accused presence, weapon-flaunting) constituted substantiated interference with justice, intimidation of complainant or abuse of concession of bail.

- On the allegations of social media celebration: the Court held that mere uploading of videos/status messages of bail release **without a specific threat or intimidation to the complainant** cannot be treated as ground for canceling bail. The screenshots did not show whether the posts were made with intent to intimidate.
- The Court noted that no formal complaint had been made to the police about threats or criminal intimidation post-bail, thereby weakening the petitioner's case.
- Finding no material that the accused had threatened the complainant or interfered with justice, the Court dismissed the petition. The bail of Respondent No. 2 was not cancelled.

## Key Takeaways for CLAT Aspirants

### 1. Cancellation of Bail vs. Grant of Bail

When an accused is granted bail, the liberty of the individual is recognized. Cancelling that bail is a serious step and must meet a higher threshold. The Court reaffirmed that **refusal of bail** (at the initial stage) and **cancellation of bail already granted** are governed by different standards. While initial grant focuses on prima facie case, risk of flight, tampering with evidence, etc., cancellation focuses on **subsequent conduct** – whether the accused has misused the bail concession by interfering with justice, intimidating complainants/witnesses, tampering evidence or evading legal process.

### 2. Grounds for Cancellation of Bail under BNSS

Under Section 483(3) BNSS, courts may cancel bail if there are prima facie grounds that the accused has violated conditions of bail, threatened witnesses, tampered with evidence, evaded process, or misused liberty. The Court summarised general grounds: interference with administration of justice; attempt to evade justice; abuse of concession granted to accused. Mere speculation or generalized fear is not sufficient – **cancellation requires “very cogent and overwhelming circumstances”**.

### 3. Burden of Proof & Material Evidence

The accused's bail can be cancelled only if credible material shows that he/she has committed acts post-bail that justify cancellation: e.g., threats, intimidation, weapon-possession targeted at complainant/witnesses, tampering. Social media posts celebrating bail do not ipso facto equate to intimidation. The complainant must show that the posts had **intent and effect** of influencing or intimidating the complainant/witness, or obstructing justice. Absence of a police complaint, absence of clear threat or misuse of bail conditions weakens cancellation petitions.

### 4. Technology and Social Media – Cautious Approach

The judgment highlights that the presence of social media videos or status updates of bail release must be evaluated carefully: Courts must ask whether those posts were **directed at the complainant**, whether they constituted **intimidation or threat**, and whether they violated bail conditions such as no threat to prosecution or witnesses. Mere celebration or flaunting of weapons without direct link to intimidation is insufficient. For CLAT aspirants: understanding how evolving technology (social media) interacts with traditional bail jurisprudence is crucial.

### 5. Liberty and Fair Trial – Balancing Rights

The decision underscores the constitutional principle that liberty is a primary rule, and bail is the norm. Cancellation of bail is the exception and must be exercised cautiously so as not to infringe on accused's rights, unless justified. This balances rights of the accused with interests of justice, complainants and society. For CLAT contexts: this links to the doctrine that procedural safeguards (bail, cross-examination, presumption of innocence) cannot be lightly disrupted.



**6. Link with Sections of BNSS – Procedural Safeguards**

Section 480(5) and Section 483 BNSS govern bail grant and cancellation. Section 483(3) allows cancellation by High Court or Sessions Court if the conditions of bail are breached. This case shows interpretation of Section 483(3): mere online celebration doesn't qualify as breach unless it impacts bail condition (like threatening witness) or obstructs justice. It clarifies how statutory bail-cancellation provisions operate in digital age.

**7. Doctrinal Basis – Abuse of Bail Concession & Interference with Justice**

The key doctrines: **abuse of concession** – if bail is misused to commit further offences, intimidate witnesses, tamper evidence; and **interference with due process of law** – if accused uses bail to obstruct investigation or trial. The Court reaffirmed that such acts justify cancellation. Without such acts, bail cannot be cancelled simply because it was celebrated or publicized.



## Practice Questions

1. Accused A was granted bail in a theft case with conditions including: (i) not to leave the city without court permission, (ii) not to contact the complainant or witnesses, and (iii) attend all court hearings. Two days after release, A posted a celebratory video on Instagram showing him at a party with friends, holding what appears to be a toy gun, with caption "Finally free, haters gonna hate." The video went viral with 50,000 views. The complainant filed a bail cancellation application claiming the video with gun (even toy) demonstrates A's intent to intimidate and violates the spirit of bail conditions. A argues it's a private celebration with no threat to anyone. Should bail be cancelled?

- (a) Yes, because posting videos with weapons (even toy) after bail violates the implicit condition of maintaining low profile and not celebrating crimes.
- (b) No, because mere celebration on social media without direct threat to complainant/witnesses or violation of express bail conditions doesn't justify cancellation.
- (c) Yes, because viral videos with 50,000 views constitute public intimidation and create fear in complainant regardless of accused's intent.
- (d) No, but court should impose additional bail conditions restricting social media posts to prevent future potential intimidation or witness influence.

2. B was granted bail in a cheating case with standard conditions. Three weeks later, the complainant filed a bail cancellation petition stating: (i) B's friends visited complainant's shop and "casually mentioned" B is out and "has powerful connections"; (ii) complainant's business partner received an anonymous WhatsApp message saying "drop the case"; (iii) complainant feels "generally threatened" though no direct contact from B occurred. B denies involvement and states bail conditions prohibit him from contacting complainant, which he hasn't violated. Police report states no complaint was filed regarding threats or anonymous messages. Should bail be cancelled?

- (a) Yes, because friends' visit and anonymous messages create reasonable inference that B is misusing bail to indirectly intimidate despite no direct contact.
- (b) Yes, because complainant's subjective feeling of threat, even without direct evidence of B's involvement, is sufficient ground for cancellation to ensure fair trial.
- (c) No, because absence of direct evidence linking B to threats, no police complaint filed, and compliance with express bail conditions don't meet threshold for cancellation.
- (d) No, but court should issue warnings to B and investigate the anonymous messages before deciding on cancellation after receiving investigation report.

3. C obtained bail in an assault case. Five days later, C posted a Facebook status: "Truth prevailed, false cases will always fail" with folded hands emoji. Complainant argued this post targets him, implies he filed false case, and amounts to intimidation affecting his willingness to testify. C contends the post is general expression of relief without naming anyone and falls under his free speech rights under Article 19(1)(a). Bail conditions don't specifically restrict social media usage. The trial court cancelled bail citing "indirect intimidation through social media targeting complainant's credibility." Is the cancellation justified?

- (a) Yes, because the post's timing and content, read contextually, indirectly accuses complainant of false case, constituting intimidation justifying cancellation.
- (b) No, because the post doesn't name complainant, contains no direct threat, and absent express bail condition restricting such expression, cancellation violates Article 19(1)(a).
- (c) Yes, because any social media post by accused referring to the case undermines trial sanctity and bail must be cancelled to prevent witness influence.
- (d) No, because while post may be inappropriate, court should first modify bail conditions to restrict such posts rather than directly cancelling bail.

4. D was granted bail in a drug possession case with condition to not leave the jurisdiction. Two months later, prosecution filed cancellation petition with evidence that: (i) D was spotted at a hotel 150 km outside jurisdiction (verified by hotel CCTV), (ii) D's mobile location data shows presence outside jurisdiction for 3 days, (iii) D didn't seek prior court permission as required. D argues: (i) he went to attend his father's medical emergency, (ii) emergency nature didn't allow time to seek permission, (iii) he returned immediately and informed court within 24 hours, (iv) such brief absence for genuine emergency shouldn't warrant cancellation. Should bail be cancelled?

- (a) Yes, because leaving jurisdiction without court permission is clear breach of express bail condition, and emergencies don't exempt compliance with conditions.
- (b) No, because genuine medical emergency of immediate family constitutes reasonable ground for brief violation, and immediate disclosure upon return shows good faith.
- (c) Yes, unless D proves through medical records that emergency was genuine and seeking prior permission was practically impossible in the circumstances.
- (d) No, because the breach was technical in nature with no impact on trial process, witnesses, or investigation, thus not meeting threshold for cancellation.

5. E secured bail in a murder case under BNSS Section 480(5) with conditions including weekly reporting to police station and not contacting prosecution witnesses. For first eight weeks, E complied fully. In the ninth week, E missed one weekly reporting due to COVID-19 infection (provided medical certificate later). The complainant's lawyer immediately filed bail cancellation petition citing violation of bail condition. E submitted medical records proving COVID diagnosis and inability to physically report, and offered to have reported via video call if permitted. The complainant argues that bail in serious offences like murder requires strictest compliance, and even one violation, regardless of reason, justifies cancellation to send strong deterrent message. Should bail be cancelled?

- (a) Yes, because in serious offences like murder, bail conditions must be strictly enforced and any violation, even with medical excuse, warrants cancellation.
- (b) Yes, because E should have informed court before missing reporting date, and post-facto medical certificate doesn't excuse violation of conditions.
- (c) No, because cancellation requires showing abuse of bail or interference with justice, and genuine medical emergency preventing compliance doesn't constitute such abuse.
- (d) No, because E's eight-week compliance record demonstrates good faith, and one COVID-related absence is force majeure justifying relaxation of condition.

# VOICES VICTORIES



AIR 2, CLAT 2025

## DAIWIK AGARWALA

I don't think I've ever given so many tests in my life as I did at NPLC in just one year. They made me take so many mocks that I became almost mechanical before the actual exam. The course structure here is such that hard work is non-negotiable. And last, but not least, Nishant Sir would connect with your parents and keep them informed about your every day scores, which added a bit of pressure and made all of us work harder. There were times when my scores didn't meet my expectations, and I felt low, but Sir was always there to motivate me.



AIR 2, AILET 2025

## CHAITANYA GHOSH

This place is not your regular coaching institute that you see around. They don't just make you work hard—they make you smart. NPLC has been my best choice for both CLAT and AILET preparation. These exams cover general topics that seemed easy to me initially, but it wasn't until I started attending classes at NPLC that I realized the major challenges I would have faced if I solely depended on self-study. The competitive environment and Sir's dedicated guidance have been key in helping me clear every law entrance exam I took. I cleared every law entrance exam I wrote.



AIR 4, CLAT 2025

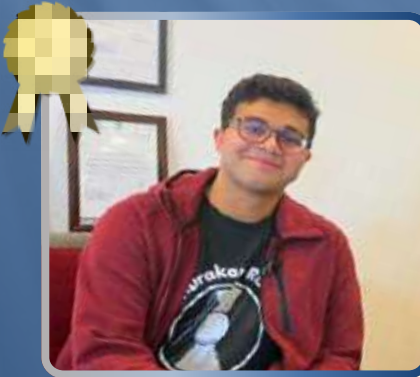
## ADITYA GAUTAM ANKHAD

It's all about AILET and CLAT here. Students eat, drink, and sleep law entrance preparation! I used to go to another institute in XIth, but somehow, I was just an enrollment number there. Initially, when I joined, the competition and pressure from Sir felt overwhelming, but thanks to him, everything became much easier. Here, no one calls you by batch number or enrollment ID. All of us studying together were very good friends, but we competed intensely. Since they have a limited intake, we received a lot of personalized attention. I recall most of my batchmates at NPLC making it to the top NLUs. This place is even better than you can imagine!

*"At NPLC, branding isn't on T-shirts — it's in the AIRs."*



# VOICES VICTORIES



DHRUV KAMATH

AIR 6, AILET 2025

I had never experienced such intense competition in any classroom before I did my first class at NPLC. It was a bit horrifying initially however it got better with time. If you can't work hard, I do not feel this is the place for you. Nishant sir is simply amazing. I never liked him till I was at the center as there was too much pressure from his side unlike my school, However, I can tell you, that I could make it to NLU Delhi, and only because of him. I recall almost everyone with me in the class who got through either of the top 5 NLUs.



VIDISHA SINGH

AIR 10, AILET 2025

Nishant Sir's classes are the complete package. While there's a great deal of hard work expected, he creates an environment where you can ease your way into cracking the exam. Unlike the rigid and monotonous teaching methods of many other coaching institutions, his classes are a perfect blend of learning and fun. His approach is practical, reliable, and tailored to real exam scenarios, which is reflected in his incredible track record of sending most of his students to the top 5 NLUs. Even after completing his classes, you'll find yourself wanting to go back for more (I still do).



SAMYUKTHA KOVILAKATH

AIR 24 AILET 2025  
& OXFORD

People often ask me how I managed to prepare for Indian law entrances and the Oxford Law entrance at the same time. My answer is simple: NPLC gave me the discipline, perspective, and clarity to handle both. Nishant Sir's classroom isn't just a place where laws are taught - it's where ambition is refined and sharpened. What stood out to me most was how the training here doesn't chase trends - it builds fundamentals. I never felt like I was preparing for just one exam - I was preparing to think like a lawyer.

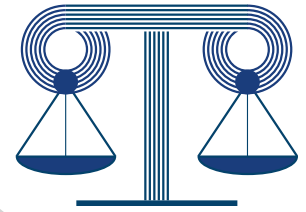
This journey hasn't just taken me to AILET AIR 24—it's also taken me across continents. And for that, I credit the environment, the mentorship, and the unwavering standards at NPLC.

*"Mentorship isn't a model here — it's a method."*



# HIGH COURT

## Landmark Judgements



### 17 No Refund for Excess Maintenance Paid by Father

#### Background

- The petitioners are the children of respondent No. 1, Vijay Kapur, and pro-forma respondent No. 2, Neelam Kumari.
- Date of birth of Petitioner No. 1 (daughter, Rishita) is 1 August 1998, and of Petitioner No. 2 (son, Suchet) is 17 March 2002. Thus, they attained majority on 1 August 2016 and 17 March 2020 respectively.
- The children and mother applied under Section 125 CrPC for maintenance from father. Initial orders in 2012 fixed maintenance of ₹2,000 per month for each of the three (mother + two children). This was enhanced to ₹3,000 in 2015 and further to ₹4,000 in 2017.
- On 2 July 2018, a further petition under Section 127 CrPC was filed for enhancement. The Family Court allowed enhancement for mother (₹8,000/month) but rejected the children's claim on the ground that they were major.
- The present revision petition (Cr. Revision (FC) No. 49 of 2024) was filed by the children challenging the rejection of their enhancement claim and seeking clarification on maintenance entitlement and refund of amounts paid after majority.

#### Judgement of the Court

- The Court held that under Section 125 CrPC and Section 144 BNSS, the legal entitlement of a child (legitimate or illegitimate) to maintenance from father ceases once the child attains majority, unless that major child is physically or mentally abnormal or injured so as to be unable to maintain themselves.

#### Case Details

<b>Case Title:</b>	Rishita Kapur & Another v. Vijay Kapur & Another
<b>Court</b>	Himachal Pradesh HC
<b>Citation:</b>	2025 HHC 31444
<b>Bench</b>	Justices Vivek Singh Thakur & Sushil Kukreja

#### Issue Before the Court

1. Whether under Section 125 CrPC (and Section 144 BNSS) children who have attained majority but are not physically or mentally disabled are legally entitled to maintenance from their father.
2. Whether the father (respondent) is entitled to claim a refund or adjustment of maintenance amounts already paid to his now-major children after they attained majority.
3. Whether the Family Court erred in rejecting the children's claim for enhanced maintenance partially (for the son) and wholly (for the daughter) when petition was filed while one was still a minor.

- The daughter (Petitioner No. 1) having attained majority in August 2016, had no legal entitlement for maintenance after that date since there was no disability. The claim for enhancement was rightly rejected.\_
- The son (Petitioner No. 2) remained a minor until 17 March 2020; hence the Court directed that he was entitled to the enhanced maintenance of ₹8,000 per month from filing date (2 July 2018) until his date of majority (17 March 2020).\_
- Importantly, addressing the father's plea for refund or adjustment of any maintenance already paid to the children after they attained majority, the Court held that **even if the father paid maintenance after majority**, he **shall not be entitled to recover or adjust it** against maintenance payable to any child or mother. The Court observed that as a father he has a **moral obligation** to ensure maintenance, particularly when children are on the verge of completing their education, and an order of refund would hamper their future prospects.

## Key Takeaways for CLAT Aspirants

### 1. Legal Entitlement under Section 125 CrPC / Section 144 BNSS

The statutory provision under Section 125 CrPC (and its counterpart Section 144 BNSS) provides that a person having sufficient means and neglecting to maintain: (a) his wife unable to maintain herself; (b) his legitimate or illegitimate *minor* child unable to maintain itself; and (c) his legitimate or illegitimate child *not being a married daughter*, who has attained majority, *where such child is, by reason of any physical or mental abnormality or injury, unable to maintain itself*. The Court reaffirmed that once a child attains majority and there is no disability, the statutory entitlement ends. This distinction between minor and major child is critical for maintenance claims under this regime.

### 2. Majority and Cessation of Legal Obligation

Majority (i.e., attaining eighteen years or as per state law) marks the cessation of the legal obligation under Section 125/144 unless there is exceptional status (disability). The legal duty for maintenance is not perpetual, but flows from statutory design and public policy. The Court has made clear that the law does not extend to major children who are able to maintain themselves.

### 3. Moral Obligation vs Legal Right: Refund Clause

Despite the cessation of legal obligation, the Court emphasised the difference between *legal right* and *moral duty*. Although the father had no further legal duty under the statute after majority, he retained a **moral obligation** towards his children, especially in continuing education phases. Consequently, even if the father paid maintenance beyond the period of legal entitlement, the Court held he cannot claim **refund or adjustment** of those amounts. This illustrates the doctrine that once benefit is conferred and accepted without challenge, the payer cannot reverse it on the basis of cessation of legal duty, particularly when refund would harm the children's education.

### 4. Enhancement of Maintenance and Timing

When an application for enhancement is filed under Section 127 CrPC, the court must account for the child's date of attaining majority. The entitlement for enhanced maintenance continues only until the date of majority. In this case, though filing was in July 2018, the son was still minor until March 2020, thus enhancement valid till that date; for daughter, majority had already been attained so entitlement did not persist. This highlights the principle of *temporal entitlement* and the importance of accurate calculation of period of maintenance.

**5. Interplay between Family Law Statutes and Maintenance Law**

While Section 125/144 sets out maintenance for children, other statutes (for example, the Hindu Adoptions and Maintenance Act, 1956) provide for major unmarried daughters who cannot maintain themselves. The Court observed this distinction: the maintenance regime under Section 125 CrPC does not cover unmarried major daughters unable to maintain themselves (unless specified), but other statute may. This underscores the need to examine the relevant statute's language carefully for scopes and exceptions.





## Practice Questions

1. A father was ordered to pay ₹10,000 per month as maintenance to his son under Section 125 CrPC from January 2018. The son attained majority on 15th March 2020. The father continued paying ₹10,000 per month until December 2020, when he filed an application seeking refund of amounts paid from March 2020 to December 2020 (10 months  $\times$  ₹10,000 = ₹1,00,000), arguing that after the son attained majority, there was no legal obligation to pay, and amounts paid thereafter were paid under mistake of law. The son opposed, stating he was pursuing graduation and the father voluntarily continued payments knowing about majority. Should refund be granted?

- (a) Yes, because legal obligation under Section 125 ceased upon majority, and amounts paid thereafter are recoverable as paid without legal consideration.
- (b) Yes, because father's mistake of law regarding cessation of obligation upon majority entitles him to restitution of amounts paid post-majority.
- (c) No, because despite cessation of legal obligation, father's moral duty continued, and amounts voluntarily paid without challenge cannot be refunded retrospectively.
- (d) No, but only if son proves the amounts were actually spent on education; otherwise, unjust enrichment principle requires partial refund.

2. A mother filed an application under Section 127 CrPC in July 2019 seeking enhancement of maintenance from ₹5,000 to ₹15,000 per month for her twin children (son and daughter). At the time of filing, both children were 17 years old. The court passed an order in April 2020 granting enhancement to ₹15,000 per month. The son turned 18 on 10th January 2020, while the daughter turned 18 on 10th March 2020. The father argues no enhancement should apply as both became majors before the order. From what date and for whom should the enhanced maintenance of ₹15,000 per month apply?

- (a) Enhanced maintenance applies from July 2019 (filing date) until respective dates of majority: January 2020 for son, March 2020 for daughter.
- (b) Enhanced maintenance applies from April 2020 (order date) onwards for both as court orders operate prospectively from date of passing.
- (c) Enhanced maintenance doesn't apply to either child as both attained majority before the enhancement order was passed in April 2020.
- (d) Enhanced maintenance applies retrospectively from July 2019 but continues beyond majority dates as court order creates independent legal entitlement.

3. A father was paying ₹8,000 per month maintenance to his daughter under Section 125 CrPC. The daughter attained majority on 20th May 2021. In August 2021, she filed an application seeking continuation and enhancement of maintenance to ₹20,000, stating: (i) she is unmarried; (ii) she is pursuing medical education which her father can afford; (iii) she has no means to maintain herself as she is a full-time student; (iv) it would be unjust to stop maintenance when she is dependent on education for future livelihood. The father opposed citing cessation of legal obligation upon majority. Can the court grant maintenance under Section 125 CrPC?

- (a) Yes, because Section 125 allows maintenance to major unmarried daughter pursuing education and unable to maintain herself during studies.
- (b) Yes, because daughter's inability to maintain herself due to education constitutes exceptional circumstances extending statutory entitlement beyond majority.
- (c) No, because Section 125 doesn't cover major children able-bodied and without disability, even if unemployed or studying and unmarried.
- (d) No, but daughter can claim maintenance under Hindu Adoptions and Maintenance Act or other personal law provisions covering major unmarried daughters.

4. A father was ordered to pay maintenance of ₹12,000 per month to his son under Section 125 CrPC from 2017. The son was born on 5th August 2002. In June 2020, the mother filed an application under Section 127 seeking enhancement to ₹25,000 citing increased expenses and father's improved financial position. The trial court granted enhancement to ₹25,000 per month in December 2020 effective from June 2020 (date of application). The father appealed arguing the son attained majority in August 2020, so enhancement should only apply for two months (June-July 2020) of minority, not beyond. Is the father's contention valid?

- (a) No, because once enhancement application is filed during minority, the enhanced amount continues until completion of ongoing education phase.
- (b) Yes, because legal entitlement ceases upon majority, so enhancement can only apply for the period of minority from application date to date of majority.
- (c) No, because court orders under Section 127 create independent legal rights that survive beyond the date of majority of the beneficiary child.
- (d) Yes, but only if father proves enhancement application was filed mala fide with knowledge that majority was approaching within two months.

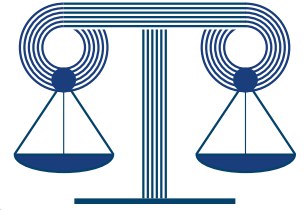
5. A father was paying maintenance of ₹15,000 per month to his son who was born in April 2003. In January 2021, the son met with an accident resulting in 40% permanent disability affecting his ability to earn livelihood. The son turned 18 in April 2021. In June 2021, the mother filed application seeking continuation of ₹15,000 maintenance and enhancement to ₹30,000 citing the son's disability and increased medical expenses. The father argued that since the disability occurred before majority, the son should have been assessed for maintenance as disabled child before attaining majority, and fresh claim cannot be made post-majority. Can maintenance be granted post-majority based on disability acquired before majority?

- (a) No, because disability status must be established and maintenance ordered before attaining majority; post-majority applications are time-barred.
- (b) No, because Section 125 requires disability to exist at the time of attaining majority, not arise before majority and continue thereafter.
- (c) Yes, because disability rendering child unable to maintain itself, whether arising before or after birth, extends statutory entitlement beyond majority under Section 125.
- (d) Yes, but only if mother proves she couldn't file application between January 2021 (disability) and April 2021 (majority) due to sufficient cause.



# HIGH COURT

## Landmark Judgements



## 18 Moral Policing and Women's Constitutional Rights

### Background

- The case stems from a tragic incident in which the petitioner's daughter committed suicide after reportedly being subjected to moral policing.
- The FIR (Crime No. 439 of 2024) registered at the Chinnamanur Police Station, Theni District, was initially under Section 194(3)(ii) BNSS (suspicious death) after the death of the daughter.
- Investigation revealed that the accused, A. Arun Kumar (along with others), locked the door of the deceased's house from outside while she was inside speaking with another man; the event catalysed rumours of illicit relationship, social disgrace in the village, and ostracisation of the deceased which reportedly led to her taking her life.
- The petitioner, being the mother and de facto complainant, challenged the grant of bail to the accused and sought stronger bail conditions or cancellation under moral-policing concerns.

### Judgement of the Court

- The Court emphasised that moral policing has *no sanction in law*, and vigilante acts of enforcing social norms by non-state actors are **dangerous and regressive**.
- It held that such acts, especially when targeting women, amount to a **direct assault on women's constitutional guarantee of dignity and liberty under Article 21** — because social ostracisation, rumour-mongering and interference with personal autonomy erode the right to live with dignity.

### Case Details

<b>Case Title:</b>	Navanitha v. State of Tamil Nadu & A. Arun Kumar
<b>Court</b>	Madras High Court
<b>Citation:</b>	CrI.R.C.(MD) No. 582 of 2025
<b>Bench</b>	Justice L. Victoria Gowri

### Issue Before the Court

1. Whether the act of moral policing (by the accused in locking the door, circulating rumours, creating social ostracisation) constitutes a violation of the deceased woman's constitutional rights under Article 21 (right to dignity and liberty).
2. Whether courts should impose enhanced bail conditions (or refuse/cancel bail) in cases of moral policing targeting women, given its harmful effects on dignity and social ostracisation.
3. Whether moral policing has any sanction in law, and what are the legal principles and remedies available when vigilante or community-based moral policing leads to social stigma, harassment, or tragic outcomes for women.

- The Court noted that the woman in a rural society was subjected to humiliation and shame through the moral-policing conduct; the stigma forced her into tragic consequences (suicide) – thereby highlighting the actual harm caused by moral policing.
- Though the Court did not cancel the bail outright in this case (finding insufficient grounds for cancellation at that stage), it ordered **stricter bail conditions**, underscoring that in moral-policing situations, courts must take preventive and deterrent steps to protect the dignity and safety of women.

## Key Takeaways for CLAT Aspirants

### 1. Article 21 – Right to Dignity and Liberty as Protected Against Moral Policing

Article 21 guarantees the right to life and personal liberty, as interpreted by the Supreme Court to include the right to live life with dignity, freedom from social stigma, and autonomy over personal decisions. Moral policing – meaning non-state enforcement of moral norms, social shaming, coercing conformity – interferes with these rights. When a woman is subjected to rumours, harassment, stigma or forced self-restriction because of community judgement, her dignity is compromised. Hence, moral policing is not just a civil wrong but may constitute a constitutional violation.

### 2. Non-State Actor Liability & Social Vigilantism

While Article 21 typically applies to State action, this case underscores that social practices like moral policing – even if executed by private individuals or community groups – require judicial attention because the State has a duty to ensure enforcement of rights and protect individuals from non-state violence or intimidation. The Court implicitly recognised the State's **positive obligation** to create protective frameworks and deterrent mechanisms against such vigilante acts, especially towards vulnerable women.

### 3. Gender-Equality & Anti-Stigma Doctrine

The judgment aligns with the doctrine that women's rights to freedom and dignity are not fully realised unless they are safe from societal coercion and moral-vigilantism. The practice of moral policing disproportionately affects women in rural and socially conservative settings, creating a barrier to their full autonomy. The Court reaffirmed that gender-based vigilance, social policing of female behaviour, or community control over women's movement constitutes a gender-equality violation – implicating Articles 14, 15 and 21. While the case emphasised Article 21, the underlying structure ties into equality and non-discrimination.

### 4. Preventive Directions, Bail Conditions & Protecting Social Autonomy

The Court illustrated that judicial responses to moral policing must be multidimensional: not only reacting to the crime but also modifying procedural conditions (e.g., bail conditions) to prevent further harm. Ensuring accountability, monitoring, and structuring bail with conditions aimed at safeguarding the dignity of women victims or potential victims becomes a **doctrine of protective jurisprudence**. The decision signals that courts may impose **deterrent bail conditions** when moral-policing allegations surface.

### 5. Social Ostracisation, Honour-Based Harassment & Constitutional Harm

Moral policing often creates social ostracisation, rumour-based harassment and honour-based shame – these are not just moral wrongs but can lead to **constitutional harm** when they impair the dignity of individuals. The Court identified that when such practices drive a woman to suicide or extreme action, the State and society have failed their constitutional duty. Future jurisprudence must treat honour-based moral venues as part of right-to-life discourse.



**6. Limits of Bail Cancellation — Need for Material Evidence**

Importantly, the Court did not treat moral policing allegations as automatic grounds for bail cancellation. The doctrine remains that bail may be cancelled only upon **supervening circumstances**, misuse of liberty, or interference with justice. Mere moral-policing allegations invite stronger bail conditions but require specific material evidence. This balances liberty of the accused with rights of the victim and social interest.



## Practice Questions

1. In a village, a group of self-appointed community leaders organized a "moral committee" that monitors young women's behavior, including their clothing, movement after sunset, and interactions with men. When 22-year-old Priya was seen talking to her male college friend, the committee members confronted her family, spread rumors about her "immoral character," and pressured the family to restrict her movements. Priya's family, fearing social boycott, confined her to home and withdrew her from college. Priya filed a writ petition under Article 226 claiming violation of her fundamental rights. The committee members argued that since they are private citizens and not "State" under Article 12, Article 21 doesn't apply to their actions. Should the court intervene?

- (a) No, because Article 21 applies only to State action under Article 12, and private citizens' moral policing cannot be addressed through constitutional remedies.
- (b) No, because moral policing by community is a social issue requiring legislative intervention, not judicial activism through constitutional interpretation.
- (c) Yes, because State has positive obligation to protect individuals from non-state moral policing that violates dignity under Article 21 and gender equality.
- (d) Yes, but only if Priya proves actual physical violence occurred, as social pressure and rumors alone don't constitute constitutional violation.

2. A woman named Kavita was granted bail in a theft case with standard conditions. After her release, members of her neighborhood circulated a pamphlet describing her as "woman of loose character who dishonors our community" and organized a meeting demanding she vacate the locality. Kavita filed an application seeking bail cancellation of the pamphlet distributors (who were co-accused in the same case and out on bail) citing moral policing and intimidation. The accused argued their pamphlet only expressed "community concern" about crime, not moral policing, and didn't violate any bail condition like "not contacting complainant." Should their bail be cancelled?

- (a) No, because moral policing allegations require specific evidence of targeted harassment affecting trial process, not general community expressions about character.
- (b) Yes, because any gender-based character assassination by co-accused on bail constitutes misuse of liberty warranting automatic bail cancellation.
- (c) No, because the pamphlet relates to the criminal case (theft), not moral issues, so it's legitimate commentary on ongoing case.
- (d) Yes, because creating social stigma and ostracization through pamphlets violates Article 21 dignity and demonstrates abuse of bail concession.

3. In a rural district, a Panchayat passed a resolution requiring all unmarried women above 18 to seek Panchayat permission before traveling outside the village, citing "protection of community honor and safety of women." Three women challenged this resolution claiming it violates their fundamental rights. The Panchayat defended it stating: (i) it's a voluntary community norm, not legally enforceable; (ii) it aims to protect women from harm; (iii) most families voluntarily comply; (iv) Panchayats have authority under

Article 40 to regulate local affairs. Is the resolution constitutionally valid?

- (a) Yes, because Panchayats under Article 40 have authority to frame social welfare measures, and voluntary community norms don't violate fundamental rights.
- (b) Yes, because if the measure genuinely aims at women's safety and has community support, courts shouldn't interfere with local governance.
- (c) No, because even voluntary community norms become unconstitutional when they create framework for moral policing and restrict women's movement based on gender.
- (d) No, but only if women prove the resolution was actually enforced through penalties; otherwise voluntary social norms are beyond constitutional review.

4. Sunita eloped with her partner against her family's wishes. Her brothers filed a false kidnapping case against the partner, and both were arrested. During the partner's bail hearing, Sunita's brothers submitted affidavits stating they will organize a "community meeting" to "counsel Sunita about her immoral choice" and "help her return to tradition." The prosecution opposed bail citing these affidavits as evidence of planned moral policing and potential honor-based harassment. The accused argued the affidavits show family concern and rehabilitation intent, not threat. How should the court address this in the bail order?

- (a) Grant bail with standard conditions as family's expressed intention to "counsel" doesn't constitute threat, and moral policing allegations are speculative.
- (b) Grant bail but impose specific conditions prohibiting any community meeting, social pressure, or contact with Sunita beyond direct family interaction.
- (c) Deny bail because affidavits demonstrate clear intention to engage in moral policing and honor-based harassment violating Sunita's Article 21 rights.
- (d) Grant bail but require accused to furnish undertaking that they will not interfere with Sunita's choices, with violation leading to automatic cancellation.

5. A 25-year-old woman, Anjali, was in a relationship with a man from a different community. When their relationship became public, a local "culture protection group" began a sustained campaign including: daily protests outside her workplace, circulation of her photographs with derogatory captions on social media, visits to her employer demanding her termination, and public announcements that she was "betraying her community." Unable to cope with the sustained harassment, Anjali attempted suicide. The group members were arrested and granted bail. Anjali's lawyer filed a petition seeking bail cancellation citing ongoing moral policing despite bail. The accused argued they exercised free speech rights under Article 19(1)(a) to express cultural concerns. Should bail be cancelled?

- (a) No, because expressing cultural concerns and organizing protests fall under Article 19(1)(a) free speech, and bail can't be cancelled for protected expression.
- (b) No, because bail cancellation requires proof of direct violation of bail conditions or tampering with evidence, not general moral policing allegations.
- (c) Yes, because sustained moral policing campaign driving victim to suicide attempt demonstrates abuse of bail liberty and interference with justice administration.
- (d) Yes, but only if Anjali proves the group members violated specific bail conditions prohibiting contact with her; otherwise general harassment is insufficient.



# HIGH COURT

## Landmark Judgements



## 19 Right To Practice Religion

### Background

- The petitioners were local residents of **Ujjain** who used to offer namaz in the **Takiya Masjid**, a mosque said to be about 200 years old, survey no. 2324-2329, Ujjain. The mosque was notified as a waqf property by Gazette notification dated 13 December 1985.
- The State initiated land acquisition proceedings (for expansion of parking space for the Mahakal Lok Parishar, Ujjain). Compensation awards were passed and the mosque land was acquired; the mosque structure was demolished on 11 January 2025.
- The petitioners filed a writ petition seeking (a) reconstruction of the mosque, (b) enquiry against officials who caused demolition. The Single-Judge Court dismissed the writ petition primarily on the ground that acquisition proceedings had attained finality and that the petitioners had no locus.
- The petitioners appealed under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyay Peeth Ko Appeal) Adhiniyam 2005. The Division Bench upheld the Single-Judge's order: "The petitioners have no locus to seek reconstruction of the Masjid. We do not find any ground to interfere with the order passed by the Writ Court."

### Judgement of the Court

- The Court held that the acquisition was carried out "after following due process of law"; compensation was awarded, the land vested in the State; thus the mosque's demolition did not amount to illegality.

### Case Details

<b>Case Title:</b>	Mohammed Taiyab v. State of MP
<b>Court</b>	MP High Court, Indore Bench
<b>Citation:</b>	2025 MPHC-IND 29259
<b>Bench</b>	Justices Vivek Rusia & Binod Kumar Dwivedi

### Issue Before the Court

- Whether the demolition of the mosque following a lawful land acquisition amounts to infringement of the petitioners' right to practise religion under Article 25 of the Constitution (or Articles 25/26 together).
- Whether the petitioners (devotees) have **locus standi** to seek reconstruction of the mosque when (i) acquisition proceedings have achieved finality and (ii) statutory remedial forum (the waqf tribunal) is pending.
- Whether the right to practice religion is **tied to a specific religious place or structure**, such that demolition of that structure automatically violates the right.



- On the key point of religious freedom: The Court relied on the judgment of Mohammad Ali Khan v. Special Land Acquisition Officer & Ors. (Allahabad High Court, 1978) which held that the right to profess, practise and propagate religion under Article 25 is a **personal right**, and is **not tied to a particular place or property**. The Court observed that even if a mosque is demolished or acquired, the individuals may offer prayers elsewhere, including their homes.
- The Court found that the petitioners did not challenge the acquisition award or seek quashing thereof; they only sought reconstruction of the mosque. The Court held that *without seeking to quash the acquisition* the relief of reconstruction cannot be granted.
- The Court held that the petitioners lacked locus to file the writ for reconstruction because the statutory waqf board had initiated proceedings before the appropriate tribunal under the Waqf Act, 1995. Thus the devotees did not have a proprietary or legal interest in the mosque property to demand reconstruction. Accordingly, the appeal was dismissed. The Court found no infringement of Article 25 or 26 or other constitutional rights simply because a particular mosque structure ceased to exist after lawful acquisition.

## Key Takeaways for CLAT Aspirants

### 1. Scope of Article 25 – Right to Practice Religion vs Specific Place of Worship

Article 25 guarantees every person the right to freely practise, profess and propagate religion subject to public order, morality and health. The Court reaffirmed that this right is **personal and portable**: it does not guarantee a right to worship in a *particular structure* or at a *specific location*. The demolition or acquisition of a religious structure does not by itself violate Article 25, provided the right to practise elsewhere remains. This doctrine ensures that religious freedoms are not interpreted as akin to property rights over specific buildings.

### 2. Acquisition of Religious Property & Fundamental Rights

The judgment emphasises that land acquisition by the State carried out under a valid statute, following due process and payment of compensation, does not necessarily infringe fundamental rights (including rights of religious practice). This aligns with earlier jurisprudence such as *Ismail Faruqui v. Union of India* (1994) which held that acquisition of mosque land is permissible if the law permits. The case thus reinforces that religious practice rights coexist with State powers to acquire property, under the constitutional framework.

### 3. Locus Standi & Religious Institutions – Devotee vs Waqf Board

The Court highlighted the doctrine of locus: devotees may not have standing to claim reconstruction of a religious structure if they lack legal or possessory interest in the property, especially when there is a statutory body (e.g., waqf board) pursuing such claims. The remedy of reconstruction is a **property-oriented relief**, and devotees without proprietary rights cannot claim such relief via writ. This distinction is important: while devotees may seek protection of religious freedom, they cannot convert that into a private proprietary right to a particular place.

### 4. Role of Waqf Law and Specialized Remedy

The judgment draws attention to the specialized legal framework governing waqf properties. The Waqf Act, 1995 provides tribunals and mechanisms for title, administration and redemption of waqf property. The Court held that when the Waqf Board has already initiated proceedings, claimants seeking reconstruction must channel their relief through the proper forum rather than relying solely on writ jurisdiction. This underscores the importance of statutory remedial schemes for religious institutions.

**5. Doctrinal Balance: Religious Freedom vs Property Rights**

The case exemplifies the doctrinal balance between individual religious freedom (Articles 25/26) and the State's power to regulate, acquire or repurpose property (Article 300A after 44th Amendment). This balance prevents the conversion of religious rights into absolute claims over property, thus maintaining regulatory space for the State while protecting individual religious rights.



## Practice Questions

1. A 150-year-old temple located in the heart of a city was demolished by the State Government following land acquisition under the Land Acquisition Act, 1894 for constructing a metro rail corridor. The Government provided compensation to the temple trust as per statutory rates and offered an alternative plot 5 kilometers away for reconstructing the temple. A group of 50 devotees who have been worshipping at the temple daily for decades filed a writ petition under Article 32 claiming violation of their fundamental right under Article 25, arguing that their religious practice is intrinsically linked to that specific location which has spiritual significance, and they cannot practice their religion with the same devotion elsewhere. The Government argued that Article 25 doesn't guarantee worship at a particular place. Should the petition succeed?

- (a) Yes, because 150 years of continuous worship at the location creates acquired religious right to that specific place under Article 25 custom doctrine.
- (b) No, because Article 25 guarantees right to practice religion but not at a specific location, and valid acquisition with compensation doesn't violate religious freedom.
- (c) Yes, because devotees' daily worship for decades demonstrates the location's religious significance, and forced relocation violates Article 25 essence of religious practice.
- (d) No, but only if Government proves the alternative plot offers equivalent spiritual ambience and accessibility for devotees to continue religious practice.

2. A mosque built on waqf property in 1950 was demolished in 2020 by the State Government after acquiring the land under the National Highway Act, 2006. The State Waqf Board filed a case before the Waqf Tribunal seeking restoration of the property and reconstruction of the mosque. Simultaneously, a group of individual Muslims who prayed at the mosque filed a writ petition under Article 226 seeking directions for immediate reconstruction, arguing that the Waqf Board's tribunal proceedings would take years and their fundamental right under Article 25 to worship at that mosque is being violated daily. The State argued the petitioners should wait for the Waqf Tribunal's decision. Can the writ petition be maintained?

- (a) Yes, because fundamental rights under Article 25 can be directly enforced through writ jurisdiction regardless of parallel statutory remedy availability.
- (b) Yes, because individual devotees have independent standing to protect their religious rights even when institutional bodies like Waqf Board pursue property remedies.
- (c) No, because devotees lack proprietary interest in waqf property, and reconstruction remedy is being pursued by the proper authority through specialized statutory forum.
- (d) No, but court can issue interim directions for temporary worship arrangements while Waqf Tribunal decides the reconstruction claim on merits.

3. A State Government acquired land comprising a church, a temple, and a mosque under the State Land Acquisition Act to build a public hospital. All three religious institutions received statutory compensation. The Church trust and temple trust accepted compensation and relocated. However, the mosque's Waqf

Board rejected compensation, arguing that under Islamic law, once dedicated as waqf, the property cannot be alienated for any secular purpose, and acquisition violates both Articles 25 and 26. The State argued valid statutory acquisition with compensation doesn't violate fundamental rights. Is the State's acquisition valid despite the Waqf Board's religious objection?

- (a) No, because Article 26 protects religious denominations' right to manage property, and Islamic law prohibition on waqf alienation creates constitutional immunity from acquisition.
- (b) No, because when religious law prohibits alienation of dedicated property, State acquisition violates both Article 25 (practice) and Article 26 (management) together.
- (c) Yes, because State's power to acquire property under valid statute with compensation coexists with religious rights, and Article 300A permits such acquisition.
- (d) Yes, but only if State proves compelling public interest (hospital) outweighs religious rights under proportionality test in Puttaswamy framework.

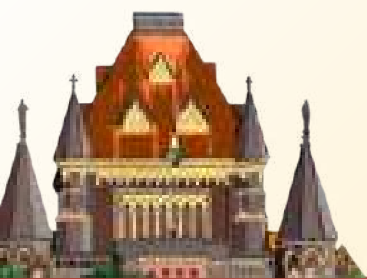
4. A historical dargah (Sufi shrine) was demolished during slum clearance by Municipal Corporation claiming the structure was illegal encroachment on public land. The Waqf Board had never registered this dargah as waqf property, though local Muslims had been visiting it for 80 years. A group of devotees filed a writ petition seeking reconstruction, arguing their Article 25 right has been violated. The Corporation argued: (i) there's no evidence of legal title; (ii) Waqf Board hasn't claimed it; (iii) devotees have no locus standi to claim reconstruction without proprietary rights. Can the devotees succeed in their writ petition seeking reconstruction?

- (a) Yes, because 80 years of religious practice creates prescriptive right under Article 25, giving devotees locus standi to claim reconstruction regardless of title.
- (b) No, because devotees lack both legal title and support from Waqf Board, and reconstruction is property-based remedy requiring proprietary interest.
- (c) Yes, because when Waqf Board fails to protect a religious site, devotees acquire derivative standing to claim reconstruction as guardians of religious rights.
- (d) No, but devotees can claim alternative remedy of designating another location for religious practice, which satisfies Article 25 without addressing title issues.

5. A State Government acquired land containing an ancient temple under Emergency Powers during COVID-19 to construct a temporary quarantine facility. The temple trust was given compensation, but no alternative land was offered due to emergency. The trust accepted compensation under protest. After the pandemic, the facility was converted into a permanent hospital. The trust filed a writ petition seeking return of property or reconstruction at the site, arguing: (i) acquisition was temporary emergency measure; (ii) permanent conversion violates Article 25 and Article 26 without fresh proceedings; (iii) lack of alternative land makes their religious practice impossible. Should the temple be restored or reconstructed at the original site?

- (a) Yes, because temporary emergency acquisition cannot be converted to permanent use without fresh statutory process, and doctrine of promissory estoppel protects trust's expectation.
- (b) Yes, because absence of alternative land offer violates Article 25's portable practice doctrine which assumes availability of alternative worship locations.
- (c) No, because trust accepted compensation without challenge, and Article 25 doesn't guarantee worship at specific location or require State to provide alternatives.
- (d) No, but court should direct State to offer alternative land now and facilitate reconstruction there, balancing religious rights with completed public interest (hospital).





# HIGH COURT

## Landmark Judgements



### 20 Daughter Not Entitled to Mitakshara Property Pre-1956 if Son Survives

#### Background

- The appellant, Ragmania (through her legal heirs), claimed a share in ancestral land located in Village Puhputra, Tahsil & District Surguja, Chhattisgarh.
- The property originally belonged to Sudhin Ram (grandfather) and his brother Budhau; after Sudhin's death (alleged around 1950-51) his son Baigadas came into possession.
- The appellant was the sister of Baigadas; after their father's death the appellant's brother got mutation of the land and converted it. The appellant objected via tahsildar and then filed Suit No. 181-A/2005 (6 October 2005) for declaration, title and partition.
- The defendant-respondents contended that the father died before HSA (1956), so succession falls under Mitakshara law and the daughter had no right given surviving son.
- Both the Trial Court (26 December 2008) and First Appellate Court (23 January 2014) dismissed appellant's claim; the High Court admitted the second appeal and framed substantial questions of law including applicability of HSA and 2005 Amendment.

#### Judgement of the Court

- The Court found that the father (Sudhin Ram) died around 1950-51 (admitted by parties and corroborated by witness). Therefore, succession opened pre-1956 and was governed by Mitakshara law.

#### Case Details

**Case Title:** Smt. Ragmania (Dead) through LRs v. Jagmet & Ors.

**Court:** High Court of Chhattisgarh at Bilaspur

**Citation:** 2025:CGHC:50803

**Bench:** Justice Narendra Kumar Vyas

#### Issue Before the Court

1. Whether the deceased (Sudhin Ram) died **before** 17 June 1956 (when HSA came into force) and so the succession opened under Mitakshara law rather than HSA.
2. Whether a **daughter** of a Hindu male governed by Mitakshara law (who died pre-1956) has a right to inherit his separate/self-acquired property when a **son** survives.
3. Whether the 2005 Amendment to HSA (granting daughters equal coparcenary rights) is applicable to cases where succession opened before 1956.

- Under Mitakshara law, the separate/self-acquired property of a Hindu male devolved **exclusively** upon his **male issue**; a daughter or female heir could only claim in **default of male issue**.
- The Court held that HSA, 1956 (and its 2005 amendment) **does not apply retrospectively** to successions which opened before the Act's commencement.
- Accordingly, the appellant (daughter of deceased) was not entitled to claim a share in the property given that a male heir (her brother) survived. The appeal was dismissed.

### Key Takeaways for CLAT Aspirants

1. **Applicability of HSA vs Mitakshara Law:** The date of the deceased's death (or opening of succession) is critical in determining the applicable law. If death occurred before 17 June 1956, the Hindu Succession Act does not apply, and the provisions of the household's **Mitakshara school** govern. This means statutory reform giving equal rights to daughters does not avail for pre-1956 cases.
2. **Daughter's Rights under Mitakshara Law:** Under the Mitakshara school of Hindu law, a daughter had no automatic right to inherit her father's separate or self-acquired property when a son survived. The rights of male issue were paramount; daughters were only heirs in the **absence** of male issue. This reinforces the patriarchal structure of traditional Hindu succession.
3. **No Retrospective Operation of Reforms:** The 1956 Act and subsequent amendments (like the 2005 Amendment granting daughters equal coparcenary rights) do **not** apply retrospectively to cases where succession opened prior to the Act. Judicial precedent holds that rights already vested under old law cannot be disturbed by later legislation unless expressly intended.
4. **Doctrine of Vesting and Finality:** The property interest of the male heir under Mitakshara law vests immediately upon the death of the ancestor. After vesting, legislative changes cannot retrospectively divest or alter that vested interest. Thus, partition or mutation under pre-1956 law gives finality to inheritance rights of male issue.
5. **Family Law Nexus and the 2005 Amendment:** The judgment underscores that while the 2005 Amendment to HSA significantly improved inheritance rights of daughters and women, its benefit is limited by the timing of the deceased's death. Lawyers and students must connect the **temporal dimension** (date of death) with substantive rights under succession law for exam purposes.

**5. Doctrinal Balance: Religious Freedom vs Property Rights**

The case exemplifies the doctrinal balance between individual religious freedom (Articles 25/26) and the State's power to regulate, acquire or repurpose property (Article 300A after 44th Amendment). This balance prevents the conversion of religious rights into absolute claims over property, thus maintaining regulatory space for the State while protecting individual religious rights.



## Practice Questions

1. Ramesh died in 1954 leaving behind self-acquired property, two sons (A and B), and one daughter (C). The property was partitioned between sons A and B in 1955, with each receiving equal shares, and the daughter C received nothing as per Mitakshara law. In 2006, after the Hindu Succession (Amendment) Act, 2005 came into force granting daughters equal coparcenary rights, C filed a suit claiming one-third share in her father's property, arguing that the 2005 Amendment should apply to correct the historical injustice against daughters, and since the property still exists in the hands of her brothers, her constitutional right to equality under Articles 14 and 15 requires judicial intervention. Brothers A and B argued that the 1955 partition was final and cannot be reopened. Should C's claim succeed?

- (a) Yes, because 2005 Amendment is remedial legislation correcting gender discrimination, and should apply to all surviving daughters regardless of date of father's death.
- (b) Yes, because constitutional principles of equality under Articles 14 and 15 mandate retrospective application of beneficial amendments to remedy past injustices.
- (c) No, because succession opened in 1954 before HSA came into force, Mitakshara law governed, and 2005 Amendment doesn't apply retrospectively to pre-1956 deaths.
- (d) No, but only because 1955 partition created estoppel; otherwise 2005 Amendment would apply as it protects daughters' rights as fundamental rights.

2. Gopal died in 1948 owning substantial agricultural land. He was survived by his wife W, son S, and daughter D. Under Mitakshara law applicable then, the property was inherited solely by son S, as daughters had no inheritance rights when sons survived. In 1960, after the Hindu Succession Act came into force, daughter D filed a suit claiming her father died intestate and under HSA Section 8, she is a Class I heir entitled to equal share with her brother. Son S argued that succession was complete in 1948 under Mitakshara law and HSA cannot apply. D countered that HSA Section 8 doesn't specify it applies only to post-1956 deaths, and beneficial legislation should be construed liberally. Can D claim a share under HSA?

- (a) No, because HSA applies only to successions opening on or after 17 June 1956, and Gopal's death in 1948 means Mitakshara law governs the succession.
- (b) Yes, because HSA Section 8 creates Class I heirs including daughters without temporal limitation, and liberal construction favors daughters' rights.
- (c) Yes, because son S's inheritance in 1948 was only possessory, and HSA retrospectively perfects legal title requiring fresh distribution among all Class I heirs.
- (d) No, but daughter D can claim partition of joint family property under HSA even if self-acquired property remains governed by Mitakshara law.

3. Krishna died in 1957 (after HSA came into force on 17 June 1956) leaving self-acquired property. He was survived by his son S and daughter D. The property was divided between S and D under HSA provisions giving them equal shares. In 2008, S filed a suit claiming that since Krishna acquired the property before 1956 under Mitakshara law where daughters had limited rights, and since Krishna died barely one year after HSA, the property should be treated as "Mitakshara-era property" governed by old law principles,



giving S preferential rights as the male heir. Should S's claim succeed based on the property's "Mitakshara-era" character?

- (a) Yes, because property acquired under Mitakshara regime retains its character, and applying HSA would retrospectively affect Krishna's ownership rights and intentions.
- (b) Yes, because HSA should apply only to property acquired after 1956 to avoid disturbing settled Mitakshara property arrangements and expectations.
- (c) No, because the date of property acquisition is irrelevant; the governing law is determined by when succession opens (date of death), which was 1957 post-HSA.
- (d) No, but court should apply proportionality giving son 75% and daughter 25% to balance Mitakshara expectations with HSA mandates.

4. Mohan died in March 1956 (three months before HSA came into force in June 1956) leaving ancestral coparcenary property. His son A immediately took possession claiming inheritance under Mitakshara law. In July 1956, after HSA came into force, Mohan's daughter B filed a suit claiming that since HSA is now in force, it should govern the distribution of her father's estate, giving her equal rights with her brother. Son A argued succession was complete in March 1956 under Mitakshara law before HSA existed. Daughter B countered that possession taken before HSA doesn't create vested rights, and HSA should apply to all pending inheritance matters. Should HSA apply to Mohan's succession?

- (a) Yes, because HSA applies to all inheritance matters pending as of June 1956, and mere possession doesn't create vested rights without legal decree.
- (b) No, because succession opened in March 1956 before HSA's commencement, and law at the time of death governs inheritance regardless of subsequent legislation.
- (c) Yes, because three months between death and HSA is minimal, and purposive interpretation requires applying beneficial legislation to such transitional cases.
- (d) No, but if son A took possession mala fide anticipating HSA, court can apply HSA retrospectively as exception to general rule.

5. Vishnu died in 1952 survived by son S and daughter D. Under Mitakshara law, son S inherited all property. In 1958 (after HSA came into force), D filed suit claiming HSA should apply. The suit was dismissed. In 2006, after the HSA Amendment granting daughters coparcenary rights from birth, D filed a fresh suit arguing the 2005 Amendment is retrospective and applies to all daughters born before 2005, and since she was born in 1930, she now has coparcenary rights in her father's property which should defeat her brother's 1952 inheritance. Does the 2005 Amendment help D's claim?

- (a) Yes, because 2005 Amendment grants retrospective coparcenary rights to daughters born before 2005, reviving D's claim to her father's 1952 estate.
- (b) No, because 2005 Amendment's retrospective coparcenary applies only when father was alive on 2005, and Vishnu died in 1952, making amendment inapplicable.
- (c) Yes, because 2005 Amendment is remedial legislation correcting historical gender discrimination, and courts must give it widest scope to benefit all daughters.
- (d) No, because succession opened in 1952 under Mitakshara law, and neither HSA 1956 nor 2005 Amendment apply retrospectively to pre-1956 deaths regardless of when daughter was born.



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**Masirah Ahmad**



**Arush Sarma**



**Nikhil Dabbas**



**Sampoorno Mukherjee**



**Vaishnavi K. Prasad**



**Ananya Kapani**



**Ananya Tripathi**



**Tejaswini Singh**



**Nandil B. Sarma**



**Anushree Prasad**



**Eshan Nakra**



**Varun Pathak**



**Romit Kohli**



**Hardik Choubey**



**Karina Chawla**

**...a few among the many achievers.**



## Answers & Explanations

### 1. Knowledge of Caste Identity under the Atrocities Act

1. Correct Answer: (a)

Reference Line: "The 2016 amendment replaced 'on the ground that' with 'knowing that,' shifting focus from motive to knowledge. Thus, mere awareness of caste identity suffices for liability; proof of caste-based intent is not essential."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: Post-2016 amendment, Section 3(2)(v) does not require proof of casteist motive—only knowledge of the victim's SC/ST status. Section 8(c) creates a statutory presumption that an accused personally acquainted with the victim knew their caste. Since Amit and Dinesh were neighbors for five years with family interactions, this presumption applies, making enhanced punishment available.

Option (b) Incorrect: This reflects the pre-2016 position when the section read "on the ground that," requiring motive. The amendment specifically removed this requirement, making proof of discriminatory intent unnecessary for liability.

Option (c) Incorrect: The nature of the dispute (personal vs. casteist) is irrelevant under the current law. The statute does not create an exception for personal disputes, and explicit caste insults are not required once knowledge is established or presumed.

Option (d) Incorrect: The law does not mandate verbal caste references. Knowledge derived from social proximity or acquaintance is sufficient post-amendment; the accused need not have articulated caste-related statements to attract Section 3(2)(v).

2. Correct Answer: (b)

Reference Line: "Section 8(c) directs that if the accused was personally acquainted with the victim or her family, the court shall presume that he knew her caste identity, unless rebutted."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: While the Atrocities Act is a protective statute, Section 8(c)'s presumption is conditional, not automatic. It requires a foundational fact—personal acquaintance—to be proven first. Without such proof, the presumption does not arise, and knowledge must be established through other evidence.

Option (b) Correct: Section 8(c) is triggered only when the prosecution proves that the accused was "personally acquainted" with the victim or her family. In this case, no such evidence exists; they were from distant locations with no prior connection. Without this predicate fact, the statutory presumption cannot operate.

Option (c) Incorrect: District-level or regional proximity does not satisfy the "personal acquaintance" requirement under Section 8(c). The statute demands proof of actual familiarity—whether through neighborhood ties, work relations, or family connections—not mere geographical co-location.

Option (d) Incorrect: The commission of rape, even with physical interaction, does not automatically



establish personal acquaintance as understood under Section 8(c). The presumption is designed for cases where social or familial proximity makes caste knowledge likely, not for single-incident crimes between strangers.

3. Correct Answer: (c)

Reference Line: "The Court clarified that declaring a witness 'hostile' under Section 154 of the Evidence Act is an exception, not the norm. Minor contradictions or fading memory cannot justify hostility. Courts must weigh testimony holistically; even a hostile witness's credible portions can be relied upon."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: Not every contradiction warrants hostile declaration. The Evidence Act and judicial precedent require material contradictions that affect the core of the testimony. Minor discrepancies on peripheral details like dates do not justify hostility, as human memory naturally varies on non-essential facts.

Option (b) Incorrect: Inability to recall specific dates is a common feature of witness testimony, especially after time has elapsed. This alone does not demonstrate unreliability on substantive facts like acquaintance. Moreover, even if declared hostile, credible portions of testimony remain admissible, so total impeachment is not the automatic consequence.

Option (c) Correct: The hostile witness doctrine is an exception to the general rule that parties vouch for their witnesses. It requires substantial contradictions on material facts. Here, the core fact—acquaintance and knowledge—remained consistent; only peripheral details varied. Courts assess testimony holistically, accepting credible portions even from hostile witnesses.

Option (d) Incorrect: While the Atrocities Act is protective, it does not eliminate procedural safeguards like the hostile witness mechanism. Witnesses can be declared hostile in such trials, but the standard remains material contradiction, not the nature of the statute. The law does not create an absolute bar on hostility in protective legislation.

4. Correct Answer: (d)

Reference Line: "When an offence under the IPC or POCSO Act is committed against a SC/ST victim, the same act may attract enhanced punishment under Section 3(2)(v) of the Atrocities Act. This dual application does not amount to double jeopardy since the aggravating factor (victim's caste) creates a distinct statutory offence."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While POCSO provides comprehensive punishment for child sexual assault, it does not preclude application of other special statutes when additional aggravating factors exist. The victim's SC/ST status is such a factor, recognized separately by Parliament through the Atrocities Act. Courts may impose concurrent sentences when distinct statutory elements are satisfied.



Option (b) Incorrect: Section 3(2)(v) is not merely an enhancement clause modifying IPC sentences—it creates an independent offense with its own ingredients. The offense is "committing an IPC crime against a SC/ST person with knowledge of their status." This has a distinct element (caste knowledge) that makes it a separate statutory violation.

Option (c) Incorrect: While the dual purposes argument has some merit, it is not the precise legal basis. The correct rationale is that Section 3(2)(v) involves a distinct statutory element (victim's caste status + knowledge) that transforms the offense into a separate crime. The focus is on distinct ingredients, not just different legislative objectives.

Option (d) Correct: Section 3(2)(v) contains an additional statutory element—the victim's SC/ST identity coupled with the accused's knowledge. This makes it a distinct offense under the "same transaction, different offense" doctrine. Double jeopardy applies when offenses have identical elements; here, the caste element distinguishes the Atrocities Act offense from the base IPC/POCSO violation.

5. Correct Answer: (b)

Reference Line: "Appellate courts defer to concurrent findings of fact unless perverse or unsupported by evidence. The prosecution must prove (i) the victim's caste status through documentary or witness evidence, and (ii) the accused's familiarity or proximity. Once these are established, knowledge is presumed."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Six years of attendance in the same village school, particularly in a rural setting where community ties are strong, is significant evidence of familiarity. Courts have held that school attendance, neighborhood proximity, and village co-residence constitute "acquaintance" for Section 8(c) purposes. The presumption does not require intimate friendship—social proximity suffices.

Option (b) Correct: The prosecution established both caste status (certificate) and acquaintance (six-year school attendance in the same village). This satisfies the prerequisites for Section 8(c) presumption. The Supreme Court follows the doctrine of concurrent findings—when both lower courts reach identical factual conclusions based on evidence, appellate interference is limited to cases of perversity. Here, the finding of acquaintance is reasonable and evidence-based.

Option (c) Incorrect: A presumption under Section 8(c) shifts the burden to the accused to rebut it with credible evidence. Mere testimony denying knowledge is insufficient rebuttal when objective evidence (school records, village co-residence) points to proximity. The accused must provide cogent reasons why, despite such proximity, he remained unaware—especially in rural contexts where caste is often common knowledge.

Option (d) Incorrect: The law does not mandate proof of family-level interaction as a prerequisite. Section 8(c) refers to acquaintance with "the victim or her family"—it is disjunctive, not conjunctive. Personal acquaintance through schooling suffices. Requiring additional family interaction would impose a burden not contemplated by the statute and would undermine its protective purpose.

## 2. Article 19(1)(g) of Indian Constitution

1. Correct Answer: (a)

Reference Line: "Limiting past-experience eligibility only to the State's agencies was found discriminatory as it excluded equally placed outside bidders. The condition failed rationality and proportionality as requiring past State-specific supply did not logically ensure better performance."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: The eligibility criterion creates an artificial geographic barrier without demonstrating how experience in Maharashtra specifically ensures better performance. The Gujarat manufacturer's ₹2 crore supply experience to government schools shows comparable capability. Past performance in similar contracts (regardless of state) is the rational measure; state-specific experience lacks nexus to the procurement objective and violates Articles 14 and 19(1)(g) by discriminating against equally qualified bidders.

Option (b) Incorrect: While Article 19(6) permits reasonable restrictions in public interest, such restrictions must meet proportionality and necessity tests. Mere assertion of local familiarity is insufficient justification for school uniforms, which are standardized items. The State must demonstrate with evidence why state-specific experience is essential, not merely convenient. Without such demonstration, the restriction fails Article 19(6) scrutiny.

Option (c) Incorrect: The possibility of forming partnerships does not cure the constitutional infirmity of the eligibility clause itself. If a criterion is discriminatory and lacks rational nexus, it remains invalid regardless of workarounds available to bidders. Moreover, forced partnerships increase costs and complexity, further undermining fair competition and the level playing field doctrine.

Option (d) Incorrect: The threshold for judicial intervention is not limited to proven mala fides. Courts review tender conditions for arbitrariness, lack of rational nexus, and violation of the level playing field doctrine even in absence of malicious intent. The restriction here fails on rational nexus grounds alone; proof of mala fide intent is unnecessary to strike down the clause.

2. Correct Answer: (b)

Reference Line: "Eligibility conditions must have a rational connection (nexus) to the object of the procurement (quality, timely supply, value for money) and must be proportionate. The past performance requirement might have been justifiable if clearly connected to the risk profile of the contract (e.g., remote terrain, specialised supply)."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: Not all geographic or technical specifications violate the level playing field doctrine. When the nature of the work genuinely requires specialized experience due to unique challenges (high altitude affecting concrete setting, oxygen levels for workers, temperature variations, accessibility), such criteria have rational nexus to performance and safety. The doctrine prohibits arbitrary barriers, not reasonable technical qualifications.

Option (b) Correct: Unlike the sports kits case where state-specific experience lacked nexus to performance, high-altitude bridge construction involves distinct engineering challenges—reduced atmospheric pressure, extreme temperature variations, specialized materials, and unique safety

protocols. The experience requirement is proportionate, necessary, and directly connected to risk mitigation. This passes the rational nexus and proportionality tests, distinguishing it from arbitrary geographic restrictions.

Option (c) Incorrect: The State is not required to prove impossibility of task completion by others. The test is whether the eligibility criterion has rational nexus to the procurement objective, not whether alternative means (like hiring consultants) exist. If the specialized experience requirement is rationally connected to project risks, it satisfies constitutional scrutiny without needing further proof of exclusivity.

Option (d) Incorrect: While partnership options may broaden participation, the State is not constitutionally obligated to redesign eligibility criteria to accommodate all potential bidders. If the direct experience requirement is justified by technical necessity, the State can insist on it. Mandating partnership provisions is a policy choice, not a constitutional requirement, and courts should not micromanage procurement design when the criteria are otherwise valid.

### 3. Correct Answer: (c)

Reference Line: "Even when the State seeks to impose restrictions on business for public interest, such restrictions must be reasonable. The restriction failed Article 19(6) analysis – it was neither suitable nor necessary. The State argued reasonable grounds but those grounds lacked specific justification for the items tendered."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Article 19(6) permits reasonable restrictions, but "wide latitude" does not mean unchecked discretion. The restriction must be both necessary and proportionate—the least restrictive means to achieve the legitimate objective. If vendor training or detailed technical specifications in the tender can ensure system compatibility, mandating past state-specific experience becomes disproportionate and fails the reasonableness test.

Option (b) Incorrect: While the observation about private hospitals may be factually true, it doesn't address the core legal issue. The question is whether the digital integration justification provides rational nexus for the Kerala-specific requirement, not whether private sector experience is superior. The court must evaluate if the stated ground (system integration) genuinely necessitates past Kerala experience, not compare private versus government hospital standards.

Option (c) Correct: Under Article 19(6), the State must demonstrate that the restriction is necessary—not merely convenient—to achieve its objective. If the digital integration challenge can be addressed through comprehensive technical specifications, mandatory training programs, or trial periods in the contract, then excluding bidders solely for lack of Kerala-specific experience becomes unreasonable. The State must prove uniqueness and indispensability of the requirement to satisfy proportionality and necessity tests.

Option (d) Incorrect: Medical equipment regulatory compliance is typically governed by national standards (CDSCO, BIS certifications), not state-specific requirements. Moreover, regulatory compliance can be verified through documentation and certifications, not necessarily past supply history. This justification conflates regulatory approval with operational experience, and fails to establish why state-specific past supply is the only means to ensure compliance.

## 4. Correct Answer: (d)

Reference Line: "Restrictive eligibility conditions that exclude external bidders may facilitate cartelisation among a limited set of local suppliers, leading to higher costs, reduced innovation, and poor value for the public exchequer. The barrier created by the tender clause increased risk of cartel formation and therefore compromised procurement integrity."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While courts generally defer to procurement authorities' business judgment, this deference is not absolute. When eligibility criteria are arbitrary, lack rational nexus, or create conditions for cartelisation evidenced by significantly inflated prices (40% higher), judicial review is warranted. The doctrine of business judgment does not shield patently unreasonable or anti-competitive tender conditions from constitutional scrutiny under Articles 14 and 19(1)(g).

Option (b) Incorrect: This option incorrectly creates a rigid distinction between goods and services. While physical presence might be relevant for certain service-intensive contracts, the test remains rational nexus and proportionality. For spare parts supply, even with service components, alternatives exist—contractual response time commitments, penalty clauses for delays, authorized service partner arrangements—that achieve the objective without geographic exclusion. The goods-services distinction doesn't bypass constitutional analysis.

Option (c) Incorrect: While Article 19(6) analysis is relevant, it is not the primary governing principle in this fact pattern. The question specifically highlights cartelisation, inflated prices, and exclusion of qualified suppliers—issues that directly implicate the level playing field doctrine. Article 19(6) focuses on reasonableness of restrictions; the level playing field doctrine addresses equality of competitive opportunity and prevention of anti-competitive outcomes, which is more central here.

Option (d) Correct: The fact pattern presents classic markers of level playing field violation: (i) geographic restriction excludes qualified national suppliers, (ii) only three firms qualify, creating oligopolistic conditions, (iii) prices are 40% higher, indicating absence of genuine competition, and (iv) the restriction lacks proportionate nexus as response time can be ensured through contractual commitments rather than mandatory physical presence. The level playing field doctrine, grounded in Articles 14 and 19(1)(g), directly addresses these competition-distorting effects.

## 5. Correct Answer: (a)

Reference Line: "Although the State argued reasonable grounds (topography, security risk), the Court held those grounds lacked specific justification for the items tendered. States must avoid eligibility filters that geographically restrict participation without clear justification and should rely on neutral, performance-based criteria and allow local partner arrangements."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: The security concerns, terrain, and language requirements, while seemingly reasonable, can be addressed through neutral, performance-based criteria rather than geographic exclusion. The supplier can be required to demonstrate: (i) past experience in remote/challenging terrain delivery (regardless of location), (ii) ability to arrange security clearances, (iii) partnership with local entities for language support, and (iv) biodegradable packaging capability. The African remote area experience is directly comparable to Gujarat tribal areas. Geographic restriction is disproportionate when



less restrictive means (contractual obligations, partnerships) can achieve the same objectives.

Option (b) Incorrect: While the factors cited appear substantial, the proportionality test requires the State to use the least restrictive means. Security clearances can be made mandatory for all bidders; forest terrain navigation can be ensured through contractual delivery obligations; tribal language training can be provided by local partners. When these alternatives exist, state-specific past experience becomes disproportionate. The Court's precedent rejects justifications that lack specific evidence of why geographic restriction is indispensable.

Option (c) Incorrect: This incorrectly reverses the burden of proof. The challenger need not prove equivalence of foreign experience; rather, the State must demonstrate with concrete evidence why Gujarat-specific experience is essential and no alternatives exist. Courts have held that procurement authorities cannot rely on generalized assertions; they must provide specific, evidence-based justification for geographic restrictions. Absent such proof, the clause fails.

Option (d) Incorrect: Directive Principles do not override Fundamental Rights guaranteed under Articles 14 and 19(1)(g). While Article 46 promotes tribal welfare, it cannot justify arbitrary or disproportionate procurement conditions that violate constitutional rights. The State must achieve tribal welfare objectives through reasonable, non-discriminatory means. Supreme Court precedent does not grant "wider discretion" to breach the level playing field doctrine merely because beneficiaries belong to protected groups.

### **3. Bystander Liability Test**

1. Correct Answer: (b)

Reference Line: "An unlawful assembly requires five or more persons with a common object falling within Section 141 IPC. While Section 34 (common intention) requires prior meeting of minds among fewer persons, Section 149 (common object) applies to larger groups (5 or more). But both require proof of mental participation."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: While numerical presence of six persons satisfies the quantitative threshold, Section 141's definition of unlawful assembly requires that five or more persons share a common object consciously. Mere physical presence of six persons when only two share the criminal objective does not constitute an unlawful assembly. The law counts members, not bodies—membership requires mental participation in the shared object.

Option (b) Correct: Only Arun and Bharat shared the common object to assault (evidenced by prior WhatsApp planning), while the other four were coincidentally present without knowledge or participation in this objective. Since fewer than five persons had the requisite common object, no unlawful assembly exists under Section 141. However, Arun and Bharat's prior planning and joint action establish common intention under Section 34, making that the appropriate provision for their prosecution.

Option (c) Incorrect: This fundamentally misunderstands the membership requirement. "Constructive membership" is not a recognized concept under unlawful assembly law. Each member must consciously share the common object through active mental participation. The four coincidentally present persons lacked awareness of Arun and Bharat's plan and did not participate in its execution. Physical proximity during an offence does not create legal membership in an unlawful assembly.

Option (d) Incorrect: This creates an artificial rule not found in law. Section 34 is not limited to cases where prior planning exists—it applies whenever two or more persons act with common intention, whether pre-planned or formed during the act. Moreover, the determining factor between Sections 34 and 149 is not the existence of planning but the number of persons sharing the criminal objective. Here, only two shared the object, hence Section 34 applies, regardless of planning.

## 2. Correct Answer: (b)

Reference Line: "The Court clarified that the 'common object' cannot be presumed merely from numerical strength or group presence. It must be established through conduct, prior association, or collective behaviour. The prosecution must show that the accused knew the group's intention or had reasonable foresight of the likely offence."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: This directly contradicts settled law. There is no legal presumption that a large gathering's subsequent violence establishes common object among all present. The principle of individualized guilt requires prosecution to prove each accused's mental participation in the shared objective through evidence of conduct, statements, or behaviour indicating alignment with the unlawful purpose. Size of gathering and occurrence of violence are insufficient to presume universal common object.

Option (b) Correct: The prosecution must affirmatively establish that the accused shared a common object through evidence of coordinated behaviour, prior discussions indicating planned action, collective conduct during the incident, or other material showing conscious participation in a shared unlawful purpose. A peaceful water shortage meeting transforming suddenly into violence by five persons does not prove all twenty-five shared an assault objective. Absent such evidence, convicting all based on mere presence violates the evidentiary standards for Section 149.

Option (c) Incorrect: There is no doctrine of automatic vicarious liability for meeting attendees based on contextual emergence of violence. Section 149 liability requires proof of membership in an unlawful assembly with shared common object—not mere attendance at a gathering from which violence happened to erupt. If this principle were accepted, any peaceful assembly could result in mass criminalization if a few members spontaneously committed violence, undermining freedom of assembly.

Option (d) Incorrect: While the twenty who fled did demonstrate lack of participation, this option incorrectly suggests that those who remained (beyond the five who attacked) can be convicted. Remaining at the scene does not automatically establish membership or shared object. Under the Bystander Liability Test, even those who stayed must be proven to have had specific overt acts or conscious alignment with the assault objective. Flight may indicate innocence, but staying requires independent analysis of participation.

## 3. Correct Answer: (d)

Reference Line: "Courts must be cautious where FIRs or witness statements name many accused collectively. Such omnibus allegations should be corroborated by material particulars — weapon description, role, or sequence of acts. Without these, the benefit of doubt must go to the accused. Convicting a person solely based on general allegations violates Article 21."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Family relationship or shared interest in property does not automatically establish common object to commit murder. While it may provide motive for some members, motive alone is insufficient—the prosecution must prove each accused's conscious participation in the specific unlawful objective through conduct or behaviour. Relying on family ties to infer shared criminal purpose would violate the requirement of individualized proof and could lead to conviction based on association rather than culpable participation.

Option (b) Incorrect: This reasoning is flawed. The single stab wound shows one person inflicted the fatal injury, but under Section 149, all members of an unlawful assembly sharing the common object can be held vicariously liable even if they didn't strike the blow—provided membership and shared object are proven. The issue here is not the medical evidence but the lack of particularized evidence showing each brother's participation, role, or alignment with the assault objective.

Option (c) Incorrect: While group crimes present evidentiary challenges, this does not lower the constitutional standard of proof beyond reasonable doubt. The witness's collective testimony ("all seven came and killed") is a classic omnibus allegation lacking material particulars. Courts have consistently held that prosecution difficulty does not justify conviction on vague, generalized testimony. Article 21's fair trial guarantee requires individualized evidence—such as weapon carried, position during attack, or specific actions—to distinguish actual participants from those merely present.

Option (d) Correct: The prosecution's evidence consists solely of collective naming without any material particulars. The witness cannot describe individual weapons, specific acts, positions, or sequence—only that all "came together." Such omnibus allegations, without corroboration through specific details, are insufficient to prove membership and participation beyond reasonable doubt. Conviction on this basis violates Article 21 by undermining individualized guilt determination essential to fair trial. Each accused is entitled to know and defend against specific allegations of their role.

4. Correct Answer: (b)

Reference Line: "Some evidence of participation — whether physical (attack, weapon use) or moral (instigation, aiding) — must be shown. Even absent direct act, evidence must indicate conscious alignment with the unlawful object."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: The law recognizes two categories of participation: physical and moral. Specific overt acts include not only direct physical violence but also instigation, encouragement, aiding, or abetting that furthers the common object. Karim's targeted exhortations ("Teach them a lesson!") directly encouraged the assault and, according to police testimony, emboldened the attackers. This constitutes active moral participation sufficient to establish membership in the unlawful assembly and attract Section 149 liability.

Option (b) Correct: Instigation through verbal encouragement is a recognized form of participation that satisfies the "specific overt act" component of the Bystander Liability Test. Karim's shouts were not passive observations but active incitements that emboldened the attackers and furthered the common object of assault. His instruction "Don't let them escape" shows conscious alignment and

strategic participation in executing the attack. Moral participation through instigation is legally equivalent to physical participation for Section 149 purposes.

Option (c) Incorrect: While Article 19(1)(a) protects freedom of speech, this freedom is not absolute. Incitement to imminent violence is not protected expression and falls under reasonable restrictions under Article 19(2). Karim's specific exhortations during an ongoing assault—encouraging attackers and preventing victim escape—constitute instigation to criminal acts, not protected speech. Courts distinguish between general sloganeering and targeted incitement in volatile situations; the latter is criminal participation, not constitutional expression.

Option (d) Incorrect: This overstates the law. Mere presence with awareness, without more, does not create automatic Section 149 liability. The Bystander Liability Test requires either specific overt acts (physical or moral) or clear evidence of conscious alignment with the common object. While Karim's case satisfies this through active instigation, the general principle stated in this option is wrong. Passive bystanders who are aware but do not participate remain non-labile, as established in multiple precedents like *Kuldip Yadav*.

#### 5. Correct Answer: (b)

Reference Line: "Section 149 imposes vicarious liability, making every member of the assembly guilty of the offence committed in furtherance of its common object. The prosecution must show that the accused knew the group's intention or had reasonable foresight of the likely offence."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Section 149 creates vicarious liability only for offences committed "in prosecution of the common object." When the actual offence committed (grievous assault) deviates from and contradicts the shared common object (peaceful gherao), members who did not share or foresee the violent objective cannot be held vicariously liable. The law does not impose absolute liability for all acts by any assembly member regardless of the shared purpose. The offence must flow from the common object, not contradict it.

Option (b) Correct: The established common object was peaceful gherao to demand bonus—an objective that, while potentially unlawful under other provisions, did not encompass violence. The sudden assault by two members was an independent criminal act beyond the scope of the shared objective. Under Section 149, vicarious liability arises only when the offence was in prosecution of the common object or when members had reasonable foresight of such violence. Here, the evidence shows neither—making the six non-labile for the assault committed by the two.

Option (c) Incorrect: This improperly imports a duty to dissociate that is not required when the offence falls outside the common object. When two members commit violence contradicting the peaceful objective, others are not required to physically flee to avoid liability—the question is whether they shared or foresaw the violent objective. Their active intervention to stop the violence and call security affirmatively demonstrates they did not share this objective, reinforcing rather than undermining their defence.

Option (d) Incorrect: While this reaches the correct result (no conviction), the reasoning is incomplete. The primary legal basis for their non-liability is that the assault fell outside the common object of peaceful gherao, not merely that they tried to stop it. Their intervention is corroborative evidence of their mental state, but even without such intervention, they couldn't be convicted for an offence that wasn't in furtherance of the shared purpose. The correct analysis focuses on whether the violence was foreseeable or within the common object's scope.



#### 4. Essentials of Oral Gift Under Mohammedan Law

1. Correct Answer: (b)

Reference Line: "Courts presume that if the donor and donee continue to live together and the property remains under donor's control, the gift is not perfected. Where donor and donee reside together, the donee must show clear change in control, such as exclusive use, payment of taxes, or maintenance of property as owner."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: While declaration and acceptance are two essential requirements of a valid hiba, they alone do not complete the gift. The third essential—delivery of possession (qabza)—is mandatory. Mere cohabitation does not create presumption of delivery; rather, when donor and donee live together, the law presumes the gift is incomplete unless the donee proves clear change of control. Here, Fatima retained complete control, making the gift inchoate.

Option (b) Correct: All three essentials must be satisfied for a valid hiba. While declaration and acceptance were present, delivery of possession—the cornerstone of hiba—was absent. Fatima continued managing affairs, paying taxes, and holding documents, indicating no divesting of ownership. The principle "mere declaration without change in possession is insufficient" applies. Without demonstrable transfer of control (exclusive use, tax payment by donee, or other acts of ownership), the gift remains incomplete regardless of cohabitation duration.

Option (c) Incorrect: While Muslim Law permits oral gifts, it does not dilute the requirement of delivery of possession. Ayesha's continued residence proves nothing about possession transfer since she was already residing there. Constructive possession requires evidence of change in control—such as Ayesha exercising ownership rights, paying taxes, or being recognized as owner by third parties. Mere continued living without change of control does not constitute constructive possession.

Option (d) Incorrect: The invalidity stems from lack of delivery of possession, not absence of witnesses. While witnesses strengthen proof of oral gifts, the fundamental defect here is incomplete transfer. Even with multiple witnesses confirming the declaration, without delivery of possession, the gift fails. The question is not evidentiary sufficiency of the declaration but substantive completion of the transfer through qabza.

2. Correct Answer: (d)

Reference Line: "Under Mohammedan Law, a gift must take effect immediately. Any condition postponing transfer till donor's death or event contingency makes the gift void. The donor must divest control instantly. This contrasts with wills, which operate posthumously. Unlike a will (wasiyat), a gift takes effect immediately, not after death."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: While the words might superficially suggest declaration and acceptance, and Muslim Law does permit oral transfers, the phrase "after my death" explicitly postpones the transfer to a future event (death), violating the fundamental requirement that hiba must take effect immediately. The recognition of oral gifts does not override the doctrine of immediate transfer. Relationship between parties is irrelevant to the substantive requirement of present, immediate transfer.

Option (b) Incorrect: While this option correctly identifies that possession was not transferred, it misidentifies the primary legal defect. The fundamental flaw is not merely absent possession but the conditional/postponed nature of the transfer itself. Even if possession had somehow been transferred during lifetime, the "after my death" language makes the entire transaction void as it contradicts the immediate transfer requirement. The gift is void ab initio due to postponement, not just incomplete due to lack of delivery.

Option (c) Incorrect: Equitable doctrines like promissory estoppel or reliance-based claims do not apply to validate gifts that violate mandatory requirements of hiba under Muslim Law. The three essentials—declaration, acceptance, and immediate delivery—are substantive requirements, not mere procedural formalities. No amount of waiting, reliance, or expectation can cure a gift that is structurally invalid due to postponement. Muslim personal law governs this transaction, not general equity principles.

Option (d) Correct: The essential characteristic of hiba is immediate and absolute transfer. Rashid's statement "after my death" explicitly postpones the transfer, making it a conditional or deferred transaction that violates the doctrine of immediate transfer. Such postponement renders the gift void ab initio—it cannot function as a valid hiba. While it might appear to be an intention to benefit Salman, it lacks the present, unconditional character required for gifts. This distinguishes gifts from wills, which are meant to operate after death.

### 3. Correct Answer: (c)

Reference Line: "Even registered gift deed invalid if possession not transferred; possession is essence of gift. Without delivery, the gift is inchoate (incomplete). The Court reiterated that 'mere declaration without change in possession' is insufficient; the transfer must be complete and immediate."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Registration creates only a presumption of the document's execution, not the completion of the transaction. Under Muslim Law, delivery of possession is a substantive requirement, not merely evidentiary. A registered deed proves the declaration was formally made, but without actual transfer of possession, the gift remains incomplete. Courts have consistently held that registration cannot substitute for delivery—both are required. The deed evidences intent, but possession proves actual transfer.

Option (b) Incorrect: This confuses Transfer of Property Act principles with Muslim personal law governing gifts. While registration satisfies certain formalities under secular law, hiba under Mohammedan Law has its own mandatory essentials including qabza (delivery). There is no exception for parent-child gifts allowing donor to retain possession—if anything, such cases face stricter scrutiny as courts presume gift incomplete when parties cohabit and donor retains control. Registration is facilitative, not substitutive for possession.

Option (c) Correct: The principle established in precedents like Hafeeza Bibi v. Shaikh Farid is unequivocal: even registered gift deeds are invalid if possession is not transferred. Possession (qabza) is the cornerstone and essence of hiba. Ibrahim's continued cultivation, revenue payment, and tenant management demonstrate he never divested ownership or put Karim in possession. The registered deed merely evidences declaration; without delivery completing the transfer, it remains an inchoate gift. Both formality (registration) and substance (possession) are required.

Option (d) Incorrect: The issue is not revocation but initial incompleteness. Zainab need not prove

affirmative revocation because the gift never became complete in the first place. When essential elements (here, delivery) are absent, the gift is void ab initio, not voidable. Revocation is relevant only for completed gifts that the donor wishes to undo. Since no valid transfer occurred due to retained possession, there is nothing to revoke. The burden is on Karim to prove completion, not on Zainab to prove revocation.

4. Correct Answer: (a)

Reference Line: "Acceptance (Qabul): The donee must accept the gift during the lifetime of the donor and while the donor is capable of giving. Delivery of Possession (Qabza): The donor must divest himself of ownership and put the donee in possession, either physically or constructively."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Correct: Muslim Law permits gifts to minors, with acceptance by the guardian on their behalf satisfying the acceptance requirement. Tasneem, as Nazia's mother and natural guardian, had legal authority to accept the gift for her minor daughter. Physical delivery of the jewelry box to Tasneem as guardian constitutes valid delivery of possession—the donee (through guardian) obtained possession, and the donor divested control completely. The fact that the guardian stored it safely for the minor is prudent custodianship, not retention of possession by donor. All three essentials are satisfied.

Option (b) Incorrect: This misstates Muslim Law. Minors can be donees of valid gifts; their legal incapacity does not void gifts made to them. The law accommodates this through the mechanism of guardian acceptance—the guardian accepts on the minor's behalf and takes possession as custodian until the minor attains majority. This principle ensures minors can receive beneficial transfers while protecting their interests through guardianship. Capacity to accept is satisfied through the guardian's acceptance; capacity to own property exists even for minors.

Option (c) Incorrect: Delivery to the guardian constitutes delivery to the minor donee. The legal possession vests in the minor through the guardian's custody. Where the guardian stores the gifted property securely on behalf of the minor, this fulfills the possession requirement—the donor has divested control and the donee (through guardian) has obtained possession. The location of storage (guardian's locker) is irrelevant; what matters is that control shifted from donor to guardian-for-minor. Expecting physical possession by an 8-year-old of valuable jewelry would be impractical and contrary to the protective purpose of guardianship.

Option (d) Incorrect: While this option correctly identifies that Hamida expressed intention and parted with physical control, it incompletely states the legal position. The gift is valid not merely because of declaration and delivery, but because all three essentials including acceptance (through guardian) were satisfied. This option omits the crucial role of guardian acceptance, which is specifically what the sons challenged. The complete legal analysis requires affirming that guardian acceptance on behalf of a minor donee is legally valid, not just that delivery occurred.

5. Correct Answer: (d)

Reference Line: "Delivery of possession may be actual (handing over keys, documents, or physical control) or constructive (change of possession through acknowledgment by tenants or mutation in records). Constructive possession acceptable if mutation and acknowledgment of title shown."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While physical delivery is one mode of transfer, it is not the only mode. For immovable property, particularly commercial buildings with tenants, constructive possession through mutation and tenant acknowledgment is legally recognized as valid delivery. The law does not mandate physical vacation or document handover when the nature of property makes constructive delivery more practical. Ahmed effectuated transfer by changing municipal records and directing tenants to recognize Yusuf as landlord—these acts demonstrate divesting of ownership and conferring possession.

Option (b) Incorrect: This fundamentally misstates Muslim Law. Oral gifts are valid under Mohammedan Law for both movable and immovable property, though they require strict proof. The law does not mandate written documentation for immovable property gifts—rather, it requires clear proof of declaration, acceptance, and delivery. While registration provides better evidence, it is not a substantive requirement under Muslim personal law. The writing requirement applies under Transfer of Property Act for non-Muslims, but Muslims governed by personal law can make oral gifts of any property.

Option (c) Incorrect: While this reaches the correct conclusion, it understates the legal principle by suggesting mutation alone effects transfer "despite absence of physical delivery." The correct understanding is that mutation combined with tenant acknowledgment constitutes constructive delivery—it is not a substitute for delivery but rather is itself a form of delivery. The law recognizes constructive possession as equally valid as physical delivery for immovable property. The phrasing "despite absence" suggests delivery is missing, when in fact constructive delivery is present and complete.

Option (d) Correct: For immovable property, particularly rental properties, constructive delivery through mutation and tenant acknowledgment is a recognized and valid form of qabza. Ahmed changed municipal records to Yusuf's name, demonstrating public recognition of title change. More significantly, he instructed tenants to treat Yusuf as landlord, and they paid rent to Yusuf for two years—this tenant acknowledgment is strong evidence of possession transfer. These acts collectively show Ahmed divested control and Yusuf obtained possession, satisfying the delivery requirement through constructive rather than physical means.

## **5. Voice Samples Do Not Violate Article 20(3) of the Constitution**

1. Correct Answer: (b)

Reference Line: "Although the collection of voice samples is constitutionally valid, it must be carried out under judicial supervision to ensure procedural fairness. The Court emphasised that directions for such collection must come from a Magistrate, not merely from the police, ensuring that the process is both authorised and necessary."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: While voice samples are correctly classified as non-testimonial physical evidence outside Article 20(3) protection, this does not authorize police to collect them unilaterally. Section 349 BNSS (formerly Sections 53-54 CrPC) requires Magistrate's authorization for such collection. The constitutional validity of voice sample collection is separate from the procedural requirement of judicial oversight. Police cannot bypass this procedural safeguard by citing the non-testimonial nature of the evidence.

Option (b) Correct: The judgment establishes a two-tier framework: (i) voice samples don't violate Article 20(3) as they are non-testimonial, but (ii) their collection requires Magistrate's direction to ensure



procedural fairness under Article 21. This judicial supervision prevents arbitrary police action and ensures the sample collection is necessary and proportionate. The Court emphasized that directions must come from a Magistrate, not police, balancing investigative needs with individual rights through procedural safeguards.

Option (c) Incorrect: This creates a false equivalence. While voice samples and fingerprints are both physical evidence, the legal framework differs. Fingerprints can be collected under specific statutory provisions during arrest and investigation with less formality. However, voice sample collection, especially requiring a person to speak specific words, involves greater intrusion and requires explicit Magistrate authorization under Section 349 BNSS. The procedural requirements for different types of physical evidence vary based on the degree of intrusion.

Option (d) Incorrect: The premise is fundamentally wrong. Providing a voice sample for comparison purposes does not amount to confession or testimonial evidence. The Court distinguished between speaking words for identification (non-testimonial) and making statements disclosing personal knowledge establishing guilt (testimonial). Repeating phrases for voice matching analyzes physical sound patterns, not mental content or admission of guilt. The refusal ground (Article 20(3)) is therefore inapplicable, though the procedural violation remains.

2. Correct Answer: (a)

Reference Line: "Selvi v. State of Karnataka (2010) – Narco-analysis and brain mapping violate Article 20(3) as they extract mental testimony. Voice samples are physical traits used for comparison through spectrographic analysis, not involving mental process or volition, making them material evidence, not testimonial evidence."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: This correctly applies the testimonial-material distinction. Polygraph tests, like narco-analysis and brain mapping, are prohibited under Selvi because they extract testimonial evidence—they measure involuntary physiological responses that reveal mental states, reactions, or consciousness of guilt. This constitutes compelled self-incrimination. In contrast, voice samples merely capture physical sound characteristics for identification comparison, not mental content. The first direction violates Article 20(3); the second doesn't. Courts cannot combine prohibited and permissible methods simply for efficiency.

Option (b) Incorrect: Scientific nature or absence of "direct oral confession" is not the determinative test. The constitutional protection extends beyond explicit confessions to any compelled disclosure revealing incriminating mental content. Polygraph tests measure involuntary responses indicating deception or guilt—this is testimonial compulsion prohibited by Article 20(3). The fact that evidence emerges through scientific instrumentation rather than direct statement doesn't circumvent constitutional protection. Investigative efficiency cannot override fundamental rights; each method must independently satisfy constitutional scrutiny.

Option (c) Incorrect: Selvi's prohibition is not limited to narco-analysis and brain mapping specifically—it establishes the broader principle that any technique extracting involuntary testimonial evidence through scientific means violates Article 20(3). Polygraph tests fall within this prohibited category as they measure physiological indicators of truthfulness/deception, revealing mental states and consciousness of guilt. The judgment's reasoning—that compelled revelation of mental content violates self-

incrimination protection—applies equally to all such techniques regardless of their specific scientific mechanism.

Option (d) Incorrect: While the concern about FIR contents is reasonable, reading text for voice comparison purposes doesn't automatically convert non-testimonial evidence into testimonial evidence. The key distinction is the purpose and use: if words are used solely for comparing voice characteristics (pitch, tone, frequency), not for their semantic content or as admission of facts, they remain non-testimonial. However, courts should direct neutral phrases to avoid this ambiguity. The constitutional violation here stems from the polygraph test, not the voice sample methodology.

### 3. Correct Answer: (d)

Reference Line: "The term 'person' in these provisions is not confined to the accused but includes any individual whose voice or identity is material to the investigation. The sample collection must be restricted to non-incriminatory words or sounds, used solely for comparison and not for eliciting confessional material. These procedural safeguards balance individual rights with investigative needs."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While correctly noting that "person" includes non-accused, the reasoning about conscience violation is misconceived. Reading words for voice identification doesn't compel belief in or endorsement of those words—it's a mechanical act for comparison, not expression of conscience. Article 21 concerns are addressed through procedural safeguards (neutral content), not by prohibiting voice sample collection altogether. The Magistrate has authority over non-accused persons under Section 349 BNSS when their voice identification is material to investigation.

Option (b) Incorrect: This conflates the content of sample with its testimonial character. Voice samples remain non-testimonial regardless of what words are spoken because the analysis examines physical sound characteristics, not semantic content or endorsement. However, this doesn't validate using jihadi literature—courts should avoid incriminatory or prejudicial content. The problem is procedural impropriety (violating safeguard requiring neutral words), not transformation into testimonial evidence. The physical voice characteristics remain the evidentiary focus, not the textual association.

Option (c) Incorrect: While the first part is correct—Section 349 BNSS applies to "any person" and voice characteristics are physical evidence—the assertion that content is "irrelevant" is wrong. The Court explicitly mandated procedural safeguards requiring non-incriminatory words. Using jihadi literature creates prejudice, association with extremism, and potential misuse beyond mere identification. Though voice characteristics are unaffected by content choice, procedural fairness under Article 21 requires neutral phrases. This safeguard prevents abuse and maintains the non-testimonial character of the exercise.

Option (d) Correct: This correctly balances the Magistrate's statutory authority under Section 349 BNSS (which extends to non-accused persons when investigation requires) with the constitutional requirement of procedural safeguards. Voice samples from suspects are permissible as physical evidence, but the Court mandated that sample collection use neutral, non-incriminatory words to prevent testimonial character or prejudicial association. The order should be modified to use neutral content rather than jihadi literature, maintaining investigative legitimacy while respecting Article 21's fair procedure guarantee.

## 4. Correct Answer: (b)

Reference Line: "Voice sample is a physical trait used for comparison, similar to taking biometric data, blood samples, or DNA profiles, which have repeatedly been held outside the ambit of Article 20(3). The Magistrate may order any person to provide handwriting, fingerprints, photographs, and voice samples for investigation purposes."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: While courts should consider relevance when directing evidence collection, this option creates an unsustainable distinction. Voice samples may be relevant in rape cases for multiple reasons: matching to phone conversations, identifying the perpetrator in cases with multiple suspects, or verifying alibis involving voice communication. More fundamentally, once the constitutional hurdle is cleared (voice samples are non-testimonial), relevance is a matter of investigative assessment and judicial discretion, not an accused's right to selective compliance. The accused cannot veto specific types of permissible physical evidence by claiming they perceive it as irrelevant.

Option (b) Correct: The constitutional analysis under Article 20(3) applies uniformly to all physical evidence—DNA, blood, handwriting, fingerprints, and voice samples are all material, non-testimonial evidence falling outside constitutional protection. Once this category is established, an accused cannot selectively object to specific types based on perceived relevance or personal preference. Section 349 BNSS authorizes collection of various physical identifiers; refusing one while accepting others has no legal basis. The investigative authority determines what evidence is necessary; constitutional protection does not extend to choosing which permissible evidence to provide.

Option (c) Incorrect: This creates a non-existent "selective consent" doctrine. Constitutional rights are not transactional or negotiable. An accused's voluntary consent to some physical evidence doesn't create enforceable expectations about other evidence. The legal framework permits compulsory collection of all non-testimonial physical evidence under Magistrate authorization—consent merely makes collection easier but doesn't transform it into a bargaining tool. Partial cooperation doesn't legally or constitutionally limit the court's authority to direct other permissible sample collection based on investigative needs.

Option (d) Incorrect: While the conclusion is correct (voice sample is permissible), the reasoning is flawed. It's not accurate that relevance and necessity are solely for the Magistrate without any judicial review. Courts can examine whether sample collection is arbitrary, unnecessary, or amounts to harassment. However, the Sessions Court (not just Magistrate) has inherent authority to direct such collection under Section 349 BNSS. More importantly, the accused's objection here isn't about arbitrary exercise of power but about constitutional protection—which doesn't exist for voice samples. The question tests understanding of why voice samples are permissible (non-testimonial nature), not judicial review standards.

## 5. Correct Answer: (b)

Reference Line: "The Supreme Court clarified that the Calcutta High Court erred in disregarding Ritesh Sinha (2019) merely because the issue was referred to a larger Bench. Under Article 141 of the Constitution, Supreme Court judgments remain binding on all courts unless expressly overruled. This reinforces the doctrine of stare decisis, ensuring stability and predictability in the law."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: This fundamentally misunderstands Article 141's operation and the doctrine of stare decisis. A Supreme Court judgment's binding force under Article 141 continues until it is expressly overruled by a subsequent judgment—mere reference to a larger Bench for reconsideration does not suspend or diminish its binding authority. The reference indicates the Court may revisit the issue, but until that happens and results in overruling, the original judgment remains good law binding on all subordinate courts. Allowing High Courts to disregard binding precedents based on pending references would create legal uncertainty and undermine judicial hierarchy.

Option (b) Correct: Article 141 declares that the law declared by the Supreme Court is binding on all courts within India. This binding force continues until the judgment is expressly overruled, modified, or distinguished. The fact that an issue has been referred to a larger Bench indicates potential reconsideration but doesn't invalidate the existing precedent. The doctrine of stare decisis requires lower courts to follow binding precedents to ensure consistency, predictability, and respect for judicial hierarchy. The High Court's independent interpretation, while pending reference exists, violates these foundational principles. The Supreme Court correctly held this approach erroneous.

Option (c) Incorrect: While High Courts do have constitutional interpretation powers, this doesn't extend to disregarding binding Supreme Court precedents. Article 141 creates a hierarchical binding system—Supreme Court law declared binds all subordinate courts. High Courts cannot exercise "concurrent jurisdiction" to decline following Supreme Court judgments they find doubtful; their recourse is to refer questions to the Supreme Court or respectfully express disagreement while following the binding precedent. The constitutional scheme prioritizes uniformity through hierarchical precedent over decentralized interpretation that could create conflicting constitutional standards across different High Courts.

Option (d) Incorrect: While Section 349 BNSS (2023) does provide statutory reinforcement, this is not the legal basis for holding the High Court erred. The High Court's error occurred in 2022 when it disregarded Ritesh Sinha (2019) based on pending reference—this violated Article 141's binding precedent doctrine irrespective of subsequent statutory developments. The Supreme Court's ratio decidendi focuses on stare decisis and Article 141, not statutory validation. Moreover, even if BNSS didn't exist, Ritesh Sinha would remain binding. The statutory recognition is an additional alignment, not the foundational reason for the High Court's error.

## **6. Minor's Property Rights After Attaining Majority**

1. Correct Answer: (b)

Reference Line: "The Court held that repudiation may occur either by filing a formal suit for cancellation or declaration, or by unequivocal conduct by the former minor upon attainment of majority (for example, selling the property, taking possession, acknowledging title, asserting ownership). When the minor repudiates the transaction, it is treated as void ab initio for purposes of rights of subsequent transferees."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: This contradicts the Court's holding that repudiation need not be through formal suit only. The statute doesn't mandate any specific mode of repudiation. Priya's act of executing a registered sale deed, receiving consideration, and delivering possession to Suresh constitutes



unequivocal conduct demonstrating her intention to assert ownership and repudiate the guardian's unauthorized sale. Filing a suit is one mode, not the exclusive mode of avoidance. The law recognizes practical realities where minors may exercise ownership rights directly rather than litigating.

Option (b) Correct: Under Section 8(2) and 8(3) HMGA, guardian's unauthorized alienation is voidable at the minor's option. The Court clarified that repudiation can occur through unequivocal conduct upon attaining majority, not only through formal suit. Priya's sale to Suresh—involving execution of registered deed, receipt of valuable consideration, and delivery of possession—demonstrates clear, unambiguous assertion of ownership rights, effectively repudiating the 2018 transaction. This repudiation operates retrospectively, making Rajesh's sale void ab initio, thereby defeating Amit's derivative title.

Option (c) Incorrect: This mischaracterizes the legal effect of repudiation. Once Priya validly repudiates through conduct, the guardian's sale is treated as void ab initio—meaning it never transferred valid title to Amit. There is no "double alienation" creating a title dispute between two valid transfers; rather, only Priya's sale to Suresh is valid because she had valid title to transfer. The registered nature of Amit's purchase or Rajesh's status as lawful guardian is irrelevant when court permission was absent and the minor subsequently exercised the option to avoid.

Option (d) Incorrect: This misstates the fundamental principle. Section 8 HMGA makes unauthorized alienations by guardians voidable, not void ab initio. The distinction is critical: void transactions are nullities from inception regardless of any action; voidable transactions remain valid unless and until the minor exercises the option to avoid upon attaining majority. Amit's purchase was initially valid but became void ab initio only when Priya repudiated it through her sale to Suresh. The automatic void characterization eliminates the minor's option, which the statute expressly preserves.

## 2. Correct Answer: (d)

Reference Line: "Repudiation may occur by unequivocal conduct by the former minor upon attainment of majority (for example, selling the property, taking possession, acknowledging title, asserting ownership). G. Annamalai Pillai v. D.R.O. Cuddalore recognized repudiation by conduct of guardian's unauthorized lease."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This incorrectly limits repudiation to acts that transfer complete ownership. The legal test for repudiation by conduct is whether the former minor's actions unequivocally demonstrate assertion of ownership rights and rejection of the guardian's transaction—not whether those acts themselves transfer full title. Leasing property as owner, collecting rent, and issuing receipts in her name are clear assertions of ownership inconsistent with recognizing Developer X's title. The cited precedent (G. Annamalai Pillai) specifically recognized lease as valid mode of repudiation.

Option (b) Incorrect: The law doesn't create a hierarchy of property transactions where only "complete" alienations constitute repudiation while "lesser" interests don't. Any unequivocal conduct asserting ownership rights suffices for repudiation. A lease executed by the former minor as owner-lessor is an exercise of ownership rights (*jus disponendi*) that clearly manifests intention to treat the property as hers, not Developer X's. The precedents cited include lease as an accepted form of repudiation conduct, refuting this narrow interpretation.

Option (c) Incorrect: While the July 2024 suit is indeed within limitation and valid, this option incorrectly subordinates the earlier March lease to mere "evidence of intention." The lease itself constituted

repudiation by conduct in March 2024—the suit filed later is an additional or alternative mode, not the primary one. Repudiation was complete in March through unequivocal conduct; the subsequent suit reinforces it but isn't the operative repudiation event. Both modes are independent and equally valid under the Court's framework.

Option (d) Correct: Meena's actions in March 2024—executing a lease as lessor-owner, collecting advance rent, and issuing owner's receipts—constitute unequivocal conduct demonstrating assertion of ownership rights over the property. These acts are fundamentally inconsistent with recognizing Developer X's claimed title from the 2019 purchase. The Court held that repudiation need not be through sale alone; any conduct unequivocally asserting ownership (including leasing, as recognized in *G. Annamalai Pillai*) suffices. This repudiation occurred within months of attaining majority, well within limitation, making Developer X's title void ab initio.

### 3. Correct Answer: (a)

Reference Line: "The option of avoidance must be exercised within the applicable limitation period from attainment of majority, failing which the right may be lost. It does not automatically become void unless and until the minor repudiates it. This means the minor has a choice to affirm or avoid the transaction upon attaining majority."

Difficulty Level: Difficult

Explanation: Option (a) Correct: A voidable transaction can be either avoided or affirmed by the former minor upon attaining majority. Vivek's 2021 letter—written three years after attaining majority with apparent knowledge of the transaction—acknowledged the sale's validity and sought to negotiate benefits under it rather than challenging it. This constitutes affirmation, which is the mirror-opposite of repudiation. Once a former minor affirms a voidable transaction with knowledge of rights, the right to repudiate is lost regardless of whether limitation has expired. Affirmation need not be express; conduct recognizing the transaction's validity suffices.

Option (b) Incorrect: This misunderstands the nature of affirmation. Once a voidable transaction is affirmed by the party with the option to avoid, that option is extinguished—the transaction becomes fully valid and can no longer be challenged. Affirmation with knowledge of rights is irrevocable. A subsequent suit cannot resurrect the right to repudiate after affirmation, even if filed within limitation. The law grants a choice (affirm or avoid), not multiple alternating choices. Vivek's 2021 conduct constituted election to affirm; he cannot later reverse that election.

Option (c) Incorrect: While limitation is a relevant issue, this option incorrectly calculates the limitation period and overlooks the affirmation issue. Limitation for suits under specific performance or declaration varies; the three-year period mentioned may not apply to all cases. More fundamentally, the question isn't primarily about limitation but about affirmation. Even if the 2025 suit were within limitation (depending on applicable law), Vivek's 2021 affirmation through conduct bars the claim. The case should be dismissed on affirmation grounds, not limitation.

Option (d) Incorrect: While mistake of law can sometimes excuse certain actions, the doctrine has limited application to affirmation of voidable transactions by majors with apparent knowledge. Vivek's 2021 letter shows active engagement with Buyer B, awareness of the property and transaction, and negotiation for benefits—not mistake about rights. Moreover, creating a conditional rule that "suit should proceed if mistake proved" misses the point: affirmation with knowledge has already occurred. The

burden would be heavily on Vivek to prove mistake, and the facts don't support it. Limitation isn't the primary bar—affirmation is.

4. Correct Answer: (c)

Reference Line: "The option of avoidance must be exercised within the applicable limitation period from attainment of majority, failing which the right may be lost. Delay or inaction may result in the alienation acquiring finality, especially if the minor remains silent and other parties act."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While prolonged silence can constitute affirmation in some contexts, mere inaction during the limitation period doesn't automatically amount to affirmation unless accompanied by positive acts recognizing the transaction's validity. The option adds "with knowledge" which is not established in the facts—Rohit may have been unaware or unable to act. More importantly, the law provides a limitation period precisely to give the former minor time to decide. Filing suit within limitation validly exercises the option to avoid. If silence alone constituted affirmation, the statutory protection would be illusory. Four years of silence within limitation is not legally determinative affirmation.

Option (b) Incorrect: This incorrectly imports equitable doctrines that don't override statutory rights under HMGA. Company C's improvements, however substantial, were made on property acquired through a voidable transaction. The law is clear that when repudiation occurs, the guardian's sale is treated as void ab initio—meaning Company C never had valid title. Subsequent purchasers and improvers take subject to the minor's right to repudiate. While Company C might have compensation claims against the guardian for breach, improvements don't create superior rights against the rightful owner. Property law protects title over improvements by non-title holders.

Option (c) Correct: The fundamental principle is that voidable transactions remain valid until avoided, and the minor has the entire limitation period to exercise the option. Limitation for such suits is typically three years from attaining majority (under Article 59 of Limitation Act for cancellation). Rohit attained majority in January 2020 and filed suit in January 2024—exactly at or within the limitation period. Filing suit within limitation validly exercises the statutory option to repudiate, regardless of prior inaction. The law doesn't require immediate action; it provides the limitation period as the window for decision-making.

Option (d) Incorrect: While the conclusion may be correct, the reasoning is incomplete and potentially wrong on the improvements issue. The guardian's sale did vest title in Company C—it was voidable, not void, and remained valid until repudiation. Company C had colorable title during the period 2017-2024. The correct analysis is that Rohit's timely repudiation within limitation makes the 2017 sale void ab initio retroactively, defeating Company C's derivative title. On improvements, while the conclusion is correct (improvements don't create ownership), the legal position on compensation is more nuanced than this option suggests, and isn't the core issue here.

5. Correct Answer: (b)

Reference Line: "This means the minor has a choice to affirm or avoid the transaction upon attainment of majority. Without taking the option, the transaction may stand. The option of avoidance must be exercised within the applicable limitation period from attainment of majority, failing which the right may be lost."

Explanation: Option (a) Incorrect: While property rights generally transmit through succession, the right to avoid a voidable transaction is a personal option granted to the specific individual (former minor) who was protected by the statute. This right is linked to the minor's incapacity and the guardian's unauthorized act affecting that specific minor's interests. Personal rights and options don't automatically transmit to heirs. Moreover, if this right were freely transmissible, it would create perpetual uncertainty in titles—exactly what limitation periods are meant to prevent. The statute protects the minor, not subsequent generations indefinitely.

Option (b) Correct: The right to repudiate a voidable transaction is a personal right/option vested in the former minor, not a transmissible property right. This option must be exercised by the person who had the disability (minority) and whose interests were affected by the guardian's unauthorized act. The HMGA protects the minor's interests during minority and gives that specific individual a period after majority to decide whether to affirm or avoid. When Kavita died without exercising this option, the right died with her—her heirs inherit the property as it stood, not the personal option to challenge past transactions.

Option (c) Incorrect: While limitation is relevant, this option miscalculates and misapplies it. The limitation period for declaration suits under Article 58 of Limitation Act is three years, but there are various exceptions and calculations. More fundamentally, even if limitation had expired (which may or may not be the case depending on when Kavita knew of the transaction), the primary reason the heirs' suit fails is not limitation but the non-transmissibility of the personal option to avoid. The suit fails because heirs don't have the right to repudiate, not merely because limitation expired.

Option (d) Incorrect: While heirs do inherit property with its incidents, the "right to challenge unauthorized alienations" is not an incident of property ownership but a personal statutory option. This option incorrectly characterizes Kavita's inaction as "legally neutral"—under property law, when a person with an option fails to exercise it within the limitation period, the option lapses and the transaction becomes final. Moreover, heirs inherit the property in its state as it existed—if the alienation became final due to non-repudiation, heirs inherit subject to that. The statute protects the specific minor, not indefinite future claimants.

## **7. Dock Identification Without TIP**

1. Correct Answer: (c)

Reference Line: "When a witness is a stranger to the accused, the potential for error is higher; hence, the absence of TIP in such cases invites strong suspicion. In the absence of TIP, especially where the witness did not know the accused previously, courts must treat dock identification with caution."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: While eyewitness testimony is indeed direct evidence, its reliability depends on the circumstances of identification. Merely being present at the scene doesn't guarantee accurate identification, especially at night when a stranger is being identified. The confidence of a witness in court cannot substitute for procedural safeguards like TIP when prior familiarity is absent. Confidence can result from suggestion, repeated questioning, or seeing the accused in custody—not necessarily accurate recollection. The law requires reliability, not just certainty.

Option (b) Incorrect: TIP is not a "mere procedural formality" but a substantive safeguard designed to test and ensure reliability of identification evidence. The Supreme Court has repeatedly emphasized that TIP serves critical functions: preventing suggestion, testing witness memory early, and enhancing



evidentiary value. When the witness had no prior acquaintance with the accused, absence of TIP significantly undermines reliability because court identification may result from seeing the accused in the dock rather than actual memory of the crime scene.

Option (c) Correct: This correctly applies the principle established by the Supreme Court. When two conditions combine—(i) witness admits no prior knowledge of the accused, and (ii) no TIP was conducted—the dock identification becomes highly suspect. The witness may be identifying the accused merely because he is in the dock, not from actual memory. This creates reasonable doubt about identification, which is foundational to establishing guilt. Without reliable identification, the prosecution fails to prove who committed the crime beyond reasonable doubt, warranting acquittal.

Option (d) Incorrect: While absence of TIP severely weakens identification evidence, it doesn't render it automatically "inadmissible." Evidence can be admitted but may be given little or no weight depending on overall circumstances. If there are other compelling circumstances (recovery, motive, forensics) and some corroboration, courts may still consider identification evidence though with caution. The correct position is that such evidence is unreliable and creates doubt, not that it is legally inadmissible. Admissibility and weight are distinct concepts.

2. Correct Answer: (a)

Reference Line: "An essential factor in evaluating identification evidence is whether the witness had prior acquaintance with the accused (i.e., knew the person before commission of the crime). When a witness is a stranger to the accused, the potential for error is higher; hence, the absence of TIP in such cases invites strong suspicion."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: The principle distinguishes between witnesses who are strangers to the accused and those with prior familiarity. When a witness had substantial prior acquaintance—here, three years of regular commercial interactions—the witness's ability to recognize the accused is based on pre-existing knowledge, not identification at the crime scene moment. TIP is designed to test identification when the witness is seeing the accused for the first or few times. When prior familiarity exists, the risk of mistaken identity is minimal, making TIP unnecessary as a procedural safeguard.

Option (b) Incorrect: This overstates the TIP requirement. TIP is not "mandatory in all criminal cases" but is a safeguard particularly necessary when witnesses are strangers to the accused. The law recognizes that when witnesses have prior familiarity with the accused—through family relations, neighborhood, regular business dealings—their identification rests on established knowledge rather than fresh observation requiring verification. Making TIP mandatory regardless of circumstances would create unnecessary procedural burden without adding reliability where acquaintance is established.

Option (c) Incorrect: While corroboration strengthens any case, requiring independent witnesses specifically to verify prior acquaintance imposes an unreasonably high standard not mandated by law. Prior acquaintance is a question of fact that can be established through the witness's testimony, cross-examination, and overall circumstances. If the defence doubts the claimed acquaintance, they can challenge it through cross-examination. The existence of prior relationship affects the need for TIP, but doesn't itself require independent verification through additional witnesses as a mandatory condition.

Option (d) Incorrect: Documentary evidence like shop records, while helpful corroboration, is not a legal prerequisite for accepting testimony of prior acquaintance. Many genuine prior relationships exist without documentary trails—neighbourhood familiarity, casual commercial dealings, social interactions. The witness's testimony about prior acquaintance, if consistent and unshaken in cross-examination, can suffice. Courts assess credibility through examination, not by imposing documentary proof requirements. The legal question is whether acquaintance existed, not whether it can be documentarily proven.

3. Correct Answer: (c)

Reference Line: "The judgment also underscores that identification is often part of a combination of circumstantial links. Even a strong 'last seen' link is insufficient without strong supporting evidence if other links are weak. The Court found that a large time gap, absence of TIP, omission in FIR, all cumulatively broke the chain."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This fundamentally misunderstands the "chain of circumstances" doctrine in criminal law. In circumstantial evidence cases, every link in the chain must be strong and unbroken—the chain is only as strong as its weakest link. Weak links cannot be "compensated" by strong links; rather, a single weak link breaks the entire chain and creates reasonable doubt. Identification is a foundational link because it establishes who committed the crime. If this link is weak (stranger witness, no TIP), the entire circumstantial edifice collapses regardless of how strong motive or other circumstances are.

Option (b) Incorrect: While the "last seen" doctrine creates evidential weight, it does not create an irrebuttable presumption or automatic guilt. The doctrine states that when victim and accused were last seen together in proximity to death time/place, the burden may shift to the accused to explain. However, this operates only when identification itself is reliable. If the person's identification as the one "last seen" is itself doubtful due to lack of TIP and stranger witness, the "last seen" link itself is unproven. Additionally, weak identification affects conviction itself, not merely sentencing—guilt must be proved beyond reasonable doubt.

Option (c) Correct: The Supreme Court's principle for circumstantial evidence requires that: (i) circumstances must form a complete chain, (ii) chain must point only to guilt of accused, (iii) circumstances must be inconsistent with innocence, and (iv) every link must be proved beyond reasonable doubt. When identification—a critical link establishing who was last seen—is unreliable due to stranger witness and absence of TIP, this link is weak. A weak link breaks the chain, creating reasonable doubt. The Court specifically held that absence of TIP combined with other weaknesses "broke the chain," warranting acquittal.

Option (d) Incorrect: While forensic evidence greatly strengthens circumstantial cases, it is not a legal requirement for conviction. Courts have sustained convictions based purely on strong circumstantial evidence without DNA or fingerprints, especially in cases predating modern forensics. The issue here is not absence of forensic evidence but unreliability of identification evidence. Even with forensics, if the person identified as the perpetrator is wrongly identified, the conviction would be unsafe. The problem is the weak identification link, not general insufficiency of circumstantial evidence as a category.

## 4. Correct Answer: (b)

Reference Line: "In the absence of TIP, especially where the witness did not know the accused previously, courts must treat dock identification with caution. The burden lies on prosecution to prove guilt beyond reasonable doubt. Identification must be reliable."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: TIP is not "mandatory" in the sense that its absence automatically invalidates identification evidence. TIP is a procedural safeguard to enhance reliability, not an absolute legal requirement. Courts must treat dock identification "with caution" when TIP is absent and witness is a stranger—but this means careful scrutiny, not automatic rejection. If other factors (prolonged viewing, good lighting, consistent description, corroborative circumstances) establish reliability beyond reasonable doubt, identification can be accepted. The law requires reliability, not mechanically mandating TIP in every case.

Option (b) Correct: This accurately states the legal position. While absence of TIP when witness is a stranger requires "caution" and careful scrutiny, identification evidence can still be relied upon if other factors establish reliability beyond reasonable doubt. Here, 15-20 minutes viewing in broad daylight with consistent description provides strong reliability despite absent TIP. The prosecution must still prove identity beyond reasonable doubt, but TIP absence is not fatal if viewing circumstances and evidence quality meet that standard. Courts assess totality of circumstances, not mechanical checklists.

Option (c) Incorrect: This fundamentally misstates the burden of proof in criminal cases. The burden never shifts to the accused to "prove mistaken identity" or prove innocence. Throughout the trial, the burden remains on the prosecution to prove every element of the offence, including identity, beyond reasonable doubt. The accused has no burden to prove anything—the prosecution's failure to prove is sufficient for acquittal. While the accused may present evidence creating doubt, this is not a legal burden but a tactical choice. The "burden shift" concept applies only in specific statutory exceptions, not to identification evidence generally.

Option (d) Incorrect: This overstates the TIP requirement by making it "automatic" rejection criterion. While TIP absence is a significant factor requiring caution when witness is a stranger, it doesn't create an automatic rule requiring rejection. The law's standard is "proof beyond reasonable doubt" of identity—TIP is one means to achieve that, but not the only means. If prosecution can establish reliable identification through other evidence (excellent viewing conditions, distinctive features accurately described, corroboration), the absence of TIP, though weakening the case, doesn't mandate automatic acquittal. Each case is assessed on its totality of circumstances.

## 5. Correct Answer: (d)

Reference Line: "When a witness is a stranger to the accused, the potential for error is higher; hence, the absence of TIP in such cases invites strong suspicion. From an investigative perspective, the judgment serves as a caution: if the accused are strangers to witnesses, conducting a TIP is highly advisable early."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While practical constraints in investigation are real, they don't automatically

validate weak evidence or lower the prosecution's burden of proof beyond reasonable doubt. If TIP couldn't be conducted, the consequence is that identification evidence remains weak and unreliable—not that court identification becomes acceptable substitute. The prosecution must still prove identity beyond reasonable doubt through other reliable means. Practical difficulties in investigation are the prosecution's problem to solve, not grounds to accept unreliable evidence. Courts cannot dilute evidentiary standards based on investigative convenience.

Option (b) Incorrect: This makes multiple legal errors. First, the burden never shifts to the defence in criminal cases to disprove prosecution evidence—the burden always remains on prosecution to prove guilt beyond reasonable doubt. Second, alibi witnesses are presented by defence to create doubt about the accused's presence at the crime scene, which directly relates to identity and commission of the offence. Third, even if alibi is weak, the prosecution's identification evidence must independently satisfy the beyond reasonable doubt standard. Weak prosecution case is not strengthened by weak defence case—acquittal follows from reasonable doubt.

Option (c) Incorrect: While this option reaches the correct conclusion (identification should be rejected), the reasoning is incomplete. This option focuses only on the practical difficulties explanation and stranger witness issue, but fails to emphasize the critical hearsay foundation of Ramesh's claimed knowledge. The most fundamental flaw is that Ramesh's identification isn't based on personal observation of the kidnapping but on what "someone told him." This hearsay basis, combined with stranger status and no TIP, creates compounded unreliability. Option (d) captures this more completely.

Option (d) Correct: This correctly identifies the multiple compounding weaknesses that render identification unreliable. First, Ramesh's knowledge comes from hearsay ("someone told him"), not personal observation—meaning he has no independent basis to identify the kidnapper. Second, Ramesh never saw Deepak before, making him a stranger witness with high potential for error. Third, no TIP was conducted to test identification reliability early. Fourth, court identification under these circumstances likely results from seeing Deepak in custody, not actual memory. These cumulative factors create reasonable doubt about identity, causing prosecution to fail its burden of proving guilt beyond reasonable doubt.

## **8. Canteen Workers Employment Status**

1. Correct Answer: (b)

Reference Line: "When a facility (like a canteen) is run by a third party (society/contractor) on the premises of an establishment, mere provision of space or infrastructure by the establishment does not automatically make the workers its employees. The judgment emphasises that providing subsidy, free premises, detached role of facility-management does not suffice. The substance of employment is examined over form or benefit."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: Duration of service and working on company premises are not determinative factors for establishing employment relationship. The control test requires examining who has the right to control the manner and method of work, who hires and fires, who pays wages, and who exercises disciplinary authority. Integration with the company's workforce as beneficiaries of service doesn't create employment; integration as part of the organizational structure does. Here, workers are



integrated with the society's operations, not the company's management structure.

Option (b) Correct: This correctly applies the principle that subsidy provision and infrastructure facilities, without more, do not establish employment relationship. The critical factors—hiring, wage payment, supervision, and disciplinary control—all rest with the society, not the company. The company merely facilitates the welfare facility by providing space and financial support. The Supreme Court emphasized that "benefit provision  $\neq$  employment" and substance must be examined over form. Without control over work performance and employment terms, no master-servant relationship exists between workers and company.

Option (c) Incorrect: Financial subsidy, even substantial (60%), does not equate to employment control. Many entities provide subsidies for welfare facilities, CSR activities, or vendor support without creating employment relationships. The relevant test is control over work method, hiring/firing authority, wage determination, and disciplinary power—not financial contribution to operations. Subsidy is a facilitative benefit, not an employment-creating factor. The multi-factor test requires examining actual employment control, which subsidy alone doesn't establish.

Option (d) Incorrect: There is no legal doctrine that automatically converts contractual workers or third-party employees into direct employees based solely on duration of service at a location. Estoppel in employment matters requires representation, reliance, and detriment—none established by mere passage of time. The principle of deemed employment applies in specific statutory contexts (like Industrial Disputes Act regularization after continuous service with the same employer), but the society remains the employer here throughout. Long service with one employer doesn't create employment with another entity providing the premises.

## 2. Correct Answer: (d)

Reference Line: "In RBI case (1996), the employer had direct control over staff selection, supervision, wages etc., thus employees of Bank. Courts now adopt a composite/multi-factor approach – including: control, integration, payment of wages, who bears risk-profit, employment terms, disciplinary power, supervision."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Form does not prevail over substance in employment relationships. While formal documentation like contracts and payslips provides evidence, courts apply the control test and multi-factor approach to determine the real employer. When one entity exercises actual control over work, appointments, supervision, and discipline while another merely processes paperwork, the entity with control is the true employer. The RBI precedent specifically held that despite society's formal role, RBI's substantive control made it the employer. Legal form cannot mask economic reality.

Option (b) Incorrect: Indian employment law generally does not recognize "joint employer" doctrine as understood in some foreign jurisdictions. Employment relationships are determined by identifying the single entity exercising predominant control, though vicarious liability may extend in specific contexts. When control factors overwhelmingly point to one entity (here RBI with appointment approval, supervision, disciplinary power), that entity is the employer—not a shared responsibility scenario. The multi-factor test identifies the employer, not multiple employers. Contract Labour Act provides different framework for principal employer liability, which is distinct from direct employment.

Option (c) Incorrect: This confuses direct employment with contract labour situations. Contract Labour

(Regulation and Abolition) Act applies when workers are employed by contractors to perform work for principal employers. Here, the question is whether workers are directly employed by RBI despite the society's interposition. The RBI precedent held these were direct employees of RBI, not contract labour. Principal employer liability under CLRA is secondary/statutory, whereas the issue here is identifying the primary employer. The control test indicates direct employment with RBI, not contractor-principal employer arrangement.

Option (d) Correct: This correctly applies the RBI precedent and control test. Despite formal engagement through the society, RBI's exercise of substantive control—approving appointments, supervising operations, exercising disciplinary authority—establishes it as the true employer. The control test examines who has the right to control not just what work is done, but how it is done. RBI's approval power over appointments, direct supervision, and disciplinary control demonstrate master-servant relationship. The composite/multi-factor approach weighs these control elements heavily, making RBI the employer despite the society's formal involvement.

### 3. Correct Answer: (a)

Reference Line: "The control test remains central: the employer must have a real right to control how the work is done, not just result. Courts now adopt a composite/multi-factor approach — including: control, integration, payment of wages, who bears risk-profit, employment terms, disciplinary power, supervision."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: This correctly distinguishes between control over results versus control over method of work—a critical distinction in employment law. Clients or principals often prescribe quality standards, timings, and outcomes for services provided by independent contractors without creating employment relationships. The control test examines who directs how work is performed, not just what outcomes are expected. Here, the contractor retains all essential employment powers: hiring, firing, wage determination, daily supervision, bearing business risk. The hospital's quality standards are contractual service requirements, not employment control. The multi-factor approach decisively points to contractor as employer.

Option (b) Incorrect: This misapplies the control test by conflating service quality requirements with employment supervision. Prescribing standards for contracted services (food quality, timings) is a contractual right to ensure service adequacy, not employment control. Every business that outsources services sets standards and expectations—this doesn't convert the service provider's employees into the client's employees. The "expanded control test" mentioned doesn't exist in jurisprudence; the control test examines supervision of work method, hiring/firing authority, and disciplinary power—all absent here. Setting service parameters is fundamentally different from controlling how employees perform work.

Option (c) Incorrect: As explained in Question 2, Indian employment law doesn't recognize "co-employer" relationships in this context. While one entity controls service quality parameters (as a client/principal) and another manages personnel (as employer), this divided authority doesn't create shared employment. The hospital's control is contractual (what services are delivered), while contractor's control is employment-related (how employees deliver those services). The multi-factor approach identifies the entity with predominant employment control—here, the contractor—not a shared responsibility arrangement. Division between client expectations and employment management is normal in

outsourcing.

Option (d) Incorrect: While Contract Labour (Regulation and Abolition) Act may apply to cafeteria workers as contract labour, this doesn't change the identification of their direct employer (the contractor). Principal employer liability under CLRA is a statutory overlay creating specific responsibilities for the establishment benefiting from contract labour—it doesn't transform the employment relationship itself. The question asks who is the employer, not who has statutory obligations under CLRA. The contractor remains the direct employer; the hospital may have principal employer responsibilities under CLRA, but that's distinct from being the employer in the master-servant sense.

#### 4. Correct Answer: (c)

Reference Line: "The Master-Servant (Employer-Employee) relationship is established through certain indicia: ability to appoint and dismiss, pay wages, control the nature and manner of work, disciplinary power, integration with the organisation. Subsidy or provision of infrastructure without these control factors is insufficient. The substance of employment is examined over form or benefit."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Equipment provision and salary subsidy, even substantial ones, do not establish employment relationship without control over core employment functions. The "economic reality test" examines overall economic dependence and control, but financial contribution alone is insufficient. Many principal establishments provide equipment and subsidies to contractors/vendors without creating employment with the vendors' staff. The multi-factor test requires examining hiring power, disciplinary control, supervision of work method, and employment terms—all retained by SecureMax here. Economic support facilitates the service arrangement but doesn't transform it into direct employment.

Option (b) Incorrect: Duration of service and working exclusively at a location don't create "deemed employment" or "integration" without actual employment control. Integration test examines whether workers are integrated into the employer's organizational structure with employment authority, not whether they provide exclusive services at a location. Security guards remain integrated with SecureMax's operations (recruitment, training, supervision, HR) while providing services at TechCorp's site. Exclusive deployment is a contractual service arrangement, not employment integration. Similarly, 8 years of service doesn't automatically convert contractors' employees into client's employees—this would undermine all long-term service contracts.

Option (c) Correct: This correctly applies the multi-factor/composite test by focusing on core employment functions. SecureMax retains the essential indicia of employer status: hiring and training (appointment power), supervision (control over work method), HR and performance reviews (management authority), and discipline (dismissal power). TechCorp's specification of security protocols is a client's right to define service requirements, not employment supervision. Equipment provision and subsidy are facilitative supports, not employment control. The substance-over-form principle requires examining actual employment authority, which rests entirely with SecureMax, making it the employer under the control test and multi-factor approach.

Option (d) Incorrect: There is no legal doctrine creating "joint employer" status after a specified period of continuous service in outsourced arrangements. The concept of continuous service is relevant for benefits within the same employment relationship (leave accrual, retrenchment compensation), not for

converting third-party employees into direct employees of the client. Eight years of service with SecureMax doesn't create employment with TechCorp absent the control factors. Proportionate benefit-sharing between client and contractor isn't a recognized employment law principle. Each case is determined by current control factors, not temporal duration, and the multi-factor test clearly identifies SecureMax as the sole employer.

5. Correct Answer: (d)

Reference Line: "In SBI case (2000), similar control factors were present. The control test remains central: the employer must have a real right to control how the work is done, not just result. Courts now adopt a composite/multi-factor approach – including: control, integration, payment of wages, who bears risk-profit, employment terms, disciplinary power, supervision."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Formal employment and wage payment are important factors in the multi-factor test, but they are not conclusive when other control factors point to a different entity as the real employer. The substance-over-form principle requires examining actual control over employment, not just formal arrangements. In the SBI precedent (2000), despite the society's role in formal employment and wage disbursement, the Court held SBI was the employer based on its control over appointments, supervision, and discipline. When substantive employment control rests with one entity while another processes payments, the controlling entity is the true employer.

Option (b) Incorrect: This misstates the legal position by invoking statutory liability under Shops and Establishments Act without legal basis. The SBI precedent established direct employment relationship with the bank, not secondary statutory liability. When control factors establish one entity as the employer, that entity has primary direct employment obligations—not secondary or statutory liability. Principal employer concepts under Contract Labour Act or welfare establishment obligations under Shops Establishments Act are distinct from determining who the direct employer is. The question tests identification of employer through control test, not statutory liability frameworks.

Option (c) Incorrect: As repeatedly explained, Indian employment law in this context does not recognize "joint employer" arrangements where employment authority is divided. The multi-factor test identifies the predominant employer based on weighing multiple factors, not creating shared employment. When SBI exercises control over hiring (approval), work supervision (direct monitoring), and discipline (recommendation power), these core functions make it the employer despite society's paymaster role. Wage payment is one factor; hiring, supervision, and disciplinary control are stronger indicators. The composite approach determines a single employer based on preponderance of control factors, not joint responsibility.

Option (d) Correct: This correctly applies the SBI precedent (2000) and the control test. SBI's requirement of approval before hiring demonstrates control over appointment—a core employment function. Direct supervision of food quality and service standards shows control over how work is performed, not just results. Power to recommend disciplinary action indicates disciplinary authority, even if exercised through recommendations. These control factors—hiring approval, direct supervision, disciplinary input—establish SBI as the substantive employer despite the society's formal role in employment documentation and wage payment. The composite test weighs these control factors heavily, and precedent confirms SBI's employer status in similar circumstances.



## **9. HSA Not Applicable to Scheduled Tribes**

1. Correct Answer: (b)

Reference Line: "Section 2(2) is a specific and non-derogable exclusion: the HSA does not apply to members of any Scheduled Tribe unless the Central Government so directs. Courts must respect this legislative exclusion; judicial substitution of law is impermissible."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: The 2005 Amendment, while progressive, operates within the HSA framework which explicitly excludes Scheduled Tribes under Section 2(2) unless notified. Fundamental rights amendments to HSA do not automatically override the statutory exclusion of tribes. The Act's benefits, including daughters' coparcenary rights, extend only to those communities to whom the Act applies. Without Central Government notification, the amendment's benefits don't reach tribal communities, as the entire Act remains inapplicable to them.

Option (b) Correct: Section 2(2) HSA creates a clear, non-derogable statutory exclusion—the Act does not apply to Scheduled Tribes unless the Central Government directs otherwise through notification. This exclusion is mandatory and cannot be judicially overridden. Without such notification for Priya's tribe, the court must apply customary tribal law, not HSA provisions. The judgment emphasizes that courts must respect this legislative exclusion and cannot substitute their judgment for the legislative and executive process contemplated by Section 2(2).

Option (c) Incorrect: While Articles 14 and 15 guarantee equality, constitutional equality doesn't empower courts to override specific statutory exclusions or extend laws beyond their legislated scope. The route to extend HSA benefits to tribal women lies through the legislative/executive process (Central Government notification under Section 2(2)), not judicial application contrary to statute. Gender equality objectives must be pursued through proper legal channels—legislative amendment or executive notification—not by courts ignoring statutory exclusion provisions. Separation of powers prevents such judicial legislation.

Option (d) Incorrect: While the court might recommend or urge the government to consider notification, it cannot "direct" the Central Government to issue a notification under Section 2(2). Such a direction would violate separation of powers, as the decision to extend HSA to tribes involves policy considerations entrusted to the Executive under the statute. Courts can decide cases based on existing law but cannot compel the government to change the law's applicability through notifications. Judicial restraint requires respecting Executive discretion in such statutory matters.

2. Correct Answer: (d)

Reference Line: "The Supreme Court affirmed that High Courts cannot, via judicial orders, alter the applicability of a statute beyond parties' pleadings, issues or statutory framework. The direction to apply the HSA to tribal daughters was held beyond the scope of the litigation and hence invalid. Courts must confine themselves to issues raised and cannot act as legislators."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While High Courts possess wide powers under Article 226, these powers are not unlimited and cannot be used to legislate or extend statutory applicability contrary to express statutory

provisions. Article 226 empowers courts to enforce rights and issue remedies in specific cases, not to make general declarations extending excluded statutes to entire communities. The power to issue writs doesn't include power to override Section 2(2) HSA's exclusion or substitute judicial judgment for legislative/executive decision-making on statute's applicability to tribes.

Option (b) Incorrect: Courts cannot "fill legislative gaps" by extending statutory applicability to expressly excluded categories. Section 2(2) is not a "gap" but a deliberate legislative choice to exclude tribes unless government notifies. Progressive interpretation allows courts to interpret existing provisions broadly, but cannot create applicability where statute expressly excludes it. Filling gaps means interpreting ambiguous provisions, not overriding clear exclusions. The distinction between interpretation (permissible) and legislation (impermissible) is fundamental to judicial restraint.

Option (c) Incorrect: The invalidity stems from courts exceeding their judicial role by altering statutory applicability, not merely from procedural issues about pleadings. Even if parties had pleaded for HSA application, the High Court cannot grant relief beyond what the statute permits—and the statute explicitly excludes tribes unless notified. Pleadings define the dispute between parties, but cannot authorize courts to extend statutes beyond their legislative scope. The core problem is judicial overreach into legislative domain, not procedural irregularity.

Option (d) Correct: This correctly identifies two grounds of invalidity emphasized by the Supreme Court: (i) procedural—courts cannot decide issues beyond parties' pleadings and issues framed, and (ii) substantive—courts cannot alter statutory applicability or act as legislators. The High Court's direction extending HSA to all tribes in the state was a legislative act, not judicial adjudication. Section 2(2) vests the decision to extend HSA to tribes in the Central Government through notification, not in courts through judicial orders. This respects separation of powers and legislative intent.

### 3. Correct Answer: (b)

Reference Line: "The exclusion in Section 2(2) reflects respect for the autonomy of tribal laws, customs and usages, unless the State chooses to integrate them into the HSA regime. The judgment underscores the constitutional recognition of the unique status of Scheduled Tribes under Articles 341, 342 and the power of the President (and Central Government) to notify tribes and determine the applicability of central laws."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This oversimplifies the constitutional framework by suggesting gender equality automatically trumps tribal autonomy. The Constitution recognizes both gender equality (Articles 14-15) and special protection for Scheduled Tribes (Articles 341-342, Fifth and Sixth Schedules). Section 2(2) HSA reflects Parliament's balancing of these competing constitutional values by excluding tribes but allowing government to extend the Act when appropriate. The notification decision requires balancing multiple constitutional values, not automatic application of one over another.

Option (b) Correct: This accurately captures the legal framework. Section 2(2) vests discretion in the Central Government (Executive) to decide whether to extend HSA to specific tribes, considering various factors: tribal autonomy, customary law preservation, gender equality objectives, community readiness, consultation with tribal bodies. This Executive discretion is not subject to judicial substitution—courts cannot mandate notification or deny it, as this involves policy choices committed to the political branches. Articles 341-342 recognize special constitutional status of tribes, and the notification decision

balances this with reform objectives.

Option (c) Incorrect: This misstates the statutory mechanism. Section 2(2) explicitly empowers the Central Government to make HSA applicable to tribes through notification—no Parliamentary amendment is required for each tribe. The statute already provides the mechanism; the Executive exercises power conferred by Parliament. Notifications under Section 2(2) don't "expand" the statute beyond its scope—they operationalize the statute's built-in provision for tribal inclusion. Parliament delegated this decision-making to the Executive, recognizing the need for flexibility in tribal law reform.

Option (d) Incorrect: While Fifth and Sixth Schedules provide special protections for tribal areas, they don't create an absolute bar on applying central laws or require tribal "consent" for every law. Article 342 and statutory provisions like Section 2(2) provide the constitutional and legal mechanism for extending laws to tribes. The requirement is government notification through proper process (which may include consultation), not tribal veto power. Fifth and Sixth Schedules create special administrative arrangements, but don't prohibit extension of beneficial personal laws through statutory mechanisms.

#### 4. Correct Answer: (a)

Reference Line: "Section 2(2) is a specific and non-derogable exclusion: the HSA does not apply to members of any Scheduled Tribe unless the Central Government so directs. In tribal areas where the HSA is not notified, inheritance and succession rights must be adjudicated under customary law."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: Once the Central Government issues a valid notification under Section 2(2) making HSA applicable to a particular tribe, the legal status changes—the Act applies to that tribe from the notification date forward. Publication in official gazette is the legal requirement for notifications; wide publicity or community awareness, while desirable administratively, is not a legal condition for validity. The legal fiction is that laws duly notified in the official gazette are known to all. Since a valid notification existed for 15 years, HSA provisions govern the succession, regardless of whether the family knew about it.

Option (b) Incorrect: This imposes publication and awareness requirements not found in law. Statutory notifications become effective upon publication in the official gazette; there is no legal requirement for additional publicity in local languages or direct notification to community members for validity. While the government may undertake awareness programs as good governance, their absence doesn't invalidate properly issued notifications. The legal principle "ignorance of law is no excuse" applies—once law is properly notified, citizens are deemed to know it regardless of actual awareness.

Option (c) Incorrect: This creates a false distinction about temporal applicability. Valid notifications generally apply from their effective date forward to all matters arising thereafter. Ramesh's death occurred well after the 15-year-old notification, so the succession is governed by HSA, not customary law. The notification doesn't apply "retrospectively" to pre-notification matters, nor "prospectively" only from awareness—it applies from its effective date to all covered persons. The family's lack of awareness doesn't create a special "prospective from awareness" regime not contemplated in law.

Option (d) Incorrect: Lack of publicity doesn't violate natural justice or invalidate notifications. Natural justice principles (*audi alteram partem*, *nemo iudex in causa sua*) apply to adjudicatory proceedings

## 5. Correct Answer: (c)

Reference Line: "The Court referred to earlier precedents such as *Madhu Kishwar v. State of Bihar* (1996) and *Ahmedabad Women Action Group v. Union of India* which held that personal laws like HSA or Indian Succession Act do not apply to custom-governed tribal communities unless notification is issued. While gender equality and daughters' inheritance rights under HSA are important, the route to extend such benefits to tribal communities lies in legislation and notification by Central Government, not by judicial decree."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This misinterprets *Madhu Kishwar's* holding. That case recognized that statutory personal laws (HSA, etc.) don't apply to custom-governed tribes unless notified, but didn't empower courts to judicially modify customary law to conform to equality principles. The case distinguished between (i) applying constitutional equality to state action and legislation, and (ii) judicially modifying community customs that have legal force. While courts can strike down discriminatory statutory provisions, they cannot rewrite customary law—reform must come through legislation, not judicial modification.

Option (b) Incorrect: This presents a false choice. HSA and customary law aren't "available options" where courts choose between them—Section 2(2) determines which applies. For un-notified tribes, HSA is not available; customary law applies by default. Courts cannot "choose" to apply HSA or its principles when the statute explicitly excludes the community. Moreover, courts don't select between applicable laws based on which advances preferred values—they apply the law that governs. Constitutional interpretation allows reading equality into constitutional provisions and statutes, not into customary law which requires legislative reform.

Option (c) Correct: This correctly applies the precedent and principle of judicial restraint. *Madhu Kishwar* and similar cases held that personal law statutes don't apply to custom-governed tribes unless notified—courts must apply customary law in such cases, even if it conflicts with modern equality norms. While this may seem unjust, the remedy lies in legislative action (notification under Section 2(2), specific legislation, tribal consent-based reform), not judicial rewriting of custom. Courts lack authority to modify customary law without legislative basis—this would constitute judicial legislation violating separation of powers. Reform of tribal customary practices must follow constitutional and statutory procedures.

Option (d) Incorrect: While Fifth and Sixth Schedules provide special protections, they don't create absolute immunity from all judicial review or constitutional scrutiny. Courts can examine whether specific customary practices violate fundamental rights or public policy in appropriate cases, though the remedy is typically striking down rather than modification. More importantly, this option overstates tribal autonomy—the real constraint on courts is separation of powers and lack of authority to modify customary law (which requires legislative action), not absolute constitutional protection of tribal customs. The correct basis for limiting judicial action is institutional competence and separation of powers, not immunity.



## 10. Preference Share Holders Are Investors

### 1. Correct Answer: (b)

**Reference Line:** "Preference shares, even redeemable ones, are part of the company's equity capital, not its borrowings or debts. This judgement clarifies that mere expiry of redemption period does not automatically convert share capital into a debt; unless the conditions under the Companies Act are met (profits/fresh issue for redemption), no debt is 'due'."

**Difficulty Level:** Moderate

#### **Explanation:**

**Option (a) Incorrect:** This fundamentally misunderstands the legal nature of preference shares. The expiry of the redemption period does not operate as a legal transformation converting equity into debt. Preference shares remain share capital throughout their existence, and their legal characterization doesn't change based on whether redemption has become due. The Companies Act prescribes specific conditions for redemption (availability of profits, creation of Capital Redemption Reserve, fresh issue provisions), and until these are satisfied, no enforceable obligation to pay arises. Mere passage of time doesn't create debt.

**Option (b) Correct:** This accurately states the ratio of the judgment. Preference shares are statutorily classified as share capital under the Companies Act, not debt. Redemption is subject to specific statutory conditions—principally the availability of distributable profits or proceeds of a fresh issue. Until these conditions are met, no enforceable obligation to pay exists, and therefore no "debt" arises under Section 3(11) IBC. Without debt, there can be no "default" under Section 3(12), and consequently no basis for Section 7 application as financial creditor. The legal nature of the instrument governs, not the maturity timeline.

**Option (c) Incorrect:** While preference shareholders have a preferential right to return of capital upon winding up or redemption, this right doesn't make them creditors in the legal sense. The entitlement is contingent on fulfillment of Companies Act conditions and doesn't create an enforceable debt obligation like a loan or debenture would. The distinction between membership rights (even preferential ones) and creditor rights is fundamental in company law. As established in Lalchand Surana, "preference shareholder is a shareholder, not a creditor." The right to return of capital doesn't transform into debt upon redemption becoming due.

**Option (d) Incorrect:** The admissibility of the application doesn't depend on whether the company can prove financial difficulty or genuine inability. The issue is jurisdictional—whether the applicant qualifies as a "financial creditor" and whether a "financial debt" exists under IBC definitions. Financial difficulty might be relevant to resolution prospects once admitted, but has no bearing on whether the instrument constitutes debt in the first place. The NCLT cannot admit an application under Section 7 when the fundamental statutory criteria (financial debt and default) are not satisfied, regardless of the company's financial condition.

### 2. Correct Answer: (c)

**Reference Line:** "The Court reaffirmed that while commercial realities matter, the legal nature of an instrument depends on statutory definitions, nature of rights conferred, and legal obligations. The parties' intent and form of instrument were relevant, but they could not override the statutory nature of share capital. Payment for shares cannot be construed as financial debt."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Contractual characterization, however explicit, cannot override statutory classification of financial instruments. The Companies Act governs what constitutes share capital, and the IBC defines what constitutes financial debt. Parties cannot, by mere agreement, convert share capital into debt or vice versa. The law looks at the legal nature and statutory regime of the instrument, not the labels parties attach. If contractual labeling could determine classification, the entire statutory framework distinguishing debt from equity would become meaningless, and parties could circumvent company law capital maintenance rules.

Option (b) Incorrect: While Section 5(8)(f) defines financial debt as disbursement "against the consideration for the time value of money," this must be read with the essential character of debt—an enforceable obligation to repay money. Preference shares may carry a fixed dividend rate, but this is a right to profit distribution, not interest on debt. The 12% return is subject to availability of profits and declaration by the board—it's not an unconditional payment obligation. The "time value of money" criterion applies to debt instruments, not to equity instruments that happen to have fixed returns. The form-substance analysis cannot ignore the statutory classification.

Option (c) Correct: This correctly applies the principle that statutory classification prevails over contractual characterization. As held in *Radha Exports* and reaffirmed in this judgment, amounts paid for shares cannot be construed as financial debt regardless of how parties label them. The subscription for preference shares creates a membership relationship with certain preferential rights, not a debtor-creditor relationship. The Companies Act's classification of preference shares as share capital is definitive. Parties' contractual intention to achieve certain commercial or recovery outcomes cannot override the legal reality that preference shares are equity, not debt, under the applicable statutory framework.

Option (d) Incorrect: There is no legal mechanism to "convert" preference shares into debt through company law proceedings in the manner suggested. Shares can be redeemed per Companies Act provisions, or shareholders might exit through buyback, but there's no decree-based conversion procedure. Moreover, this option incorrectly accepts that the contractual characterization as loans is "valid"—it is not. The characterization is ineffective to change the legal nature of the instrument. The remedy for unredeemed preference shareholders lies in company law remedies (oppression/mismanagement petitions, winding up), not in IBC as financial creditors.

### 3. Correct Answer: (a)

**Reference Line:** "The legal nature of an instrument depends on statutory definitions, nature of rights conferred, and legal obligations. The fact that a receivable was converted into CRPS did not convert the transaction into debt; the parties' intent and form of instrument were relevant, but they could not override the statutory nature of share capital."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Correct:** When a debt is converted to equity through issuance of shares (debt-to-equity swap), the legal character of the relationship transforms. The creditor becomes a shareholder, and the debt is extinguished. The preference shares issued become share capital of the company, governed by the Companies Act regime, not by debt recovery laws. Once this transformation occurs, the original debt

character is legally irrelevant—the shareholder has the rights and remedies of a shareholder, not a creditor. The judgment's principle applies: preference shares are share capital, and non-redemption doesn't create debt or creditor status, regardless of what the shares were issued against.

**Option (b) Incorrect:** This incorrectly applies the substance-over-form principle. Substance-over-form analysis doesn't permit parties to retain the legal character of an extinguished relationship. When debt is formally converted to equity through proper corporate action (allotment of shares, satisfaction of debt), the substance itself has changed—S is now a shareholder, not a creditor. The substance-over-form principle might apply to sham transactions or mischaracterizations, but here the conversion is genuine. The underlying origin of shares (debt settlement vs. cash subscription) doesn't determine their current legal character. Once converted to shares, they are equity in substance and form.

**Option (c) Incorrect:** This creates a non-existent dual character for the instrument. Once debt is converted to preference shares, the original debt is satisfied and extinguished. There is no "residual" trade debt remaining alongside the shares. S cannot maintain Section 7 application for any amount—neither the original debt (which no longer exists) nor the redemption amount (which is not debt). The conversion is a complete legal transformation, not a bifurcated arrangement. This option wrongly suggests that conversion only affects future entitlements (dividend/premium) while preserving original debt character—this is not how debt-to-equity conversions operate legally.

**Option (d) Incorrect:** Once the trade payable is settled through issuance of preference shares, S ceases to be an operational creditor in relation to that payable. The debt that formed the basis of operational creditor status has been satisfied. The current relationship is that of shareholder-company, not supplier-buyer. Section 9 operational creditor petitions require an outstanding debt for goods/services; here, that debt was settled through share issuance. S cannot resurrect the extinguished trade payable relationship. His only remedies are those available to shareholders for non-redemption, not IBC petitions based on the original commercial relationship.

#### 4. Correct Answer: (c)

**Reference Line:** "This judgement clarifies that mere expiry of redemption period does not automatically convert share capital into a debt; unless the conditions under the Companies Act are met (profits/fresh issue for redemption), no debt is 'due'. Section 3(12) defines default as non-payment of a debt when whole or part has become due. Without a debt, no default."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Incorrect:** This creates a false "crystallization" doctrine not supported by company law or insolvency law. Debt doesn't "crystallize" upon temporary satisfaction of redemption conditions. The Companies Act requires that redemption conditions be satisfied at the time redemption is actually to be effected. Profits must be available at redemption; past availability doesn't create a perpetual obligation. If profits exist in year 6 but are dissipated by year 7 (when redemption term expires), no redemption obligation exists because conditions aren't satisfied at the relevant time. The law doesn't create a debt based on hypothetical past feasibility.

**Option (b) Incorrect:** Creation of Capital Redemption Reserve (CRR) is a preparatory step for redemption as required by Section 55 of Companies Act, not an acknowledgment creating debt. CRR is created to maintain capital and protect creditors when profits are used for redemption—it's a capital maintenance mechanism, not a debt acknowledgment. Many companies create CRR well before redemption as

prudent planning. Its creation doesn't transform share capital into debt or create an enforceable obligation. The reserve merely ensures that when redemption occurs, the capital base is protected. Without actual redemption (which requires conditions at time of redemption), no debt arises.

**Option (c) Correct:** This accurately states the legal position. Redemption of preference shares under Section 55 of the Companies Act requires satisfaction of prescribed conditions at the time redemption is to be effected—primarily availability of profits or proceeds of a fresh issue. These conditions are not satisfied once and forever, but must exist when redemption is actually being done. If profits existed earlier but are lost by redemption time, the conditions are not met, redemption cannot be effected, and no debt arises. The judgment emphasizes: "unless the conditions under the Companies Act are met... no debt is 'due.'" The temporal requirement is crucial.

**Option (d) Incorrect:** There is no cause of action for "specific performance" of redemption obligation in the conventional sense. Redemption of preference shares is not a contractual obligation subject to specific performance—it's a statutory process subject to fulfillment of statutory conditions. If conditions aren't met, the company cannot redeem even if it wanted to (redemption without profits/fresh issue violates capital maintenance rules). Courts cannot decree specific performance of an act that would be illegal. Moreover, even if such a decree were obtained, it wouldn't create "debt" for IBC purposes—it would be a decree for redemption, which still requires statutory conditions to be satisfied.

#### 5. Correct Answer: (b)

**Reference Line:** "While commercial realities matter, the legal nature of an instrument depends on statutory definitions, nature of rights conferred, and legal obligations. The parties' intent and form of instrument were relevant, but they could not override the statutory nature of share capital. For CLAT aspirants: substance cannot defeat clear statutory classification."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Incorrect:** The combination of features—security interest, fixed return, and contractual labeling—does not transform preference shares into debt when statutory classification identifies them as share capital. Companies Act permits creation of secured preference shares (charging company assets for preferential payment upon winding up or redemption), but this doesn't change their character as shares. The security is for priority, not for converting equity to debt. Fixed return is a characteristic of preference shares (fixed dividend preference), not unique to debt. Contractual labeling cannot override statutory classification. The question tests whether commercial features can trump legal classification—they cannot.

**Option (b) Correct:** This correctly applies the fundamental principle of the judgment: statutory classification under the Companies Act determines whether an instrument is share capital or debt, regardless of its commercial features or contractual labels. If the instrument is issued and governed as preference shares under the Companies Act, it is share capital. Features like security interest (permitted for preference shares), fixed returns (defining characteristic of preference shares), or "debt-like" labeling don't change this. The legal nature derives from the statutory regime governing the instrument, not from economic equivalence or party intention. Form cannot override statutory classification—this is the inverse formulation: statutory classification cannot be overridden by form or substance arguments.

**Option (c) Incorrect:** While IBC Section 5(8)(f) does consider economic substance in defining financial debt (disbursement against consideration for time value of money), this doesn't mean any economically



debt-like instrument qualifies as financial debt. The definition must be read with the fundamental requirement that financial debt is money owed—an enforceable obligation to pay money. Preference shares don't create such obligation; they create membership with preferential rights. The judgment explicitly rejects the argument that economic equivalence to debt can override statutory classification of preference shares as equity. Economic substance is relevant within the debt category (distinguishing types of financial debt), not for converting equity into debt.

Option (d) Incorrect: Voting rights are not the determinative criterion for distinguishing debt from equity. Many preference shares carry voting rights in specified circumstances (arrear of dividend, resolutions affecting their rights), yet remain share capital. Conversely, some hybrid instruments might lack voting rights yet not be debt. The distinction between debt and equity is based on the nature of the rights and obligations: debt involves an obligation to repay money, equity involves membership with rights to participate in the company. The Companies Act classification based on how the instrument is constituted—as shares or as borrowings—is determinative, not the presence/absence of voting rights.

### **11. Widowed Sisters as Dependents under Employee's Compensation Act, 1923**

1. Correct Answer: (c)

Reference Line: "The Court reconciled these competing doctrines by acknowledging the welfare purpose but refraining from judicial legislation. It stated that expansion of the definition of 'dependent' must come from Parliament, not the judiciary. While the Commissioner's liberal reading to include adult widowed sisters aligned with the welfare objective, the Supreme Court clarified that a beneficial interpretation cannot substitute legislative amendment."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: While financial dependency and long-term residence are relevant factual circumstances, they cannot override the statutory definition of "dependent." The Employees' Compensation Act specifically enumerates categories of dependents—it is not an open-ended provision allowing courts to add any financially dependent relative. The beneficial interpretation doctrine permits expansive reading of existing categories but not creation of new categories absent from the statute. Ten years of dependency proves factual dependence but cannot establish legal entitlement when the statute excludes adult widowed sisters from the definition.

Option (b) Incorrect: This option confuses acknowledging obsolescence with judicial power to update statutory text. While courts may observe that certain provisions are outdated or socially unrealistic, this recognition doesn't empower them to rewrite the statute. The principle of "updating construction" allows courts to interpret old statutes in light of modern conditions where the text permits flexible interpretation—it does not authorize deleting or modifying clear statutory words. The phrase "if a minor" is explicit and cannot be judicially deleted because modern marriage laws have eliminated minor widows. Such modification requires legislative amendment, not judicial interpretation.

Option (c) Correct: This accurately captures the Supreme Court's reasoning and the doctrinal balance between beneficial interpretation and judicial restraint. Welfare statutes must be interpreted liberally to advance their protective purpose, but this interpretive freedom operates within statutory boundaries. Courts can expand the scope of existing categories, resolve ambiguities in favor of beneficiaries, or read remedial provisions broadly—but they cannot add entirely new classes of beneficiaries not mentioned in the statute. The adult widowed sister falls outside the statutory definition, and including her would

constitute judicial legislation, violating the separation of powers doctrine.

Option (d) Incorrect: This incorrectly frames the issue as one of employer consent or insurance coverage. The statutory definition of "dependent" is not negotiable or subject to employer agreement—it defines the class of persons entitled to compensation as a matter of law. Employers' liability is statutorily determined, not contractually based. Moreover, insurance coverage is structured around statutory liability; it doesn't determine the scope of liability. The exclusion of adult widowed sisters is a legislative choice about who qualifies as dependent, not an insurance or contractual limitation requiring employer consent to modify.

## 2. Correct Answer: (a)

Reference Line: "The Employees' Compensation Act, 1923 defines 'dependent' in Section 2(1)(d). This provision includes 'a minor brother or an unmarried sister or a widowed sister if a minor.' The inclusion of the qualifier 'if a minor' after 'widowed sister' shows that the statute contemplates dependency only where the sister is both widowed and under age."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: This applies the grammatical rule of last antecedent—a qualifier modifies only the immediately preceding phrase unless context requires otherwise. In "a minor brother or an unmarried sister or a widowed sister if a minor," the phrase "if a minor" is separated by "or" and appears after "widowed sister," grammatically qualifying only that last category. The statute explicitly uses "minor brother" (showing when minority is required for brothers) but only "unmarried sister" (without age qualification), suggesting that unmarried sisters of any age qualify. This interpretation aligns with the grammatical structure and the principle that the legislature knows how to impose age qualifications when it intends to (as it did for brothers and widowed sisters).

Option (b) Incorrect: While beneficial interpretation is applicable to welfare statutes, it cannot override clear grammatical construction. The doctrine permits resolving ambiguities in favor of beneficiaries or reading provisions broadly within their natural meaning—it doesn't authorize reading words into or out of statutes. Here, the text is grammatically clear: "minor" qualifies "brother" and "widowed sister" but not "unmarried sister." Beneficial interpretation would apply if the text were ambiguous, but where grammar clearly distinguishes categories, courts must respect the textual distinctions even in welfare legislation.

Option (c) Incorrect: This proposes harmonious reading but misapplies it. Harmonious construction requires reading different provisions together to avoid contradiction and give effect to all provisions—it doesn't require importing qualifications from one category to another when the statute deliberately distinguishes them. The statute's structure is rational: minor brothers (presumed dependent due to age), unmarried sisters (presumed dependent regardless of age due to traditional family structures), and widowed sisters (only if minors, as adult widows might remarry). The distinction isn't irrational but reflects legislative assumptions about dependency patterns.

Option (d) Incorrect: This creates a uniformity requirement not found in the statute. The legislature deliberately used different formulations for different categories of relatives—"minor brother," "unmarried sister," "widowed sister if a minor"—showing intentional variation. Parity in dependency presumption is not required; the statute can rationally distinguish categories based on different social realities. The presumption of dependency varies: minor brothers need age qualification, unmarried sisters are presumed dependent regardless of age (reflecting traditional family structures), while widowed sisters

require minority. Importing the minority requirement into "unmarried sister" contradicts the plain text.

### 3. Correct Answer: (c)

Reference Line: "The Court reconciled these competing doctrines by acknowledging the welfare purpose but refraining from judicial legislation. Courts cannot rewrite statutes or expand beneficiary categories beyond those expressly mentioned. While purposive interpretation must operate within statutory boundaries, beneficial interpretation cannot substitute legislative amendment."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: The Supreme Court's acknowledgment that a provision is obsolete is an observation about legislative policy, not authorization for lower courts to reinterpret clear statutory language. When the Supreme Court identifies obsolescence and refers the matter to the Law Commission for reform, it is explicitly declining to judicially modify the law while urging legislative action. This referral signals that courts should continue applying the existing text until Parliament amends it. Lower courts cannot treat such observations as license for creative reinterpretation—doing so would undermine the very doctrine of judicial restraint the Supreme Court exercised.

Option (b) Incorrect: While Article 21 and Directive Principles (Articles 41-43) underlie welfare legislation, they do not empower courts to rewrite statutory definitions. Constitutional provisions guide legislative policy and statutory interpretation within permissible textual boundaries—they do not authorize courts to ignore clear statutory language. If obsolete statutory text violates constitutional guarantees, the remedy is striking down the provision (if unconstitutional) or referring it for legislative reform (if merely outdated), not creative reinterpretation that changes the text's meaning. Courts must work within statutory framework even when applying constitutional values.

Option (c) Correct: This correctly identifies the boundary between interpretation and legislation. The term "minor" has a clear legal meaning—below the age of majority. Reinterpreting it as "economically minor" fundamentally changes the word's meaning, substituting a different concept (financial dependency) for a specific legal status (age below 18). This exceeds interpretive authority and amounts to judicial legislation. The Supreme Court identified that "minor widowed sister" is practically impossible today and should be reformed by Parliament—it did not suggest courts should redefine "minor" to preserve the provision's utility. Pending legislative action, courts must apply the clear but outdated text as written.

Option (d) Incorrect: This creates a false hierarchy where only the Supreme Court can adapt obsolete provisions. The issue is not the level of court but the nature of the action: no court—Supreme Court, High Court, or trial court—can rewrite statutory definitions, even when acknowledging obsolescence. The Supreme Court's special role was in referring the matter to the Law Commission for legislative reform, not in having exclusive power to modify statutory application. All courts are equally bound to apply statutory text as written and equally lack power to judicially amend clear definitions, regardless of their hierarchical position.

### 4. Correct Answer: (b)

Reference Line: "The Supreme Court invoked the mechanism of institutional dialogue between the judiciary and the legislature. It directed the Law Commission of India to examine and recommend suitable amendments. This approach reflects judicial restraint coupled with policy engagement. The

Court recognised that while it cannot itself amend the Act, it can flag obsolete provisions for reform, ensuring that social justice is advanced through proper democratic channels rather than through judicial overreach."

Difficulty Level: Difficult

Explanation: Option (a) Incorrect: While the conclusion is correct (Law Commission recommendations lack legal force), the reasoning is incomplete. Law Commission reports can serve as aids to statutory interpretation in certain contexts—for instance, when understanding legislative history or the purpose behind subsequently enacted provisions. However, recommendations for future amendments are prospective policy suggestions for the legislature, not interpretive aids for existing law. The distinction is critical: reports explaining what a statute means can guide interpretation; reports proposing what a statute should say cannot. The issue is not that judicially-solicited recommendations are irrelevant, but that pending reform proposals don't change current law.

Option (b) Correct: This captures the fundamental principle of separation of powers and the temporal nature of law. Courts must apply the law as it exists at the time of adjudication, not as it might be reformed in the future. Law Commission recommendations represent proposed future law, not present law. They are directed at Parliament for consideration, debate, and potential enactment through proper legislative process. Using pending reform proposals to guide judicial interpretation would effectively give them legal force before Parliament has considered them, short-circuiting the democratic legislative process. The Supreme Court's referral was precisely to avoid judicial law-making—lower courts cannot circumvent this by treating recommendations as interpretive guides.

Option (c) Incorrect: This overstates the role of Law Commission reports in judicial interpretation. While Law Commission reports can be persuasive when explaining legal principles or analyzing existing law, recommendations for legislative amendment are not interpretive aids but policy proposals. Moreover, the provision here is not "ambiguous"—it is clear but outdated. The issue is not what "widowed sister if a minor" means (that's clear) but whether it should be changed (a legislative question). Courts can consult Law Commission reports when interpreting ambiguous language to understand legal context, but cannot use reform proposals to change the meaning of clear but obsolete provisions.

Option (d) Incorrect: This misunderstands the Supreme Court's direction to the Law Commission. The referral was an exercise of judicial restraint, not an indication of "legislative intent." Legislative intent refers to what Parliament meant when enacting a provision—it cannot include what Parliament might mean in a future amendment it hasn't yet considered. The Supreme Court identified obsolescence and asked the Law Commission to study and recommend reforms for Parliament's consideration. This creates no mandate for lower courts to anticipate or implement those potential reforms judicially. The direction separates judicial and legislative functions—it doesn't blur them by suggesting courts should effectuate anticipated legislative changes.

5. Correct Answer: (c)

Reference Line: "The Employees' Compensation Act is a social welfare legislation traceable to the Directive Principles of State Policy. Expansion of the definition of 'dependent' must come from Parliament, not the judiciary. This preserves the constitutional doctrine of separation of powers, ensuring that courts interpret but do not amend legislation."

Difficulty Level: Difficult

Explanation: Option (a) Incorrect: While labour welfare does feature in the State List (Entry 24 relates to



industries subject to state jurisdiction), the Employees' Compensation Act, 1923 is Central legislation enacted under Entry 23 of the Concurrent List (social security and social insurance; employment and unemployment). When Parliament has enacted a law under the Concurrent List, Article 254 governs: state laws on the same subject are void to the extent of repugnancy unless the state law has received Presidential assent after reservation. A state cannot simply amend a Central Act even to expand benefits—it must enact separate state legislation, and even then, presidential assent would be required if it's repugnant to the Central Act.

Option (b) Incorrect: There are no "residuary powers" applicable here. Residuary powers under Article 248 and Entry 97 of Union List apply to matters not enumerated in any of the three lists. Labour welfare and compensation are explicitly covered in the Concurrent List (Entry 23), so residuary powers are inapplicable. Moreover, the Centre's failure to act swiftly on judicial observations doesn't transfer legislative authority to states. The constitutional distribution of powers under the Seventh Schedule is not conditional on the Centre's diligence—if Parliament has legislative competence and has exercised it through the Central Act, states cannot legislate to amend that Act regardless of Centre's inaction.

Option (c) Correct: This accurately applies constitutional federalism principles. The Employees' Compensation Act, 1923 is a Central enactment under Entry 23 of the Concurrent List (social security and insurance; employment and unemployment). States cannot amend Central legislation—they can only enact separate state laws on concurrent subjects, and even then, under Article 254, such state laws are void if repugnant to Central law unless they receive Presidential assent. Here, the state purported to amend the Central Act itself, which is constitutionally impermissible regardless of the amendment's beneficial nature. The state's remedy would be to enact a separate state compensation law with broader definitions (and seek Presidential assent if repugnant), not to amend the Central Act.

Option (d) Incorrect: While the conclusion is correct (state amendment is invalid), the reasoning is flawed. The Law Commission referral doesn't create exclusive Central domain beyond what constitutional distribution of powers already establishes. Even without the Supreme Court's referral, states could not amend a Central Act—this flows from basic federalism principles and Article 254. The referral to the Law Commission was an institutional mechanism for legal reform, not a constitutional determination of legislative competence. The amendment power lies with Parliament because Parliament enacted the original Act under its Concurrent List powers, not because the Supreme Court referred the matter to a Central institution.

## **12. 2018 Amendment to SRA not Retrospective**

1. Correct Answer: (c)

Reference Line: "When Parliament amends a statute, the court must examine whether the amendment clearly indicates retrospective operation. Absent clear intent, the general rule is prospective effect – the amendment applies only to suits/transactions arising after the date of its enforcement. When a contract was entered and suit instituted before the amendment date, the applicable regime is the one in force at that time."

Difficulty Level: Moderate

Explanation: Option (a) Incorrect: This incorrectly characterizes the 2018 Amendment as "procedural." The change from discretionary to mandatory specific performance is a substantive change affecting parties' rights, not merely procedural. Procedural amendments (affecting only process, like filing fees or timelines) generally apply to pending proceedings, but substantive amendments (affecting legal rights

and remedies) apply prospectively unless expressly stated otherwise. The distinction is critical: procedure governs "how" to enforce rights; substance defines "what" rights exist. Since Section 16A fundamentally altered the nature of the relief from discretionary to mandatory, it's substantive and applies prospectively.

**Option (b) Incorrect:** While the amendment may strengthen purchasers' rights, beneficial nature alone doesn't warrant retrospective application. The principle that beneficial legislation should be construed liberally applies to interpretation of ambiguous provisions, not to temporal applicability. Retrospective application of substantive amendments affects vested rights and legitimate expectations—parties contracted and litigated under specific legal rules. Applying new rules retrospectively would unfairly alter the legal landscape parties relied upon. The doctrine of vested rights and principle of legal certainty prevent automatic retrospective application of beneficial amendments absent express legislative intent.

**Option (c) Correct:** This accurately applies the principle of prospective application of substantive amendments. Both the contract (March 2017) and suit (January 2018) predate the amendment (October 2018). Parties entered the contract and commenced litigation under the pre-amendment regime where specific performance was discretionary. They had legitimate expectations based on that legal framework. Absent express language indicating retrospectivity in the Amendment Act, the court must apply the law as it existed when parties' rights crystallized. This preserves vested rights, ensures predictability, and prevents unfair surprise from retrospective law changes.

**Option (d) Incorrect:** While courts generally respect finality of trial court decisions, this reasoning is flawed. Appellate courts do apply new law when appropriate—for instance, procedural amendments or when the new law expressly applies to pending appeals. The correct reason for not applying the amendment is not appellate deference but the prospective nature of substantive amendments. Moreover, if the amendment were properly applicable, the appellate court would be obligated to apply it even if it changes the result. The issue is whether the amendment applies to this case at all, not whether appellate courts can apply law changes.

## 2. Correct Answer: (a)

**Reference Line:** "Even under the pre-amendment regime, the Court re-emphasised that when a termination notice has been issued or right to rescind claimed by vendor, a cloud may exist on the contractual right. In such cases a plaintiff may need to first obtain declaratory relief that the contract subsists before seeking specific performance. The principle ensures the court does not forcibly enforce a contract whose existence is uncertain."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Correct:** This correctly applies the principle that specific performance requires an existing, valid contract. When a party claims the contract has been terminated, there's a fundamental dispute about the contract's very existence or validity. Section 16A makes performance mandatory "if statutory conditions are met," but an existing valid contract is a prerequisite, not just a statutory condition. The court cannot enforce a contract whose existence is disputed without first determining that it subsists. Declaratory relief serves this purpose—establishing that despite the termination claim, the contract remains valid and enforceable. Only after this threshold determination can the mandatory specific performance under Section 16A be granted.

Option (b) Incorrect: This overstates Section 16A's scope. While the amendment makes specific performance mandatory upon satisfaction of stated conditions (payment of consideration, readiness/willingness), it doesn't eliminate the fundamental prerequisite that a valid, subsisting contract must exist. "Mandatory" refers to the court's obligation to grant the relief once all requirements are met—it doesn't mean courts must assume a contract exists when its validity is contested. The amendment changed the discretionary nature of the relief, not the basic requirement of a valid contract. When termination is claimed, the contract's existence is the very dispute, requiring declaratory relief first.

Option (c) Incorrect: This confuses the temporal application of the amendment (prospective) with the procedural requirement of declaratory relief. Yes, the contract and suit are post-amendment, so Section 16A potentially applies. However, Section 16A's applicability doesn't eliminate the need to establish the contract's existence when disputed. The phrase "unless Y proves valid termination" reveals the flaw—determining termination validity is precisely what declaratory relief accomplishes. The court cannot grant specific performance "unless" termination is disproved without first adjudicating that issue through declaratory relief. Direct specific performance assumes an existing contract; when existence is disputed, declaration must precede performance.

Option (d) Incorrect: This misunderstands the nature of the declaratory relief requirement. The need for declaratory relief when contract existence is disputed is not a "procedural matter" subject to discretion—it's a substantive requirement ensuring courts don't enforce contracts whose validity is uncertain. Section 16A eliminated discretion regarding whether to grant specific performance once conditions are met, but didn't eliminate the threshold requirement of a valid contract. Whether declaratory relief is needed depends on whether the contract's existence/validity is genuinely disputed, not on judicial discretion. When termination is claimed, declaratory relief is necessary, not discretionary.

### 3. Correct Answer: (d)

**Reference Line:** "When a contract was entered and suit instituted before the amendment date, the applicable regime is the one in force at that time. Parties rely on and contract under that regime; hence courts cannot apply a later legal regime to disadvantage or surprise them. Such substantive changes, when they affect vested rights, are normally applied prospectively unless stated otherwise."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Incorrect:** This wrongly applies the amended law based on when adjudication occurred. The governing law is determined by when the contract was executed and suit filed, not when trial happens to occur. Parties' rights crystallize at contract formation; the suit seeks to enforce those pre-existing rights. Applying a different legal regime merely because trial occurs later would create uncertainty and unfairness—parties couldn't know what law governs their contract. The 2018 Amendment applies prospectively to contracts and suits initiated after October 2018. The timing of trial proceedings is irrelevant to determining which statutory regime governs the substantive rights at issue.

**Option (b) Incorrect:** This creates an artificial and unworkable bifurcation. Law doesn't operate in compartments where different temporal regimes apply to different aspects of the same dispute. The legal framework governing contractual interpretation, defenses, and available remedies must be coherent and unified. Moreover, this approach would create practical impossibilities: pre-amendment law might make specific performance discretionary based on equitable considerations, while simultaneously applying mandatory relief under the amendment—these cannot coexist. The entire dispute is governed

by the law in force when the contract and suit arose, ensuring consistency and parties' legitimate expectations.

Option (c) Incorrect: The additional payment in 2019 doesn't constitute novation creating a new post-amendment contract. Novation requires mutual agreement to substitute a new contract for the old one, extinguishing the original obligations. Here, Q's demand and P's payment of additional amounts is a modification or waiver within the existing 2016 contract, not creation of a new contract. Contract law principles distinguish between modifications (amendments to existing contracts) and novations (replacement with new contracts). Since the original 2016 contract continues with modifications, the pre-amendment legal regime continues to apply. Parties cannot accidentally trigger different statutory regimes through contract modifications.

Option (d) Correct: This correctly identifies that the entire legal framework—contract formation, interpretation, defenses, and available remedies—is governed by the law in force when the contract was entered and suit filed. The 2016 contract and 2017 suit arose under the pre-amendment regime. Q's subsequent acceptance of additional payment is analyzed under general contract law principles (waiver, modification, time essence) that existed when the contract was formed, not under changed statutory relief provisions. The vested rights doctrine ensures parties are judged by the law they contracted under. The later payment doesn't change the governing statutory regime; it's simply evidence analyzed under that pre-existing regime.

#### 4. Correct Answer: (b)

**Reference Line:** "When a termination notice has been issued or right to rescind claimed by vendor, a cloud may exist on the contractual right. In such cases a plaintiff may need to first obtain declaratory relief that the contract subsists before seeking specific performance. The principle ensures the court does not forcibly enforce a contract whose existence is uncertain."

**Difficulty Level:** Difficult

**Explanation:**

**Option (a) Incorrect:** While it's true that both contract and suit are post-amendment making Section 16A applicable, this doesn't eliminate the threshold requirement of an existing, valid contract. The provision that N can "pay consideration during proceedings" addresses the timing of payment, not the existence of the contract itself. When M issued a termination notice claiming the contract no longer exists, there's a fundamental dispute about contract subsistence. Section 16A mandates specific performance of existing contracts upon fulfillment of conditions—it doesn't mandate enforcement of disputed or potentially terminated contracts. The court must first determine the contract exists before applying Section 16A's mandatory relief provisions.

**Option (b) Correct:** This accurately applies the principle that declaratory relief is required when contract existence is disputed. M's termination notice claims the contract has ended—creating a "cloud" on the contractual right. Before the court can order specific performance (whether under discretionary pre-amendment law or mandatory post-amendment Section 16A), it must establish that a valid, subsisting contract exists. Declaratory relief serves this purpose: determining that despite the termination notice, the contract remains valid and enforceable. This is not about the timing of the amendment but about the fundamental prerequisite that specific performance requires an existing contract. Only after declaration of subsistence can Section 16A's mandatory relief apply.



Option (c) Incorrect: Section 16A doesn't eliminate vendors' contractual or legal rights to terminate for valid reasons. The amendment made specific performance mandatory upon satisfaction of statutory conditions, but didn't abolish parties' rights to terminate contracts for breach or other valid grounds. Termination rights arise from contract terms (like time-essence clauses) or general contract law principles (like material breach). Section 16A governs the remedy once a valid, subsisting contract is established; it doesn't prevent valid terminations or render termination notices "ineffective." The issue is whether the termination was valid—if it was, there's no contract to perform; if invalid, the contract subsists and Section 16A applies.

Option (d) Incorrect: While courts must indeed determine if termination was valid, this option incorrectly frames it as a preliminary determination within the specific performance framework rather than as a separate threshold issue requiring declaratory relief. The distinction matters: if the court proceeds directly to specific performance and "determines" termination validity as part of that analysis, it risks granting performance of a potentially non-existent contract. The proper sequence is: (i) declaratory suit establishing the contract subsists despite termination claim, and (ii) specific performance under Section 16A once subsistence is declared. This option suggests determining termination validity as a precondition "before applying Section 16A," but without the formal declaratory relief framework.

#### 5. Correct Answer: (a)

Reference Line: "When Parliament amends a statute, the court must examine whether the amendment clearly indicates retrospective operation. Absent clear intent, the general rule is prospective effect. Parties must have fair warning of the rules. When statutory amendments change rights, applying them retrospectively would affect vested rights and legitimate expectations."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: This correctly states the constitutional position in India. When Parliament expressly and unambiguously declares an amendment retrospective, courts must give effect to that legislative intent. Unlike criminal or tax legislation where retrospectivity faces stricter constitutional constraints, civil legislation can be made retrospective by clear parliamentary declaration. While the presumption against retrospectivity is strong, it's a presumption of legislative intent, not a constitutional prohibition in civil matters. If Parliament clearly expresses intent for retrospective application (as in this hypothetical "to all pending suits regardless of when contract was executed"), courts must enforce that intent. The vested rights doctrine is a canon of interpretation, not a constitutional bar to parliamentary supremacy in civil legislation.

Option (b) Incorrect: This mischaracterizes the hypothetical amendment. The 2020 amendment is not "clarificatory" but substantive—it changes the temporal scope of the 2018 Amendment. Clarificatory amendments explain or interpret existing provisions without changing their effect; they can apply retrospectively because they're deemed declaratory of the law as it always was. However, an amendment making a previously prospective provision retrospective is not clarificatory—it changes the law's temporal application. This is a substantive change. Moreover, even truly clarificatory amendments cannot retrospectively affect vested rights in an unbounded manner. The key is that this hypothetical amendment explicitly changes temporal application, not clarifies existing scope.

Option (c) Incorrect: Article 20 of the Constitution prohibits ex post facto criminal laws and double jeopardy, not retrospective civil legislation. Article 20(1) states "No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act" (emphasis on criminal conviction). Civil legislation, including contract law and remedies, is not governed by Article 20. The Constitution does not generally prohibit retrospective civil legislation, though principles of natural justice, fairness, and protection against arbitrary state action (Article 14) may limit extreme retrospectivity. The specific constitutional bar in Article 20 applies only to criminal matters, making this option legally incorrect.

Option (d) Incorrect: While courts prefer avoiding retrospective application and protecting vested rights, they cannot override clear, express parliamentary intent declaring retrospectivity in civil matters. The presumption against retrospectivity is strong but rebuttable by unambiguous statutory language. When Parliament clearly states legislation applies retrospectively, courts must enforce that provision—they cannot invoke the presumption to negate express legislative language. The presumption is a tool for interpreting ambiguous statutes, not a judicial veto over clear parliamentary declarations. Legitimate expectations and vested rights are important considerations for Parliament when legislating, but once Parliament has clearly decided on retrospectivity, courts must give effect to it in civil matters.

### **13. Beyond the Binary: Supreme Court reclaims the promise of transgender equality**

1. Correct Answer: (c)

Reference Line: "A notable doctrinal development here is the horizontal application of fundamental rights. While private schools are not 'State' under Article 12, the Court extended constitutional scrutiny to them through the lens of the TPA and the doctrine of constitutional obligations in private relations. Following *Vishaka v. State of Rajasthan* (1997) and *Kaushal Kishor v. State of U.P.* (2023), the Court held that fundamental rights can indirectly bind private entities when performing functions affecting basic human dignity or public interest."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This reflects the traditional vertical application doctrine but ignores the evolving jurisprudence on horizontal application of fundamental rights. While it's true that Article 12 defines "State" and fundamental rights primarily bind State actors, Indian constitutional law has developed the horizontal application doctrine whereby private entities can be held accountable for constitutional violations in certain contexts. The rigid vertical-only approach fails to account for how private actors can significantly impact fundamental rights, particularly in employment and dignity contexts.

Option (b) Incorrect: This option correctly notes that employment contracts involve private law but incorrectly concludes that constitutional remedies are unavailable. The TPA, 2019 is a statutory overlay that brings constitutional values into private employment relationships. Moreover, the doctrine of indirect horizontality allows constitutional scrutiny of private actions when they affect fundamental dignity and public interest. Article 226's scope isn't limited to cases where the employer is State; it extends to enforcement of statutory rights and can address constitutional violations even in private relationships when statutory frameworks like TPA mandate non-discrimination.

Option (c) Correct: This accurately captures the horizontal application doctrine as developed in *Vishaka*

and applied in *Jane Kaushik*. Private entities, while not "State" under Article 12, cannot disregard constitutional values when their actions affect basic human dignity—a core aspect of Article 21. The TPA, 2019 operationalizes this by creating statutory obligations on private establishments. The judgment establishes that through "indirect horizontality," constitutional scrutiny extends to private actors via statutory frameworks. The termination based on "cultural misfit" regarding gender identity violates both constitutional values and TPA provisions, making judicial intervention appropriate.

Option (d) Incorrect: This creates a non-existent automatic conversion doctrine. Private entities don't become "State" under Article 12 merely because they discriminate. The horizontal application doctrine doesn't work by expanding the definition of "State"—rather, it operates through indirect means: statutory obligations (like TPA), constitutional values permeating private law, and judicial recognition that certain private actions affecting dignity warrant constitutional scrutiny. The expanded Article 12 definition includes certain functional aspects (like ONGC being "State"), but discrimination alone doesn't trigger this—it's addressed through horizontal application, not Article 12 expansion.

## 2. Correct Answer: (a)

Reference Line: "Under Sections 3 and 9, discrimination against a transgender person in education or employment is explicitly prohibited. Section 9(2) obliges every establishment (public or private) to designate a complaint officer to handle grievances. The Court found that the failure of both the Union and States to constitute such grievance redressal mechanisms and enforce compliance rendered them jointly liable for the violation of the petitioner's statutory rights. Hence, the TPA was interpreted as a positive-obligation statute, compelling affirmative action by authorities to create institutional safeguards."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Correct: This accurately reflects the judgment's interpretation of TPA as a positive-obligation statute. The Court rejected any notion that grievance redressal mechanisms are optional or subject to State convenience. Sections 9(2) and 10 create mandatory duties requiring affirmative State action to establish institutional structures. The failure to do so renders the State liable for rights violations because without these mechanisms, the substantive rights under Sections 3 and 9(1) become unenforceable. The judgment emphasized that positive obligations under Articles 14 and 21, read with TPA, require the State to create enabling structures—not merely refrain from discrimination.

Option (b) Incorrect: While this reaches the correct conclusion (State's defense is invalid), the reasoning is overbroad and legally incorrect. Not all welfare legislation provisions are mandatory with immediate effect—courts do recognize that some provisions may be directory or subject to progressive realization, particularly those requiring substantial resources or infrastructure. The correct reasoning is specific to TPA's nature as a rights-enforcement statute where grievance mechanisms are essential to making substantive rights effective. The distinction between mandatory and directory provisions is context-specific, not a blanket rule for all welfare legislation.

Option (c) Incorrect: This incorrectly applies the directory-mandatory distinction and progressive realization concept. While some welfare provisions may be directory or subject to progressive realization (particularly those requiring significant resources), grievance redressal mechanisms under Section 9(2) are not in that category. The judgment specifically held that TPA creates enforceable positive obligations, not aspirational goals. The three-year period since enactment negates any argument about needing time

for implementation. Moreover, establishing complaint officers doesn't require massive resources—it's a basic administrative step necessary to make anti-discrimination rights effective. Progressive realization applies to resource-intensive provisions, not to fundamental enforcement mechanisms.

Option (d) Incorrect: This fundamentally misunderstands both the nature of TPA obligations and available remedies. The transgender person's remedy doesn't lie solely in civil courts for private damages—the statutory violation itself is subject to constitutional remedy under Articles 32 and 226. The judgment established that State failure to implement statutory mechanisms constitutes a constitutional violation, not merely a breach giving rise to civil damages. Moreover, challenging State non-implementation of infrastructure provisions is precisely the type of structural public law remedy recognized in *Jane Kaushik*. This option wrongly compartmentalizes public law (State duties) and private law (individual remedies) when the TPA creates integrated public-law obligations.

### 3. Correct Answer: (d)

Reference Line: "The judgment applies the principle of substantive equality, moving beyond formal equality (treating everyone the same) to ensure that historically marginalised communities can equally enjoy rights and opportunities. By linking enforceable fundamental rights to Directive Principles of State Policy, the Court emphasised that the Constitution's transformative purpose requires active State participation in securing substantive equality for gender minorities."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: This reflects a formal equality approach that the judgment explicitly rejected. The notion that "identical treatment" satisfies Article 14 is outdated—modern constitutional jurisprudence recognizes that treating unequals equally can perpetuate inequality. Creating facilities addressing specific needs of transgender students isn't discrimination against others; it's affirmative action ensuring substantive equality. The judgment emphasized that Article 14 requires equal opportunity in substance, not just form. Separate facilities addressing marginalization aren't prohibited discrimination but mandated reasonable accommodation ensuring equal access and dignity.

Option (b) Incorrect: Facial neutrality doesn't immunize policies from constitutional challenge when they perpetuate disadvantage to marginalized groups. A facially neutral policy can have discriminatory effect by failing to address historical disadvantage. The judgment specifically critiqued formal equality approaches that ignore substantive inequality. Articles 14 and 15 prohibit not just explicit discrimination but also policies that, while neutral on face, fail to provide meaningful equality to historically excluded groups. This option conflates formal non-discrimination with substantive equality—the Constitution requires the latter.

Option (c) Incorrect: While this option reaches the correct conclusion (policy should be struck down), the reasoning is inadequate. Framing the issue as merely "Article 14 permits reasonable classification" understates the constitutional requirement. The judgment didn't rest on "permission" for special facilities but on constitutional obligation to ensure substantive equality. This reasoning suggests that special facilities are optional ("permitted") rather than required. Moreover, focusing only on Article 14's reasonable classification doctrine ignores the broader framework: substantive equality under Articles 14-15, Directive Principles under Articles 38 and 46, and positive obligations to address historical marginalization.



Option (d) Correct: This accurately captures the substantive equality principle central to the judgment. Constitutional equality isn't satisfied by identical treatment when such treatment perpetuates historical disadvantage. The judgment emphasized that Article 14 requires substantive, not merely formal, equality—meaning the State must actively address structural barriers facing transgender persons. The reference to Articles 38 and 46 (Directive Principles) is crucial: these provisions mandate State action to promote social justice and protect marginalized groups. Identical treatment ignoring specific needs and historical exclusion violates the Constitution's transformative vision, which requires dismantling systemic disadvantage through affirmative measures.

#### 4. Correct Answer: (b)

Reference Line: "The Court's award of ₹50,000 compensation from each respondent reflects the growing trend of recognising compensation as a constitutional remedy under Articles 32 and 226 for violation of fundamental rights. It exemplifies the public-law remedy doctrine—monetary redress for state failure to discharge constitutional and statutory duties, independent of private-law damages. This doctrine was earlier seen in *Rudul Sah v. State of Bihar* (1983) and *Nilabati Behera v. State of Orissa* (1993); its extension here signifies the constitutionalisation of anti-discrimination remedies."

Difficulty Level: Difficult

Explanation: Option (a) Incorrect: This incorrectly limits constitutional compensation to physical liberty violations. While early cases like *Rudul Sah* involved illegal detention, the doctrine has evolved significantly. *Nilabati Behera* extended it to custodial death, and subsequent jurisprudence has broadened it further. The judgment in *Jane Kaushik* explicitly extends constitutional compensation to discrimination and administrative failures violating fundamental rights. The public-law damages doctrine isn't confined to specific types of rights violations—it applies whenever fundamental rights are violated through State action or inaction. Restricting it to detention cases ignores decades of doctrinal evolution.

Option (b) Correct: This accurately states the evolved doctrine of constitutional compensation. The judgment extends public-law damages from physical liberty violations (*Rudul Sah*) and custodial deaths (*Nilabati Behera*) to discrimination and State failure to implement anti-discrimination mechanisms. This reflects the "constitutionalisation of anti-discrimination remedies"—recognition that compensation under Articles 32 and 226 is available for any fundamental rights violation, not just specific categories. The State's failure to establish grievance mechanisms under TPA violated transgender persons' constitutional rights to equality, dignity, and non-discrimination, warranting monetary redress as constitutional remedy independent of private tort damages.

Option (c) Incorrect: This misunderstands PIL jurisprudence and the nature of structural remedies. While PIL traditionally focused on declaratory and injunctive relief, courts have evolved to grant compensation in appropriate PIL cases, especially for systemic violations affecting classes of persons. In *Jane Kaushik*, the Court awarded compensation for failure to establish statutory mechanisms—a systemic failure affecting all transgender persons. Compensation in such contexts isn't "personal" in the private-law sense but addresses constitutional violations affecting a class. The judgment exemplifies structural public-law remedies where individual compensation addresses systemic State failure, not merely personal grievance.

Option (d) Incorrect: This incorrectly invokes Article 300A (right to property) as the basis for compensation. Article 300A protects against deprivation of property without authority of law—it's not the source of compensation for discrimination. The compensation here flows from violations of Articles

14, 15, and 21 (equality, non-discrimination, dignity), not property rights. Moreover, "employment opportunities" aren't "property" under Article 300A. This option confuses the constitutional basis: public-law damages for rights violations (Articles 32/226 enforcement of Articles 14, 15, 21) versus property deprivation (Article 300A). The judgment awarded compensation for dignity and equality violations, not property deprivation.

5. Correct Answer: (c)

Reference Line: "The decision draws upon the ideals of constitutional morality—the commitment to uphold liberty, equality, and fraternity over societal prejudices—and transformative constitutionalism, which views the Constitution as a living document aimed at social change. By reaffirming dignity and inclusion of transgender persons, the Court reiterated that the Constitution is a vehicle for transformation from social exclusion to equality of status. These doctrines originate from Navtej Singh Johar (2018) and NALSA (2014)."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This fundamentally misunderstands the relationship between institutional autonomy and constitutional values. Article 19(1)(g) does protect freedom to operate institutions, but this freedom isn't absolute and cannot be exercised to violate fundamental rights of others. The judgment established that constitutional morality—core values of dignity, equality, and fraternity—must permeate all institutions affecting basic human rights, whether public or private. Institutional autonomy doesn't include freedom to discriminate. The reference to "own values and ethos" cannot justify practices violating constitutional fundamentals; the Constitution's transformative vision requires that fundamental values prevail over prejudices regardless of institutional character.

Option (b) Incorrect: This wrongly limits constitutional morality to State institutions. While constitutional morality is primarily enforced against State under Article 12, the judgment extended it to private institutions through horizontal application doctrine when they perform functions affecting dignity and public interest. The "vertical application" limitation doesn't mean constitutional values are irrelevant to private actors—rather, they're enforced indirectly through statutory frameworks (TPA), horizontal application of rights, and recognition that certain private functions (like education) have public character warranting constitutional scrutiny. The judgment specifically rejected the notion that constitutional morality has no force in private relationships affecting fundamental rights.

Option (c) Correct: This accurately captures the judgment's holding on constitutional morality and transformative constitutionalism. The decision emphasized that fundamental constitutional values—dignity, equality, non-discrimination—must prevail over private prejudices, whether based on religion, culture, or tradition. Transformative constitutionalism requires viewing the Constitution as an instrument of social change, dismantling discrimination even in private spheres when basic human rights are affected. Institutional autonomy under Article 19(1)(g) is subject to reasonable restrictions ensuring equality and dignity under Articles 14, 15, and 21. Educational institutions cannot claim autonomy to discriminate; constitutional values must permeate all spaces affecting fundamental rights.

Option (d) Incorrect: While this reaches the correct conclusion (direction should be upheld), the reasoning is flawed. Private schools don't automatically become "State" under Article 12 by performing educational functions—this isn't the legal mechanism through which constitutional obligations apply. Some private educational institutions may be "State" if they're government-aided or controlled, but not

all private schools qualify. The correct doctrine is horizontal application and indirect horizontality through TPA, not expanded Article 12 definition. This option creates legal error by suggesting automatic State status for all educational institutions, when the actual mechanism is horizontal application of constitutional values through statutory frameworks and recognition of public functions affecting fundamental rights.

#### **14. Procedural Failure Cannot Result in Denial of Substantial Right of Defence**

1. Correct Answer: (c)

Reference Line: "The Court clarifies that the exclusion of limitation period from 15 March 2020 to 28 February 2022 by virtue of its Article 142 orders also applies to the computation of time under the proviso to Order VIII Rule 1 CPC in commercial suits."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: The judgment specifically rejects this distinction, holding that COVID-19 exclusion applies to procedural timelines under CPC, not just substantive limitation.

Option (b) Incorrect: The computation requires excluding the entire COVID-19 period. The defendant had only 5 days before exclusion started, making the filing timely after exclusion.

Option (c) Correct: The Supreme Court held COVID-19 exclusion applies to Order VIII Rule 1 timelines. Excluding the specified period makes the September filing timely.

Option (d) Incorrect: The exclusion requires actual computation, not automatic condonation. Courts must calculate whether filing falls within extended timeline after excluding the period.

2. Correct Answer: (a)

Reference Line: "The judgment affirms that the right to cross-examine a party's witnesses is a cornerstone of fair trial and natural justice. Even if a defendant fails to file a written statement, the court cannot mechanically deny cross-examination. Denial of cross-examination due solely to procedural default is an infringement of the defendant's substantial right of defence."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: The Supreme Court held cross-examination is a fundamental procedural safeguard that cannot be denied merely because of default in filing written statement.

Option (b) Incorrect: The Court rejected this cascading forfeiture theory, emphasizing cross-examination rights are independent of written statement filing and integral to natural justice.

Option (c) Incorrect: While expedition is important, the judgment clarifies efficiency cannot come at cost of fairness, and denying cross-examination violates this principle.

Option (d) Incorrect: The right to cross-examine exists independently of filing written statement. Even without accepting belated statement, cross-examination must be permitted.

3. Correct Answer: (d)

Reference Line: "Where the defendant was deprived of the opportunity to defend because of procedural default beyond the exclusion period, the decree must be set aside. This judgement therefore emphasises the doctrine of substantial justice over mere procedural formality."

Difficulty Level: Difficult

Explanation: Option (a) Incorrect: While SCG Contracts establishes mandatory timeline, the judgment clarifies when 120 days fall within COVID-19 exclusion, timeline is computed differently.

Option (b) Incorrect: The 15-day excess is misleading because when 120-day period falls entirely within COVID-19 exclusion, that period is excluded, making filing timely.

Option (c) Incorrect: The judgment specifically rejects rigid adherence to timelines when it would deny substantial justice, particularly when special circumstances like COVID-19 apply.

Option (d) Correct: When 120-day period falls within COVID-19 exclusion, excluding that time means filing was within permissible period, and denial would violate substantial justice.

4. Correct Answer: (b)

Reference Line: "The Court exercised its discretionary power to allow the written statement to be taken on record subject to cost, and to remand the matter for cross-examination. While it upheld mandatory timelines in principle, it also indicated that courts have the power to mitigate unfairness by ordering retrial or reopening stages where procedural default collides with denial of defence."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: The judgment holds that while mandatory timelines are important, courts must exercise discretion to prevent unfairness when special circumstances exist.

Option (b) Correct: The Supreme Court held courts have discretionary remedial power to mitigate unfairness where procedural default collides with denial of defense during special circumstances.

Option (c) Incorrect: High Courts in appellate jurisdiction have power to correct errors denying substantial justice; such matters need not go only to Supreme Court.

Option (d) Incorrect: The judgment doesn't require deposit of decretal amount as condition for remedial relief. The approach focuses on fairness and substantial justice.

5. Correct Answer: (b)

Reference Line: "The Court exercised its discretionary power to allow the written statement to be taken on record subject to cost, and to remand the matter for cross-examination."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: The defendant's failure to cross-examine was consequential to erroneous rejection of written statement. Flawed procedure cannot create waiver of subsequent rights.

Option (b) Correct: This reflects the Supreme Court's actual order—accepting written statement and remanding for cross-examination, which is essential to fair trial.

Option (c) Incorrect: While rejection was erroneous, ordering fresh trial de novo would be disproportionate when accepting statement and allowing cross-examination suffices.

Option (d) Incorrect: Failure to cross-examine when written statement was wrongly rejected cannot be deemed acquiescence. Defendant is entitled to cross-examination once statement is accepted.

## **15. Appointment of Waitlisted Candidate after Expiry of Selection List**

1. Correct Answer: (b)

Reference Line: "Under established service jurisprudence, most recruitment rules and DoPT guidelines prescribe a validity period (usually one year), extendable only through express administrative order. The



Supreme Court clarified that once this period expires, the waitlist ceases to exist in law; no extension can be presumed, and appointments from such expired lists would be ultra vires and arbitrary."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: The validity period is a definite legal boundary, not a flexible guideline subject to administrative convenience. The 15-day delay, however minimal, occurred after the legal expiry of the list. Administrative delays cannot be used to extend statutory or rule-based validity periods without express authorization. The Supreme Court emphasized that expiry is absolute—the list "ceases to exist in law"—and no presumption of extension is permissible. Accepting this reasoning would undermine the certainty and finality that validity periods are meant to ensure.

Option (b) Correct: The waitlist's legal existence terminated on 31st December 2022 when the one-year validity expired. After this date, the list ceased to have any legal force, regardless of when vacancies arose or administrative processes were pending. The Supreme Court in *Subit Kumar Das* held that appointments from expired waitlists are ultra vires. The timing of vacancy arising is irrelevant if the appointment is made after expiry. This protects Article 16(1) equality by ensuring no group has perpetual preferential access.

Option (c) Incorrect: This fundamentally confuses "legitimate expectation" with "vested right." The Supreme Court explicitly clarified that waitlisted candidates have only a legitimate expectation to be considered during the validity period—not a vested right to appointment. A legitimate expectation does not mature into a vested right merely because vacancies arise. The expectation is conditional on appointment occurring within the validity period. Once the period expires, even legitimate expectations cannot be enforced, as they are time-bound by the list's validity.

Option (d) Incorrect: This creates an artificial and legally unsupportable distinction. All appointments made after the expiry date are equally invalid—there is no "partial validity" where some appointments are valid and others invalid based on waitlist ranking. The legal invalidity flows from the expired status of the entire list, not from individual candidates' positions. Moreover, the concept of "legitimate expectation maturing into vested right" for certain candidates contradicts the Supreme Court's clear holding that legitimate expectations remain expectations throughout and do not transform into enforceable rights.

2. Correct Answer: (d)

Reference Line: "Invoking Article 14, the Court underscored that continuing to appoint candidates from an expired waitlist after initiating a fresh recruitment process would amount to arbitrariness and discrimination against new candidates. The judgment affirms the principle of finality in public recruitment. Once a selection cycle concludes and a fresh process begins, the old list cannot be reopened."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While technically the waitlist remains valid until 28th February 2024, this validity is overridden by the commencement of fresh recruitment. The Supreme Court held that once a fresh recruitment process is initiated, the old cycle must be treated as concluded. Allowing appointments from the old waitlist while simultaneously recruiting fresh candidates creates two parallel systems competing for the same posts, violating Article 14's mandate of equal opportunity. The validity date becomes moot once the fresh recruitment begins, as continuing with the old list discriminates against new aspirants.

Option (b) Incorrect: The concept of "legitimate expectation maturing into enforceable right" mischaracterizes the legal position. Legitimate expectations remain expectations and do not transform into enforceable rights automatically. More critically, this option ignores the supervening effect of fresh recruitment initiation. Even if legitimate expectation existed, it is extinguished when the administrative authority commences a new selection process. The fresh recruitment represents an administrative decision to close the old cycle, and legitimate expectations cannot override this policy decision or bind the authority to appointments from an effectively superseded list.

Option (c) Incorrect: While it correctly identifies that fresh recruitment closes the old cycle, the reasoning is flawed. Administrative discretion to close the old cycle is not absolute or arbitrary—it must be exercised fairly. However, once exercised by initiating fresh recruitment, the old waitlist becomes inoperative not because of discretionary choice alone but because of Article 14 requirements. The issue is not whether the University "can" make the old list inoperative, but that it "must" to avoid discrimination against new candidates who would otherwise compete with waitlisted candidates from an old process.

Option (d) Correct: Initiating fresh recruitment while the old waitlist is still technically valid creates an Article 14 violation by discriminating against new candidates who must undergo the fresh selection process while old waitlisted candidates could bypass it. The Supreme Court held that such parallel systems are arbitrary and unconstitutional. Once fresh recruitment begins, the old waitlist must be deemed terminated immediately—not on its validity expiry date—to ensure a level playing field. This protects equal opportunity under Article 16(1) for all candidates participating in the fresh recruitment.

### 3. Correct Answer: (a)

Reference Line: "The Supreme Court clarified that once this period expires, the waitlist ceases to exist in law; no extension can be presumed, and appointments from such expired lists would be ultra vires and arbitrary. Only the rule-making authority can decide on extending or modifying validity periods of select lists."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: The waitlist's validity expired definitively in June 2022 after the express extension. No further extension was issued by the competent authority. The COVID-19 Supreme Court orders excluded limitation periods under the Limitation Act for computing statutory limitation periods—they did not automatically extend all administrative validity periods. Administrative validity periods are distinct from limitation periods; they are rule-based timelines requiring express modification by the rule-making authority. Applying COVID-19 exclusion to administrative validity would require express judicial or administrative order, which was absent here.

Option (b) Incorrect: This incorrectly extends the scope of COVID-19 limitation exclusion orders. Those orders specifically addressed computation of limitation periods under the Limitation Act for filing suits, appeals, and applications. They were not blanket extensions of all time-bound administrative actions. Waitlist validity periods are administrative in nature, governed by recruitment rules under Article 309, not by the Limitation Act. Judicial orders have limited scope and cannot be read expansively to cover matters they didn't address. Each administrative action is governed by its specific statutory or rule-based framework.

Option (c) Incorrect: While Article 21 protects legitimate expectations in certain contexts, it does not transform time-barred administrative expectations into enforceable rights. Legitimate expectations are

subject to the legal framework governing them—here, the recruitment rules setting validity periods. COVID-19 created extraordinary circumstances, but those circumstances don't suspend all administrative rules unless express provision is made. The government's remedy was to issue a fresh extension order during the validity period, not to appoint after expiry. Allowing post-expiry appointments based on general equity principles would undermine rule-based governance.

Option (d) Incorrect: This creates an artificial "but for" exception that lacks legal foundation. The invalidity of July 2022 appointments doesn't depend on whether fresh recruitment had started—it flows from the expired status of the waitlist itself. Even without fresh recruitment, appointments from an expired list are ultra vires. The commencement of fresh recruitment in May 2022 is an additional ground for invalidity (Article 14 violation against new candidates), but not the sole ground. Moreover, COVID-19 exclusion doctrine doesn't apply to administrative validity as explained above.

#### 4. Correct Answer: (c)

Reference Line: "The decision relies heavily on the precedent *Shankarsan Dash v. Union of India* (1991 3 SCC 47), where the Court held that mere inclusion in a select list does not confer a right to appointment unless the government's decision not to appoint is shown to be arbitrary or mala fide. By reaffirming this principle, Subit Kumar Das clarifies that the right of appointment arises only when the employer decides to fill vacancies within the operative period."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: This misapplies the *Shankarsan Dash* principle. That case held that candidates on a select list can challenge arbitrary non-appointment during the validity period of the list. The key temporal limitation is "during the validity period." Once the list expires, the protection under *Shankarsan Dash* ceases to apply. The employer's decision whether to appoint must be made within the operative period. Post-expiry, there is no "list" to appoint from, so the question of arbitrary non-appointment from that list doesn't arise—the list no longer exists legally.

Option (b) Incorrect: Unforeseen circumstances don't create "exceptional circumstances" justifying implied extension of validity. Recruitment rules may face various unforeseen situations—resignations, deaths, transfers—but these don't automatically extend select list validity. Extensions require express administrative action by the competent authority. The doctrine of "extension by necessary implication" doesn't apply to administrative validity periods, which are bright-line rules requiring strict compliance. If employers could extend lists implicitly whenever circumstances seemed to justify it, the certainty of validity periods would be destroyed, undermining Article 16(1) equality.

Option (c) Correct: The *Shankarsan Dash* principle protects candidates from arbitrary non-appointment, but this protection operates only within the select list's validity period. Once the validity expires on 31st March 2023, the list ceased to exist in law, and there is no legal basis for appointment from a non-existent list. The principle cannot be extended to revive expired lists or create post-expiry entitlements. The May 2023 vacancies required either fresh recruitment or prior extension of the waitlist validity before expiry—neither of which occurred here.

Option (d) Incorrect: Retrospective validation of administrative actions is not permissible in service matters involving selection and appointment. Article 309 requires that service rules and recruitment procedures be prospectively clear and not subject to post-facto rationalization. Allowing retrospective validation would enable arbitrary manipulation of recruitment processes, violating Article 14 and Article

16(1). Moreover, "retrospective validation" is a legislative function through curative legislation, not an administrative power. The PSU cannot cure the invalidity of expired lists through retrospective orders; only express extension before expiry is permissible.

5. Correct Answer: (c)

Reference Line: "Article 16(1) guarantees equal opportunity in matters of public employment. If a waitlist were allowed to operate indefinitely, it would violate this principle by excluding new aspirants from fair competition. The case reinforces the doctrine of fair recruitment, derived from Articles 14, 16, and 309. Fair recruitment requires transparent procedures, fixed timelines, and equal participation."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: There is a rational and constitutional distinction between "vacancies" and "newly created posts." Vacancies occur within originally sanctioned strength where positions were contemplated during initial recruitment. Newly created posts represent expansion of organizational structure not envisaged when the select list was prepared. Treating them differently is not arbitrary under Article 14 but recognizes that new posts weren't within the scope of original recruitment. Article 16(1) requires that all aspirants have equal opportunity for new posts, which is denied if only waitlisted candidates can compete for them.

Option (b) Incorrect: Legitimate expectation is limited to the scope and terms under which it was created. Waitlisted candidates' expectation was to be appointed to vacancies arising from non-joining, resignations, or cancellations within the original sanctioned strength during the validity period. Their expectation didn't extend to posts created through subsequent administrative restructuring that expanded the cadre. New posts require fresh assessment of suitability, potentially different requirements, and equal opportunity for all candidates. Expanding legitimate expectation to cover unforeseeable new posts would unfairly exclude other qualified aspirants.

Option (c) Correct: Newly created posts represent additional opportunities that should be accessible to all candidates through fresh recruitment, ensuring Article 16(1) equality. Using the waitlist for new posts would unfairly privilege those on the list over other qualified candidates in the general population who could have competed had they known such posts would exist. Fair recruitment doctrine requires that each recruitment exercise be based on sanctioned posts known at that time. Post-creation through restructuring changes the playing field and demands fresh competition to avoid arbitrariness and ensure equal opportunity.

Option (d) Incorrect: While Article 233 governs High Court's role in judicial appointments, this is not the determinative issue. The question is whether waitlists can be used for newly created posts, not whether the State Government has appointing power. In many states, while the High Court has primacy in judicial appointments, the administrative process of recruitment through commissions is still utilized with High Court involvement. The key issue is whether any authority—whether High Court or State Government—can use an existing waitlist for newly created posts, which violates Article 16(1) regardless of who makes the final appointment.

## **16. Grounds for Cancellation of Bail**

1. Correct Answer: (b)

Reference Line: "Social media posts celebrating bail do not ipso facto equate to intimidation. The



complainant must show that the posts had intent and effect of influencing or intimidating the complainant/witness, or obstructing justice. Mere celebration or flaunting of weapons without direct link to intimidation is insufficient."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: There is no "implicit condition of maintaining low profile" in bail law. Bail conditions must be express and clear. The judgment specifically rejects the idea that mere celebration constitutes violation. Courts cannot read implied conditions into bail that restrict accused's liberty beyond express conditions. Moreover, celebrating with a toy gun at a private party, without targeting or threatening any specific person, doesn't violate any recognized bail principle or condition.

Option (b) Correct: The Supreme Court held that social media celebration, even if public and viral, doesn't automatically justify bail cancellation unless it demonstrates intent and effect of intimidating witnesses or obstructing justice. Here, the video shows private celebration with friends without naming, threatening, or directing any content at the complainant or witnesses. The mere viral nature and presence of toy gun don't establish the requisite link to intimidation or abuse of bail conditions.

Option (c) Incorrect: The number of views doesn't transform non-threatening content into intimidation. The judgment emphasizes that courts must evaluate whether posts were "directed at the complainant" and whether they "constituted intimidation or threat." Public visibility alone, without threatening content or intent, is insufficient. The complainant's subjective fear, without objective basis in the accused's conduct, cannot meet the threshold of "cogent and overwhelming circumstances" required for cancellation.

Option (d) Incorrect: Courts cannot impose additional restrictions as a middle ground when there's no violation justifying even those restrictions. If the conduct doesn't warrant cancellation, it doesn't warrant modification either. Imposing restrictions on social media posts without showing how they interfere with justice would constitute prior restraint on speech without legal basis. The judgment requires actual misuse of bail, not preventive restrictions based on speculation about future conduct.

## 2. Correct Answer: (c)

Reference Line: "The accused's bail can be cancelled only if credible material shows that he/she has committed acts post-bail that justify cancellation. Absence of a police complaint, absence of clear threat or misuse of bail conditions weakens cancellation petitions. Mere speculation or generalized fear is not sufficient – cancellation requires 'very cogent and overwhelming circumstances'."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Reasonable inference alone is insufficient without credible material evidence directly linking B to the threats. The friends' "casual mention" and anonymous WhatsApp message lack direct evidentiary connection to B. The judgment requires showing that "the accused has committed acts post-bail" that justify cancellation. Suspicion or inference based on circumstantial proximity (friends' visit, anonymous message) doesn't meet the standard of "cogent and overwhelming circumstances" when B has complied with all express bail conditions.

Option (b) Incorrect: Subjective fear without objective corroboration is explicitly rejected by the judgment. The standard is not what the complainant feels but what the accused actually did. The Court requires credible material evidence of threats, intimidation, or tampering—not generalized feelings.

Accepting subjective fear as sufficient would lower the threshold unacceptably and allow bail cancellation based on complainant's assertions alone, violating the principle that cancellation requires a higher threshold than initial refusal.

Option (c) Correct: The judgment emphasizes that cancellation requires credible material evidence of accused's post-bail misconduct. Here: (i) no direct link between B and the alleged threats, (ii) complainant didn't file police complaint despite claiming threats, (iii) B complied with all express bail conditions including not contacting complainant. The absence of these crucial factors means the "cogent and overwhelming circumstances" standard is not met. Speculation about B's indirect involvement through friends or anonymous messages is insufficient.

Option (d) Incorrect: This creates an intermediate investigative phase that isn't provided for in bail cancellation jurisprudence. Either the material before court justifies cancellation or it doesn't—courts don't cancel bail provisionally pending investigation. The judgment requires that at the time of deciding cancellation, credible material must exist. If insufficient material exists, bail cannot be cancelled with a direction to investigate. The proper course is dismissing the cancellation petition, not keeping it pending for further investigation.

### 3. Correct Answer: (b)

Reference Line: "Courts must ask whether those posts were directed at the complainant, whether they constituted intimidation or threat, and whether they violated bail conditions. The decision underscores the constitutional principle that liberty is a primary rule, and bail is the norm. Cancellation of bail is the exception and must be exercised cautiously so as not to infringe on accused's rights, unless justified."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Contextual reading cannot substitute for actual threatening content. The post doesn't name the complainant, doesn't threaten harm, and expresses general relief using common phrases ("truth prevailed"). While timing may be relevant, it cannot convert non-threatening, generic content into intimidation. The judgment requires direct link between post and intimidation, not inferential or contextual interpretation. Reading intimidation into ambiguous, general statements would chill accused's fundamental right to express relief and maintain dignity during trial.

Option (b) Correct: The post is generic, doesn't name or identify the complainant, contains no threat (direct or veiled), and doesn't violate any express bail condition. In the absence of specific bail condition restricting such expression, cancelling bail infringes the accused's Article 19(1)(a) rights without meeting the "cogent and overwhelming circumstances" threshold. The judgment emphasizes that cancellation is exceptional and must be justified—preventing generic expressions of relief exceeds permissible limits and violates liberty as primary rule.

Option (c) Incorrect: This creates an impermissibly broad restriction. Not every reference to "the case" by the accused constitutes witness influence or undermines trial sanctity. Accused persons retain fundamental rights during trial and can speak about their case in general terms. The judgment's emphasis on evaluating specific intent and effect of posts rejects blanket restrictions. If any case-related social media post justified cancellation, it would effectively silence accused persons entirely, violating constitutional rights disproportionately.

Option (d) Incorrect: Modifying bail conditions isn't a remedy when no violation exists. If the conduct doesn't justify cancellation, it doesn't justify adding restrictive conditions either. Moreover, using

modification as a "middle ground" would circumvent the high threshold required for interfering with liberty. The judgment's framework is binary: either the conduct justifies cancellation (requiring cogent circumstances) or it doesn't. Courts cannot impose speech restrictions without first establishing that speech threatens justice administration.

4. Correct Answer: (c)

Reference Line: "Under Section 483(3) BNSS, courts may cancel bail if there are prima facie grounds that the accused has violated conditions of bail. Courts must exercise cautiously so as not to infringe on accused's rights, unless justified. This balances rights of the accused with interests of justice."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While technically a violation occurred, the judgment requires balancing liberty with justice interests. Mechanical application of conditions without considering circumstances would be overly harsh and contrary to the principle that "liberty is primary rule, cancellation is exception." The test isn't merely whether a condition was breached, but whether the breach constitutes abuse of bail or interference with justice. A genuine emergency with immediate disclosure and return doesn't demonstrate such abuse.

Option (b) Incorrect: This option goes too far in excusing the violation. While emergency is relevant, the judgment's framework requires some procedural safeguard—not complete excuse based on good faith alone. Emergencies don't grant automatic exemption from conditions; rather, they are relevant circumstances courts consider. The correct approach is requiring the accused to prove emergency and impossibility of seeking permission, not automatically excusing any breach labeled "emergency" with post-facto disclosure.

Option (c) Correct: This strikes the appropriate balance required by the judgment. It recognizes that: (i) a violation occurred, (ii) but cancellation isn't automatic, (iii) the accused must prove genuine emergency and impossibility of seeking prior permission. This approach respects both the mandatory nature of bail conditions and the principle that cancellation requires showing abuse or interference with justice. If D proves genuine emergency making prior permission practically impossible, the breach doesn't constitute abuse warranting cancellation.

Option (d) Incorrect: The characterization as "technical breach" understates the violation. Leaving jurisdiction without permission is substantive, not technical—it affects court's control over the accused and ability to ensure appearance. While the judgment requires showing impact on trial/investigation, jurisdictional violations have inherent importance because they risk flight. The correct analysis isn't whether breach was "technical" but whether the circumstances (emergency, impossibility of permission, immediate disclosure) justify not cancelling bail despite the substantive breach.

5. Correct Answer: (c)

Reference Line: "Cancellation focuses on subsequent conduct — whether the accused has misused the bail concession by interfering with justice, intimidating complainants/witnesses, tampering evidence or evading legal process. The Court summarised general grounds: interference with administration of justice; attempt to evade justice; abuse of concession granted to accused."

Difficulty Level: Moderate

Explanation: Option (a) Incorrect: The judgment rejects the "strictest compliance" approach that treats

any violation, regardless of cause, as justifying cancellation. Seriousness of the offence affects initial bail grant considerations but doesn't create an absolute no-tolerance policy for condition violations. The cancellation standard remains consistent: whether the breach demonstrates abuse of bail or interference with justice. A medically documented inability to report doesn't constitute such abuse, and treating it as automatic ground for cancellation would be disproportionate.

**Option (b) Incorrect:** While prior intimation would have been preferable, the judgment's framework focuses on abuse of bail and interference with justice, not procedural perfection. COVID-19 infection can be sudden and debilitating, potentially preventing even phone calls. The medical certificate provided shortly after recovery, combined with eight weeks of perfect compliance, demonstrates good faith rather than evasion. Requiring prior intimation as absolute condition would be unrealistic in genuine medical emergencies and doesn't align with the judgment's emphasis on actual abuse or interference.

**Option (c) Correct:** The judgment's core principle is that cancellation requires showing "abuse of concession" or "interference with administration of justice." A genuine medical emergency preventing compliance with reporting condition doesn't constitute abuse—it's an involuntary inability, not willful evasion or misuse. The accused's eight-week compliance record, provision of medical certificate, and absence of any behavior interfering with trial, witnesses, or investigation mean the "cogent and overwhelming circumstances" standard for cancellation isn't met.

**Option (d) Incorrect:** While the reasoning about E's compliance record is sound, the legal basis is incorrect. The issue isn't "force majeure" (a contract law doctrine) or "relaxation of condition" but whether the breach constitutes abuse of bail. The judgment's framework doesn't rely on force majeure concepts but on whether conduct demonstrates misuse of bail liberty. The correct analysis is that genuine medical inability doesn't constitute the abuse or interference required for cancellation, not that force majeure excuses the violation.

### 17. No Refund for Excess Maintenance Paid by Father

1. Correct Answer: (c)

Reference Line: "Despite the cessation of legal obligation, the Court emphasised the difference between legal right and moral duty. Although the father had no further legal duty under the statute after majority, he retained a moral obligation towards his children, especially in continuing education phases. Consequently, even if the father paid maintenance beyond the period of legal entitlement, the Court held he cannot claim refund or adjustment of those amounts."

Difficulty Level: Moderate

Explanation:

**Option (a) Incorrect:** While the legal obligation did cease upon majority, the judgment distinguishes between legal cessation and entitlement to recovery. The principle established is that payments made voluntarily after legal obligation ceased cannot be recovered, particularly when made with knowledge of majority status. The doctrine of "benefit conferred and accepted without challenge" prevents retrospective recovery even if no legal consideration exists for post-majority payments.

**Option (b) Incorrect:** Mistake of law generally doesn't provide ground for restitution in family law matters involving maintenance. More importantly, the judgment specifically holds that even if the father knew about cessation of legal obligation, he cannot claim refund if payments were made voluntarily. The moral obligation toward children, especially during education phase, prevents treating such payments as recoverable mistakes. Courts recognize that refund would harm children's education and welfare.



Option (c) Correct: The judgment establishes that despite cessation of statutory legal obligation upon majority, the father's moral duty continues, particularly during education phase. Since the father voluntarily continued payments for 10 months without challenging or seeking clarification, and the son accepted them for educational purposes, the doctrine prevents retrospective refund claims. This protects children's interests and recognizes that moral obligations, though not legally enforceable, create equitable bars to recovery once benefit is conferred.

Option (d) Incorrect: The judgment doesn't create a "conditional refund" framework based on actual utilization or unjust enrichment principles. Once payments are made voluntarily post-majority, refund is not available regardless of how the amounts were used. The focus is on the voluntary nature of payment and moral obligation, not on whether the recipient was unjustly enriched. Creating utilization-based refund tests would undermine the settled principle that voluntary payments made under moral obligation cannot be recovered.

## 2. Correct Answer: (a)

Reference Line: "When an application for enhancement is filed under Section 127 CrPC, the court must account for the child's date of attaining majority. The entitlement for enhanced maintenance continues only until the date of majority. This highlights the principle of temporal entitlement and the importance of accurate calculation of period of maintenance."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: The judgment establishes that enhancement applications filed during minority create entitlement from the filing date (not order date) but only until the respective dates of majority. The filing date (July 2019) determines when enhanced entitlement begins because maintenance rights accrue from when the application is made, not when decided. However, these rights cannot extend beyond majority. Therefore, for son: July 2019 to January 2020; for daughter: July 2019 to March 2020.

Option (b) Incorrect: This incorrectly applies the principle of prospective operation. While judicial orders generally operate prospectively, maintenance enhancement applications are an exception—they create rights from the application date to protect children during litigation delays. Moreover, this option fails to account for cessation upon majority. Even if orders operated only from passing date, the entitlement would still cease upon majority, not "continue onwards."

Option (c) Incorrect: The fact that children attained majority before the order was passed doesn't extinguish their entitlement for the period between application filing and attaining majority. The temporal entitlement principle means that for the period when they were minors after the application was filed (July 2019 to their respective majority dates), they retain entitlement to enhanced maintenance. The order merely declares/recognizes this pre-existing entitlement for the minority period.

Option (d) Incorrect: The judgment explicitly rejects the notion that court orders create "independent legal entitlement" beyond statutory limits. Section 125/144 maintenance rights are creature of statute and cease upon majority. Court orders cannot extend statutory entitlement beyond legislatively prescribed limits. If the order purported to grant maintenance beyond majority without disability, it would be contrary to the statute. Orders recognize and enforce statutory rights but cannot create rights dehors the statute.

## 3. Correct Answer: (c)

Reference Line: "The statutory provision provides maintenance for legitimate or illegitimate child not being a married daughter, who has attained majority, where such child is, by reason of any physical or mental abnormality or injury, unable to maintain itself. The Court has made clear that the law does not extend to major children who are able to maintain themselves."

Difficulty Level: Difficult

Explanation: Option (a) Incorrect: Section 125 CrPC does not provide maintenance for major unmarried daughters who are able-bodied. The provision for major children is limited to those unable to maintain themselves "by reason of any physical or mental abnormality or injury"—i.e., disability. Being unmarried or pursuing education doesn't fall within this exception. The fact that she's a student choosing education over employment doesn't constitute inability to maintain due to disability.

Option (b) Incorrect: Educational pursuit, even if creating temporary unemployment, doesn't constitute "exceptional circumstances" extending Section 125 entitlement beyond majority. The statute provides a specific exception for major children: disability rendering them unable to maintain themselves. Courts cannot judicially create additional exceptions based on education, unemployment, or other circumstances not contemplated by the statute. Such expansion would amount to judicial legislation contrary to clear statutory language limiting major child maintenance to disability cases.

Option (c) Correct: The judgment and statutory language are clear: Section 125/144 maintenance for major children applies only when the child is unable to maintain itself "by reason of any physical or mental abnormality or injury." An able-bodied major daughter, even if unmarried, unemployed, or pursuing education, doesn't fall within this provision. The inability to maintain must arise from disability, not from life choices like pursuing education or unemployment due to lack of skills.

Option (d) Incorrect: While the first part correctly states Section 125 doesn't apply, the second part incorrectly suggests other statutes would apply. The judgment notes that Hindu Adoptions and Maintenance Act covers different situations, but merely being an unmarried major daughter pursuing education doesn't automatically create entitlement under that Act either. The suggestion that she "can claim" under other provisions is misleading—each statute has its own eligibility criteria, and being unmarried and educated doesn't necessarily satisfy those criteria.

#### 4. Correct Answer: (b)

Reference Line: "The entitlement for enhanced maintenance continues only until the date of majority. In this case, though filing was in July 2018, the son was still minor until March 2020, thus enhancement valid till that date. This highlights the principle of temporal entitlement and the importance of accurate calculation of period of maintenance."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: There is no principle that enhancement applications filed during minority extend entitlement until "completion of ongoing education phase." Section 125/144 creates a bright-line rule: majority marks cessation of entitlement (absent disability). Educational pursuits don't extend statutory maintenance beyond majority. The judgment specifically rejects extending maintenance based on continuing education, emphasizing that statutory entitlement is tied to age (majority), not educational milestones.

Option (b) Correct: The judgment establishes that enhancement applications create enhanced entitlement from application date but only until majority. Since application was filed in June 2020 and

son attained majority in August 2020, the enhanced maintenance applies only for the two-month period of minority post-application (June-July 2020). After August 2020, when son attained majority, the legal entitlement ceased entirely. The principle of temporal entitlement requires accurate calculation of the minority period during which enhancement applies.

Option (c) Incorrect: Court orders under Section 127 don't create "independent legal rights" that survive beyond statutory limits. They merely enforce and declare statutory rights. Since Section 125/144 maintenance rights cease upon majority (absent disability), court orders cannot extend these rights beyond majority. If a court order purported to grant maintenance beyond majority for an able-bodied child, it would be ultra vires the statute and legally unsustainable.

Option (d) Incorrect: The validity of enhancement doesn't depend on proving mala fides or knowledge of approaching majority. Even if the application was filed with full knowledge that majority was imminent, it doesn't affect the legal position. The temporal entitlement principle operates objectively based on dates: application filed during minority creates entitlement from application date until majority, regardless of parties' motivations. The two-month limitation flows from legal operation of statute, not from any finding of bad faith.

#### 5. Correct Answer: (c)

Reference Line: "The statutory provision provides maintenance for legitimate or illegitimate child not being a married daughter, who has attained majority, where such child is, by reason of any physical or mental abnormality or injury, unable to maintain itself. The Court reaffirmed that once a child attains majority and there is no disability, the statutory entitlement ends."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: There is no requirement that disability must be "established and maintenance ordered before attaining majority" for the exception to apply. Section 125/144 creates an exception for major children unable to maintain themselves due to physical or mental abnormality or injury—the statute doesn't impose a procedural requirement that this status must be judicially determined before majority. The substantive test is whether at the time of majority (or thereafter), the disability exists rendering the child unable to maintain itself.

Option (b) Incorrect: This misreads the statutory requirement. Section 125 requires that the major child be unable to maintain itself "by reason of any physical or mental abnormality or injury"—it doesn't specify that the disability must arise exactly at majority. If a child suffers disability before majority which continues to render him unable to maintain himself after majority, the exception applies. The focus is on the child's status as a major with disability making him unable to maintain himself, not on precise timing of disability onset.

Option (c) Correct: The statutory exception for major children applies when the child "by reason of any physical or mental abnormality or injury, [is] unable to maintain itself." The key requirement is that upon/after attaining majority, the child has a disability preventing self-maintenance. Whether the disability arose before birth, during minority, or after majority is immaterial—what matters is that at and after majority, the disability exists and prevents self-maintenance. Here, the son's 40% permanent disability from January 2021 continues after his April 2021 majority, satisfying the statutory exception.

Option (d) Incorrect: There is no "sufficient cause" requirement or time-bar principle for filing maintenance applications based on disability. The mother can file for maintenance of a major disabled

child at any time, as the entitlement is ongoing (unlike maintenance for able-bodied minors which ceases at majority). The three-month gap between disability (January 2021) and majority (April 2021) is irrelevant. Even filing years after majority would be valid if the disability continues to prevent self-maintenance.

### **18. Moral Policing and Women's Constitutional Rights**

1. Correct Answer: (c)

Reference Line: "While Article 21 typically applies to State action, this case underscores that social practices like moral policing — even if executed by private individuals or community groups — require judicial attention because the State has a duty to ensure enforcement of rights and protect individuals from non-state violence or intimidation. The Court implicitly recognised the State's positive obligation to create protective frameworks and deterrent mechanisms against such vigilante acts."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: While Article 21 traditionally applies to State action, the judgment recognizes State's positive obligation to protect citizens from non-state actors' violations of dignity and liberty. Courts can intervene not by directly applying Article 21 to private citizens, but by directing State authorities to take protective action. The constitutional framework requires State to prevent and remedy private interference with fundamental rights through appropriate mechanisms.

Option (b) Incorrect: Courts cannot abdicate responsibility by deferring all social issues to legislature. When private moral policing violates constitutional values of dignity, liberty, and gender equality, judicial intervention is necessary to protect fundamental rights. The doctrine of State's positive obligation requires courts to ensure protective frameworks exist and are enforced, even while legislature may create comprehensive laws.

Option (c) Correct: The judgment establishes that State has a positive constitutional obligation to protect individuals from non-state moral policing that interferes with Article 21 dignity and Article 15 gender equality. Courts can direct State authorities to provide protection, prevent social vigilantism, and ensure women's autonomy. The community committee's actions created gender-based restrictions violating constitutional values, warranting judicial intervention through State machinery.

Option (d) Incorrect: Constitutional violation from moral policing doesn't require proof of physical violence. The judgment recognizes that social pressure, stigma, rumors, and enforced restrictions on movement and autonomy violate dignity under Article 21. Creating conditions that force family to confine a woman and withdraw her from education constitutes harm to constitutional rights even without physical assault.

2. Correct Answer: (a)

Reference Line: "The Court did not treat moral policing allegations as automatic grounds for bail cancellation. The doctrine remains that bail may be cancelled only upon supervening circumstances, misuse of liberty, or interference with justice. Mere moral-policing allegations invite stronger bail conditions but require specific material evidence."

Difficulty Level: Difficult

Explanation:

Option (a) Correct: The judgment maintains that bail cancellation requires specific evidence showing abuse of bail liberty or interference with trial process. While moral policing is serious, cancellation isn't



automatic. Here, the pamphlet, though offensive, doesn't demonstrate direct interference with Kavita's trial participation, witness tampering, or violation of specific bail conditions. Courts may impose additional protective conditions but cancellation requires more concrete evidence of trial-related interference or targeted harassment affecting justice administration.

Option (b) Incorrect: The judgment explicitly rejects automatic bail cancellation based on moral policing allegations alone. While gender-based character assassination is concerning, it doesn't automatically justify cancellation. Courts must evaluate whether the conduct constitutes misuse of bail liberty interfering with trial or justice administration. The "automatic cancellation" approach would lower the threshold impermissibly and violate the principle that liberty is the norm and cancellation the exception.

Option (c) Incorrect: The pamphlet describing Kavita as "woman of loose character" goes beyond legitimate commentary on the criminal case (theft). Character assassination based on gender stereotypes isn't protected as case-related commentary. However, this doesn't automatically justify bail cancellation –it may warrant additional bail conditions or separate proceedings, but cancellation requires showing specific interference with trial or justice administration as per the judgment's framework.

Option (d) Incorrect: While creating social stigma through pamphlets may violate dignity and demonstrate concerning conduct, the judgment requires more than general stigmatization for bail cancellation. Courts need evidence that such conduct specifically interferes with trial process, intimidates witnesses, or demonstrates that accused will abscond or obstruct justice. Stigmatization may warrant protective bail conditions or separate action but doesn't automatically constitute grounds for cancellation.

### 3. Correct Answer: (d)

Reference Line: "Moral policing – meaning non-state enforcement of moral norms, social shaming, coercing conformity – interferes with these rights. The practice of moral policing disproportionately affects women in rural and socially conservative settings, creating a barrier to their full autonomy. The Court reaffirmed that gender-based vigilance, social policing of female behaviour, or community control over women's movement constitutes a gender-equality violation."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Article 40 directs States to organize Panchayats but doesn't grant them power to violate fundamental rights. "Voluntary community norms" become constitutionally problematic when they create frameworks for moral policing and gender-based restrictions. A resolution requiring permission for women's travel, even if called voluntary, establishes legitimacy for moral policing and creates coercive environment through community pressure.

Option (b) Incorrect: Community support or safety rationale cannot justify gender-based restrictions that violate constitutional rights. The judgment recognizes that paternalistic measures controlling women's movement under the guise of "protection" perpetuate gender inequality and constitute moral policing. Courts must scrutinize such measures through gender equality lens, not defer to local governance when fundamental rights are compromised.

Option (c) Incorrect: While the reasoning is sound regarding unconstitutionality of gender-based restrictions creating moral policing framework, this option states the resolution is unconstitutional even if "voluntary." The better analysis is in option (d) which recognizes that mere formal characterization as "voluntary" doesn't shield the resolution when practical enforcement creates coercion.

Option (d) Correct: A resolution creating permission requirement for women's travel is unconstitutional because it establishes institutional framework for moral policing and gender-based control. Even if characterized as "voluntary," such resolutions legitimize community surveillance and create coercive environment through social pressure. The distinction between formally voluntary norms and enforced penalties is false—community resolutions backed by Panchayat authority inherently carry coercive force through social sanctions, ostracization, and stigma even without formal penalties.

#### 4. Correct Answer: (b)

Reference Line: "The Court illustrated that judicial responses to moral policing must be multidimensional: not only reacting to the crime but also modifying procedural conditions (e.g., bail conditions) to prevent further harm. Ensuring accountability, monitoring, and structuring bail with conditions aimed at safeguarding the dignity of women victims or potential victims becomes a doctrine of protective jurisprudence."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: The affidavits' reference to "community meeting" to "counsel about immoral choice" and "return to tradition" are coded language for moral policing and potential honor-based harassment. Courts must read such statements in context of honor culture and gender-based control. Treating these as benign family concern ignores the coercive dynamics and risks to Sunita's autonomy and safety.

Option (b) Correct: The judgment endorses multidimensional judicial responses including protective bail conditions. Here, granting bail (respecting liberty presumption) with specific conditions prohibiting community meetings, social pressure, and restricting contact protects Sunita's Article 21 dignity and autonomy while addressing concerns raised by affidavits. This balances accused's liberty with victim's constitutional rights through targeted, preventive conditions rather than outright denial.

Option (c) Incorrect: Denying bail based on affidavits expressing intention to "counsel" would be disproportionate without more concrete evidence of planned violence or serious harm. The judgment maintains that liberty is primary and denial is exception. While affidavits raise serious concerns about moral policing, appropriate response is imposing stringent protective conditions rather than denying bail altogether, absent evidence of imminent serious threat.

Option (d) Incorrect: While undertakings are common, "automatic cancellation" for violation creates unrealistic and harsh consequence without procedural safeguards. Bail cancellation requires showing abuse of liberty or interference with justice through proper proceedings. Setting "automatic" triggers circumvents this process. The better approach (option b) imposes specific prohibitive conditions whose violation can lead to cancellation through proper evaluation.

#### 5. Correct Answer: (c)

Reference Line: "Moral policing often creates social ostracisation, rumour-based harassment and honour-based shame – these are not just moral wrongs but can lead to constitutional harm when they impair the dignity of individuals. The Court identified that when such practices drive a woman to suicide or extreme action, the State and society have failed their constitutional duty."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Article 19(1)(a) free speech doesn't protect sustained harassment campaigns that

violate another's Article 21 dignity rights. Circulating derogatory photographs, demanding employer termination, and public shaming exceed protected expression and constitute coordinated harassment. When expression aims at social ostracization and drives victim to suicide attempt, it loses constitutional protection and becomes abuse of liberty warranting bail cancellation.

Option (b) Incorrect: While bail cancellation generally requires violation of conditions or evidence tampering, the judgment recognizes moral policing creating constitutional harm (suicide attempt) as distinct ground. Sustained campaign after bail demonstrating ongoing abuse of liberty and interference with victim's life and dignity constitutes misuse of bail concession. The traditional grounds (witness tampering, condition violation) aren't exhaustive when fundamental rights violations occur.

Option (c) Correct: The sustained moral policing campaign driving Anjali to suicide attempt demonstrates serious abuse of bail liberty and creates constitutional harm to dignity under Article 21. The judgment establishes that when moral policing leads to extreme consequences like suicide attempts, it constitutes failure of constitutional duty and justifies bail cancellation. The coordinated nature of harassment (workplace protests, social media, employer pressure) shows organized interference with victim's life warranting cancellation.

Option (d) Incorrect: This creates an artificial barrier requiring proof of specific bail condition violation when the judgment recognizes broader grounds for cancellation in moral policing cases. When sustained harassment campaign drives victim to suicide attempt, this constitutes sufficient ground for cancellation as abuse of bail liberty, even absent violation of express conditions. Courts must address serious ongoing harm to constitutional rights, not merely technical condition breaches.

## **19. Right To Practice Religion**

1. Correct Answer: (b)

Reference Line: "Article 25 guarantees every person the right to freely practise, profess and propagate religion. The Court reaffirmed that this right is personal and portable: it does not guarantee a right to worship in a particular structure or at a specific location. The demolition or acquisition of a religious structure does not by itself violate Article 25, provided the right to practise elsewhere remains."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: There is no doctrine of "acquired religious right to specific location" based on duration of worship under Article 25. Long-standing worship creates historical or sentimental significance but doesn't convert into a constitutional right to that particular location. Article 25 protects the right to practice religion, not to practice at a specific place. Courts have consistently rejected attempts to tie religious freedom to particular structures or locations.

Option (b) Correct: The judgment clearly establishes that Article 25 guarantees the right to practice religion but doesn't extend to practicing at a specific location. Valid statutory acquisition following due process, with payment of compensation and offer of alternative site, doesn't violate religious freedom rights. The portability principle of Article 25 means devotees can practice their religion at the alternative location 5 km away, satisfying constitutional requirements.

Option (c) Incorrect: While daily worship and spiritual significance may be emotionally and religiously important to devotees, these factors don't create a constitutional right to a specific location under Article 25. The "essence of religious practice" refers to essential tenets and practices of the religion itself, not to the attachment to a particular physical location. Courts distinguish between sentiment and constitutional

entitlement.

Option (d) Incorrect: Article 25 and acquisition law don't require the State to prove "equivalent spiritual ambience" or similar subjective standards. The legal test is whether valid acquisition followed due process with compensation, not whether the alternative matches the devotees' spiritual preferences. Imposing such requirements would make acquisition of religious properties nearly impossible and conflate religious sentiment with constitutional obligation.

## 2. Correct Answer: (c)

Reference Line: "The Court highlighted the doctrine of locus: devotees may not have standing to claim reconstruction of a religious structure if they lack legal or possessory interest in the property, especially when there is a statutory body (e.g., waqf board) pursuing such claims. The remedy of reconstruction is a property-oriented relief, and devotees without proprietary rights cannot claim such relief via writ."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While fundamental rights can be enforced through writ jurisdiction, this doesn't mean petitioners can bypass specialized statutory forums when those forums are the appropriate avenue for the relief sought. Article 25 protects religious practice rights, but reconstruction is a property remedy. When a specialized forum (Waqf Tribunal) exists and the proper authority (Waqf Board) is pursuing the claim, individual devotees cannot maintain parallel writ proceedings for property-based reliefs.

Option (b) Incorrect: The judgment specifically distinguishes between devotees' religious practice rights and proprietary rights. While devotees have independent standing to protect their right to practice religion (e.g., seeking permission to pray at alternative locations), they lack standing to claim reconstruction—a property remedy—when they have no proprietary interest and the statutory body (Waqf Board) is already pursuing that remedy through the appropriate forum.

Option (c) Correct: Devotees lack locus standi to seek reconstruction because: (i) they have no legal or proprietary interest in waqf property, (ii) reconstruction is a property-oriented remedy, not merely a religious practice protection, (iii) the Waqf Board—the proper authority—is already pursuing the claim through the specialized Waqf Tribunal established under the Waqf Act, 1995. The judgment emphasizes channeling such claims through proper statutory forums rather than parallel writ proceedings.

Option (d) Incorrect: While courts can issue interim directions to protect fundamental rights during pending proceedings, this option incorrectly suggests the writ petition should be entertained on merits. The proper course is dismissing the writ petition for lack of locus standi and directing petitioners to support the Waqf Board's tribunal proceedings. Interim worship arrangements, if needed, should be sought through the Waqf Tribunal, not through parallel writ jurisdiction.

## 3. Correct Answer: (c)

Reference Line: "The judgment emphasises that land acquisition by the State carried out under a valid statute, following due process and payment of compensation, does not necessarily infringe fundamental rights. This aligns with earlier jurisprudence such as *Ismail Faruqui v. Union of India* (1994) which held that acquisition of mosque land is permissible if the law permits. The case thus reinforces that religious practice rights coexist with State powers to acquire property."

Difficulty Level: Difficult



Explanation:

Option (a) Incorrect: Article 26 protects a religious denomination's right to manage its property, but this right isn't absolute and doesn't create immunity from State's acquisition powers. Religious law principles (like Islamic prohibition on waqf alienation) are matters of religious doctrine and personal law, not constitutional law that can override valid statutory acquisition powers. The constitutional framework allows State acquisition of religious properties under valid statutes with due process and compensation.

Option (b) Incorrect: Articles 25 and 26 protect religious practice and management but don't prevent lawful property acquisition. The judgment and precedent (Ismail Faruqui) establish that religious law prohibitions don't create constitutional barriers to acquisition. The State's power to acquire property under Article 300A (read with acquisition statutes) coexists with, and can override, religious property management rights when statutory requirements are met.

Option (c) Correct: The judgment establishes that State's acquisition power under valid statute with compensation coexists with religious rights under Articles 25 and 26. Following Ismail Faruqui, acquisition of religious property (including mosque/waqf) is permissible under constitutional framework. Religious law prohibitions on alienation don't translate into constitutional immunity. Article 300A permits acquisition, and the constitutional balance allows State regulatory and acquisition powers over religious property when statutory process is followed.

Option (d) Incorrect: This incorrectly applies a proportionality test that isn't the governing framework for property acquisition. The test isn't whether public interest "outweighs" religious rights in a balancing exercise. Rather, if valid statutory acquisition with compensation is done following due process, it's constitutionally permissible. Puttaswamy's proportionality framework applies to rights restrictions requiring justification, not to lawful property acquisition which operates under its own constitutional and statutory framework.

#### 4. Correct Answer: (b)

Reference Line: "The Court highlighted the doctrine of locus: devotees may not have standing to claim reconstruction of a religious structure if they lack legal or possessory interest in the property, especially when there is a statutory body (e.g., waqf board) pursuing such claims. The remedy of reconstruction is a property-oriented relief, and devotees without proprietary rights cannot claim such relief via writ."

Difficulty Level: Moderate to Difficult

Explanation:

Option (a) Incorrect: There's no doctrine of "prescriptive right under Article 25" that converts long-standing religious practice into proprietary rights or locus standi for reconstruction. Article 25 protects religious practice but doesn't create property rights through usage. Reconstruction requires proprietary interest or legal title. Without evidence of legal title and without Waqf Board support, devotees' long-standing worship doesn't give them standing to claim property-based remedies like reconstruction.

Option (b) Correct: Devotees lack standing to seek reconstruction because: (i) no evidence of legal title to the property, (ii) Waqf Board—the statutory authority for waqf properties—hasn't claimed or registered it as waqf, (iii) reconstruction is a property remedy requiring proprietary rights. The judgment distinguishes between religious practice protection (where devotees have standing) and property remedies (requiring legal or possessory interest). Without either title or institutional support, devotees cannot maintain this claim.

Option (c) Incorrect: There's no legal doctrine of "derivative standing as guardians" when institutional

bodies fail to act. Devotees' standing must be based on their own legal rights or interests, not derived from institutional inaction. If the Waqf Board hasn't claimed the property, it may indicate lack of evidence that it's waqf property. Devotees cannot fill this gap by claiming guardian status—they need independent legal basis for standing.

Option (d) Incorrect: While devotees could potentially seek alternative worship arrangements as a religious practice protection under Article 25, this option incorrectly frames it as an "alternative remedy" to reconstruction. The judgment establishes that devotees lack standing for reconstruction claims themselves due to no proprietary rights. The option's suggestion of "designating another location" would need to be pursued differently (e.g., seeking permission for worship elsewhere), not as an alternative in this writ petition.

5. Correct Answer: (c)

Reference Line: "Article 25 guarantees every person the right to freely practise, profess and propagate religion. This right is personal and portable: it does not guarantee a right to worship in a particular structure or at a specific location. The demolition or acquisition of a religious structure does not by itself violate Article 25, provided the right to practise elsewhere remains. This doctrine ensures that religious freedoms are not interpreted as akin to property rights over specific buildings."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While the acquisition may have been for temporary emergency purposes initially, and conversion to permanent use raises administrative/procedural concerns, this doesn't automatically create a right to property return under religious freedom jurisprudence. Promissory estoppel would require a clear promise of return, which isn't established here. The trust accepted compensation, which under acquisition law generally finalizes the transaction. Property law principles govern return/conversion issues, not Article 25.

Option (b) Incorrect: Article 25's "portable practice doctrine" doesn't require the State to offer alternative land—it simply means religious practice can be exercised elsewhere. The doctrine protects the right to practice religion at alternative locations; it doesn't impose obligation on the State to provide such alternatives. Absence of State-offered alternative doesn't violate Article 25 as long as the trust/devotees can practice religion elsewhere (which they can, through their own arrangements).

Option (c) Correct: The trust accepted compensation, which under acquisition law constitutes acceptance of the transaction, even if "under protest." Article 25 doesn't guarantee worship at a specific location or structure. The conversion from temporary to permanent use is an administrative/statutory issue under acquisition law, not an Article 25 violation. The State has no constitutional obligation under religious freedom provisions to provide alternative land—the trust can arrange alternative worship locations independently, satisfying Article 25's portability principle.

Option (d) Incorrect: While this seems balanced, it incorrectly creates a constitutional obligation for the State to provide alternative land and facilitate reconstruction. The judgment establishes no such obligation under Article 25. Once valid acquisition with compensation occurs (and is accepted), the State's obligations under religious freedom jurisprudence are satisfied if devotees can practice elsewhere. Directing alternative land provision would transform Article 25 from protecting practice rights into creating property entitlements against the State.

## 20. Daughter Not Entitled to Mitakshara Property Pre-1956 if Son Survives

1. Correct Answer: (c)

Reference Line: "The date of the deceased's death (or opening of succession) is critical in determining the applicable law. If death occurred before 17 June 1956, the Hindu Succession Act does not apply. The 1956 Act and subsequent amendments (like the 2005 Amendment) do not apply retrospectively to cases where succession opened prior to the Act."

Difficulty Level: Moderate

Explanation:

Option (a) Incorrect: While the 2005 Amendment is remedial and addresses gender discrimination, it doesn't apply to successions that opened before 1956. The remedial character doesn't overcome the temporal limitation. The Amendment applies to living coparceners and their property, not to successions completed decades before under different law. Courts cannot use remedial nature to ignore clear temporal boundaries established by succession law principles.

Option (b) Incorrect: Constitutional equality principles don't mandate retrospective application of succession amendments to pre-1956 deaths. Articles 14 and 15 don't require courts to reopen settled successions from the past. The Constitution permits different succession laws based on timing, and applying HSA amendments retrospectively would disturb vested rights contrary to the doctrine of vesting and legal certainty in property matters.

Option (c) Correct: Ramesh died in 1954, before HSA came into force on 17 June 1956. Therefore, his succession is governed by Mitakshara law, under which daughters had no rights when sons survived. The 1955 partition was valid under applicable law. The 2005 Amendment doesn't apply retrospectively to pre-1956 deaths. The property interests vested in sons in 1954-55, and subsequent legislation cannot divest these vested rights.

Option (d) Incorrect: The denial of C's claim isn't "only because of estoppel" but fundamentally because the wrong law is being invoked. Even without the 1955 partition, C couldn't claim under 2005 Amendment for her father's 1954 death. The Amendment doesn't protect daughters' rights as "fundamental rights" that apply retrospectively. It's statutory law with temporal application limits, and the partition merely evidences the already-vested rights under Mitakshara law.

2. Correct Answer: (a)

Reference Line: "The date of the deceased's death (or opening of succession) is critical in determining the applicable law. If death occurred before 17 June 1956, the Hindu Succession Act does not apply, and the provisions of the household's Mitakshara school govern. No retrospective operation of reforms: rights already vested under old law cannot be disturbed by later legislation."

Difficulty Level: Moderate

Explanation:

Option (a) Correct: HSA came into force on 17 June 1956 and applies to successions opening on or after that date. Since Gopal died in 1948, his succession opened in 1948, and Mitakshara law governed. HSA doesn't apply retrospectively to pre-1956 deaths. The timing of filing suit (1960) is irrelevant—what matters is when succession opened (date of death). Under Mitakshara law applicable in 1948, D had no inheritance rights when brother survived.

Option (b) Incorrect: While HSA Section 8 lists daughters as Class I heirs, the Act has temporal application

limits. The principle that "succession is governed by law in force at the time of death" is fundamental. Liberal construction of beneficial legislation doesn't extend to applying statutes to events (deaths) occurring before the statute existed. This would violate the principle against retrospective operation of laws absent express provision.

Option (c) Incorrect: This creates a false "possessory vs legal title" distinction that doesn't exist in succession law. When S inherited in 1948 under Mitakshara law, he obtained full legal ownership, not merely possession. HSA doesn't "perfect title" or require "fresh distribution" for pre-1956 successions. The ownership that vested in 1948 under applicable law is complete and final; HSA cannot retrospectively change vested ownership rights.

Option (d) Incorrect: HSA doesn't create such a distinction between self-acquired and joint family property for temporal application. If the succession opened before 1956, both types of property are governed by pre-HSA law (Mitakshara). Moreover, partition rights under HSA apply to coparcenary property of living coparceners, not to property that already devolved in 1948. D cannot claim partition of property that fully vested in S in 1948.

### 3. Correct Answer: (c)

Reference Line: "The date of the deceased's death (or opening of succession) is critical in determining the applicable law. If death occurred before 17 June 1956, the Hindu Succession Act does not apply, and if after, HSA applies regardless of when the property was acquired."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: Property doesn't retain "Mitakshara character" based on acquisition date. The governing succession law is determined by when succession opens (death date), not property acquisition date. Applying HSA to property Krishna owned doesn't "retrospectively affect" his ownership rights during lifetime—it merely governs how property devolves upon his death in 1957. Krishna's ownership rights ended at death; succession law determines distribution.

Option (b) Incorrect: This creates a non-existent rule limiting HSA to post-1956 acquired property. Succession law doesn't distinguish based on property acquisition date. When Krishna died in 1957 (post-HSA), all his property—whether acquired in 1920, 1940, or 1957—devolves under HSA. Protecting "Mitakshara property arrangements and expectations" isn't a legal doctrine that overrides temporal application of succession law based on death date.

Option (c) Correct: The fundamental principle is that succession law applicable at the time of death governs the distribution of the deceased's entire estate, regardless of when properties were acquired. Krishna died in 1957, after HSA came into force, so HSA governs distribution of all his property. The notion of property retaining "Mitakshara-era character" has no legal basis. S's claim based on property acquisition timing is legally unsound.

Option (d) Incorrect: Courts cannot create arbitrary proportional divisions to "balance" old and new law expectations. The legal framework is clear: if death occurred post-1956, HSA applies fully; if pre-1956, Mitakshara applies fully. There's no intermediate proportional approach based on subjective factors like "expectations" or how soon after HSA the death occurred. Such an approach would create legal uncertainty and violate established succession principles.

### 4. Correct Answer: (b)



Reference Line: "The date of the deceased's death (or opening of succession) is critical in determining the applicable law. The property interest of the male heir under Mitakshara law vests immediately upon the death of the ancestor. After vesting, legislative changes cannot retrospectively divest that vested interest."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: "Pending inheritance matters" isn't a category that extends HSA to pre-commencement deaths. Succession opens at the moment of death, not when distribution is completed or formalized. Mohan's succession opened in March 1956 when he died, and the law at that moment (Mitakshara) governed. Possession by son A immediately upon death isn't "mere possession"—it represents the vesting of ownership under applicable law. HSA cannot apply to successions that opened before its commencement.

Option (b) Correct: The critical date is when succession opens—i.e., the date of death. Mohan died in March 1956, three months before HSA came into force in June 1956. Therefore, his succession is governed by Mitakshara law applicable at his death. Under the doctrine of vesting, property rights vested in son A in March 1956. The subsequent enactment of HSA in June 1956 cannot retrospectively change rights that already vested under the law in force at death.

Option (c) Incorrect: There's no "minimal gap" exception or "transitional cases" doctrine in succession law. The temporal boundary (17 June 1956) is absolute—deaths before that date are governed by pre-HSA law, deaths after by HSA, regardless of how close to the boundary. "Purposive interpretation" doesn't authorize applying statutes to events before their commencement. This would violate the principle against retrospective operation and create arbitrary distinctions based on proximity to HSA's enactment.

Option (d) Incorrect: Mala fides or good faith of the heir is irrelevant to determining applicable succession law. The law is determined objectively by death date, not by heir's intentions or conduct. Moreover, HSA cannot be applied "retrospectively as exception" based on heir behavior—the temporal application rule is absolute. Creating exceptions based on heir's motives would introduce subjectivity and uncertainty into succession law and undermine the vesting doctrine.

5. Correct Answer: (d)

Reference Line: "If death occurred before 17 June 1956, the Hindu Succession Act does not apply. The 1956 Act and subsequent amendments (like the 2005 Amendment granting daughters equal coparcenary rights) do not apply retrospectively to cases where succession opened prior to the Act. Rights already vested under old law cannot be disturbed by later legislation."

Difficulty Level: Difficult

Explanation:

Option (a) Incorrect: While the 2005 Amendment grants retrospective coparcenary rights to daughters born before 2005, this retrospectivity operates within HSA framework and doesn't extend to pre-1956 deaths. The Amendment gives daughters coparcenary status in joint family property where father was coparcener, but only if the succession is governed by HSA (i.e., father died post-1956). It doesn't revive claims to estates that devolved under pre-HSA law in 1952.

Option (b) Incorrect: While it's true that the 2005 Amendment generally requires father to be alive in 2005 for certain benefits, this isn't the primary reason D's claim fails. The fundamental barrier is that Vishnu's succession opened in 1952 under Mitakshara law, before HSA existed. Even if the "father alive"

requirement didn't exist, the 2005 Amendment couldn't apply because the underlying succession occurred under pre-HSA law. The answer is incomplete and focuses on the wrong principle.

Option (c) Incorrect: Remedial character and gender discrimination correction don't override the temporal limitation of HSA and its amendments. Courts cannot give amendments "widest scope" to cover pre-1956 successions completed under different law. This would violate the doctrine of vesting—son S's rights vested in 1952 under applicable law. Remedial statutes still have temporal boundaries, and retrospectivity must be express, not implied from remedial purpose.

Option (d) Correct: The decisive factor is that Vishnu's succession opened in 1952, before HSA came into force in 1956. Neither the original HSA nor the 2005 Amendment applies retrospectively to pre-1956 deaths. D's birth date is irrelevant—what matters is when her father's succession opened. Under Mitakshara law governing the 1952 succession, S validly inherited all property. The 2005 Amendment, despite its retrospective coparcenary provisions, cannot apply to successions completed under pre-HSA law.



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