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Case Law Notes



CONSTITUTION

FEATURES OF CONSTITUTION

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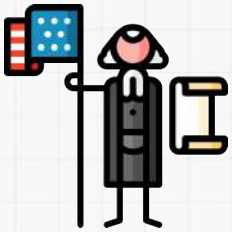
Ram Jawaya Kapoor v. State of Punjab, AIR 1955 SC 549



Indian Constitution

Adopted system of Parliamentary government of England.

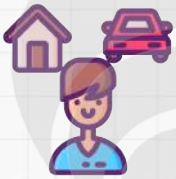
S.R. Bommai v. Union of India, AIR 1994 SC 1918



Secularism

to develop understanding and respect towards different religion.

Excel Wear v. Union of India, AIR 1979 SC 25



Socialism

- Decent standard of life
- Social sectirity

L . Chandra Kumar v. Union of India, AIR 1997 SC 1125



Judicial review is the basic structure of the Constitution

S.R.Bommai v. Union of India, AIR 1994 SC 1918



Indian Constitution is federal.

Ram Jawaya Kapur v.State of Punjab, AIR 1955 SC 549



Doctrine of separation of power is not incorporated

In the strict and rigid form.

State of West Bengal v. Union of India, AIR 1963 SC 1241



Constitution is not truly federal and States are not sovereign.



Political sovereignty

State of Rajasthan v. Union of India, AIR 1977 SC 1361



Federalism is largely watered down by the needs of progress and development of a country

FEATURES OF CONSTITUTION

Kuldip Nayar v. Union of India, AIR 2006 SC 3127



Federalism leans in favour of a strong centre or unitary power.

Jilubhai Nanbhai Khachar v. State of Gujarat, AIR 1995 SC 142



Article 300-A

Is not the basic feature of the Constitution.

K. Lakshminarayanan v. Union of India, (2020) 14 SCC 664



Constitutional conventions are born and recognized in working of the Constitution.

PREAMBLE

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In Re Berubari Union case AIR 1960 SC 845



Preamble

is not the part of the constitution

Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845



Preamble

sum & substance of the features of Constitution

Nandini Sundar v. State of Chhattisgarh, AIR 2011 SC 2839



Preamble

social, economic & political justice

cannot be neglected

Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845



Preamble represents

quintessence, philosophy, ideals, soul/spirit of Constitution.

S.R. Bommai v. Union of India, AIR 1994 SC 1918



Preamble is an integral part of the Constitution

K.K. Baskaran v. State of Tamil Nadu, AIR 2011 SC 1485



Interpret Constitution

to secure social, economic & political justice

Keshvananda Bharti v. State of Kerala, AIR 1973 SC 1461

Preamble is the part of Constitution



Interpret

Amended

without altering

Basic structure



Prathui Raj Chauhan v. Union of India, (2020) 5 SCC 421



Fraternity

Dignity of individual & the unity & integrity of nation

Unity & integrity of India can be preserved only by a sprit of brotherhood



UNION & TERRITORY

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Amar Singh Ji v. State of Rajasthan, AIR 1955 SC 504



Territory of India

specified in the First Schedule under Article 1.

In Re Berubari's case, AIR 1960 SC 858



Power of Parliament to diminish the area of State does not cover cession of Indian territory to a foreign State.

Babulal v. State of Bombay, AIR 1960 SC 51



Parliament

not bound to accept or act upon the views of the State Legislature.

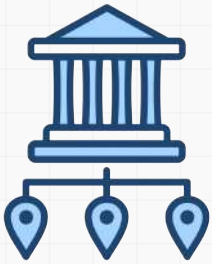
Maganbhai v. Union of India, AIR 1969 SC 783



Agreement to refer the dispute to the tribunal

Amendment of Constitution is not necessary

R.C. Poudyal v. Union of India, AIR 1993 SC 1804



Admission or establishment of a new State

Conditions cannot be imposed which is against the basic structure of the Constitution.

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CITIZENSHIP

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Pradeep Jain v. Union of India, AIR 1984 SC 1420



Article 5 recognizes domicile of India.

Sondur Gopal v. Sondur Rajini, AIR 2013 SC 2678



Domicile of choice

Mere acquisition of other domicile is not sufficient.

Clear intention to abandon the domicile of origin.

Bhanwaru Khan v. Union of India, AIR 2002 SC 1614



Those who had voluntarily migrated to Pakistan **cannot** claim the citizenship of India

State Trading Corporation of India Ltd. v. Commercial Tax Officer, AIR 1963 SC 1811



Company is not a citizen

cannot claim Fundamental Rights which is conferred upon its citizens.

Tata Engineering v.State of Bihar,AIR 1965 SC 40



Company does not receive the protection of fundamental rights through **shareholders**.

Godhra Electricity Co. Ltd. v. State of Gujarat, AIR 1975 SC 32



Shareholder has a right to carry on business through agency of a company.

R.C. Cooper v. Union of India, (Bank Nationalisation case) AIR 1970 SC 564



State's action impairs the rights of shareholders and as well as that of company

The share-holders will be entitled to protection under **Article 19**

DOCTRINE OF ECLIPSE

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Keshav Madhav Menon v.State of Bombay, AIR 1951 SC 128



Pre-Constitutional laws exists for all past acts, i.e. prior to commencement of Constitution.

Bhikhaji v.State of Madhya Pradesh, AIR 1955 SC 781



Formulated the doctrine of eclipse.

Saghir Ahmed v. State of Uttar Pradesh, AIR 1954 SC 728



Doctrine of eclipse is only applicable to Pre-Constitutional laws

State of Gujarat v. Ambica Mills, AIR 1974 SC 1300



Post-constitutional laws, which are inconsistent with fundamental rights not void ab initio for all purposes.

R.M.D.C. v. Union of India, AIR 1957 SC 628

When after removing the invalid portion what remains is a complete code



Then there is no necessity to declare the whole Act void.

Kihoto Hollohan v. Zachillhu, AIR 1993 SC 412



10th Schedule minus para 7 remains valid and constitutional

Romesh Thapar v.State of Madras, AIR 1950 SC 124



If it is not possible to separate the two then the whole law is to be struck down.

Keshavnanda Bharti v. State of Kerala, AIR 1973 SC 1461



Power of judicial review

Laws have been made in accordance with the Articles of the Constitution

DOCTRINE OF ECLIPSE

L. Chandra Kumar v. Union of India, AIR 1997 SC 1125



Power of the judicial review the basic structure of the Constitution and it can not be terminated

Pravin Kumar v.Union of India, (2020) 9 SCC 471



Judicial review is not analogous to venturing into the merits of the case like an appellate authority.

Saregama (India) Ltd. v. Next Radio Ltd., (2022) 1 SCC 701



Judicial review.

The court may evaluate the validity of a legislation or rules made under it.

cannot supplant the terms of the provision through judicial interpretation

CONCEPT OF STATE

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University of Madras v.Santa Bai, AIR 1954 Mad. 67



'Other authorities'

authorities exercising governmental or sovereign functions.

Electricity Board,Rajasthan v. Mohan Lal, AIR 1967 SC 1857



'Other authorities'

include all authorities created by the Constitution or statute on whom the power is conferred by law.

Sukhdev Singh v. Bhagatram, AIR 1975 SC 1331



If the functions of the Corporations are of public importance

Then it should be treated as agency or instrumentality of government ie. 'State'

Ajay Hasia v. Khalid Mujib, AIR 1981 SC 487



Society registered under the Societies Registration Act, 1898, is an agency or instrumentality of the State and hence a 'State'

Riju Prasad Sharma v. State of Assam, (2015) 9 SCC 461



Courts while acting on judicial side are not 'State' but they may attract the trappings of 'State' when they act in administrative capacity

Jigya Yadav v. CBSE, (2021) 7 SCC 535



CBSE is a State within the meaning of Article 12

Naresh v. State of Maharashtra, AIR 1967 SC 1

Judiciary comes under the word 'State' or not

If the court is considered within the meaning of 'State' a writ under Article 32 cannot be issued to a High Court against its judicial orders.



CONCEPT OF STATE

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Ramana Dayaram Shetty v. The International Airport Authority of India , AIR 1979 SC 1628

Following test to determine weather a body is an agency or instrumentality

* Functional character of the body is governmental in essence.

* Existence of deep and pervasive State control.



* Department of government is transferred to the corporation.

* Financial resources of the State is the chief funding source of the body.

* Corporation enjoys monopoly status which is State conferred or State protected.

Mrs. X v. Registrar General, High Court of M.P., W.P. (Civil) 1137 of 2018



While exercising its functions on the administrative side, the High Court would also be a State

Pushan Majumdar v. Union of India C.A. No. 369-378 of 2023



Indian Association for the Cultivation of Science (IACS) is a "the State"

M/s. Gas Authority of India Ltd. v. M/s. Indian Petrochemicals Corporation Ltd. & Ors. C.A. No. 3504-3505 of 2010



GAIL is a Public Sector Undertaking and thus qualifies under the definition of 'State'

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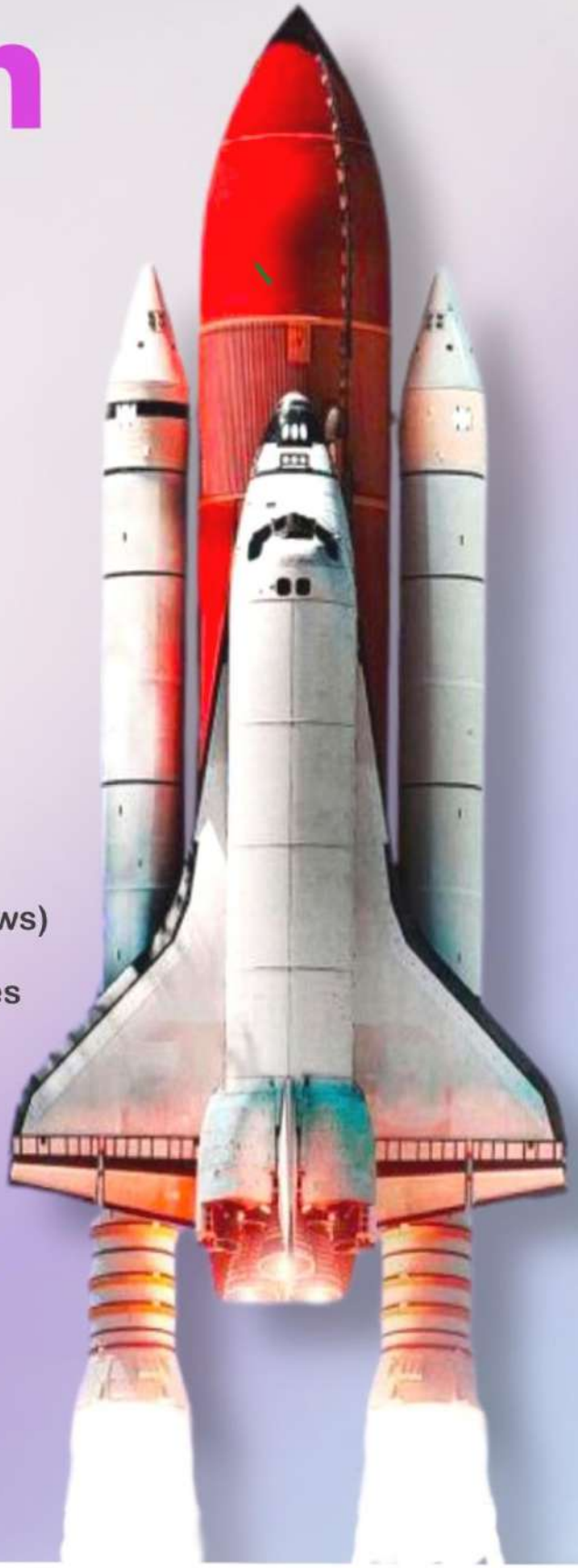

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FUNDAMENTAL RIGHTS

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Maneka Gandhi v. Union of India, (1978) 1 SCC 248



Fundamental rights represent the basic values cherished by the people of India

M. Nagaraj v. Union of India, AIR 2007 SC 71



Constitution has confirmed the existence of fundamental rights and given them protection

Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694



Fundamental rights is to preserve and protect certain basic human rights against the interference of the State.

Basheshar Nath v. Income Tax Commissioner, AIR 1959 SC 149



Person cannot waive his Fundamental Rights.

State of Manipur v. Surjakumar Okram, C.A. No. 823-827 of 2022



A law passed by the legislature is good law till it is declared as unconstitutional by a competent Court or till it is repealed.

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PROPORTIONALITY

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Anuradha Bhasin v. Union of India, (2020) 3 SCC 637



A decision which curtails fundamental rights without appropriate justification will be classified as disproportionate.

Anuradha Bhasin v. Union of India, (2020) 3 SCC 637



Procedural justice cannot be sacrificed on the altar of substantive justice.

K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1



Proportionality is an essential facet of the guarantee against arbitrary State action

Gujarat Mazdoor Sabha v. State of Gujarat, (2020) 10 SCC 459

Principle of proportionality

* A law interfering with fundamental rights must be in pursuance of legitimate State aim



* The State must provide sufficient safeguard against the abuse of such interference

* Must be based on existence of a rational connection between those measures, and the object sought to be achieved

* Measures must be necessary to achieve the object and must not infringe rights to an extent greater than is necessary to fulfill the aim

* Restrictions must not only serve legitimate purpose; they must also be necessary to protect them

PROPORTIONALITY

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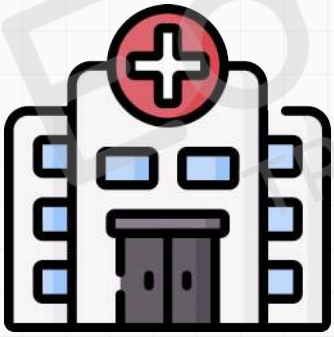
Christian Medical College, Vellore Association v. Union of India, (2020) 8 SCC 705

Examining the reasonableness of a statutory provision the following factors:

* The directive principles of State policy.

* Restrictions must not be arbitrary or of an excessive nature.



* A just balance has to be struck between the restrictions imposed and the social control.

*Prevailing social values and social needs which are intended to be satisfied by the restrictions.

*Direct and proximate nexus or reasonable connection between the restrictions imposed and the object sought to be achieved.

RIGHT TO EQUALITY

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State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75



Expression 'equal protection of laws' is a corollary to the expression 'equality before law'

Indra Nehru Gandhi v. Raj Narayan, AIR 1975 SC 2299



Rule of Law embodied in Article 14

Is the basic feature of the Constitution and it cannot be destroyed by the amendment

R.K. Garg v. Union of India, AIR 1981 SC 2138



Article 14 forbids class-legislation but it does not prohibit reasonable classification.

State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75



It is important to have nexus between the basis of classification and the object of the Act.

Chirinjit Lal v. Union of India, AIR 1951 SC 41



Law may be constitutional even though it applies to a single individual on account of special circumstances.

D.S. Nakara v. Union of India, AIR 1983 SC 130



Doctrine of classification was evolved in order to help weaker sections of society.

E.P. Royappa v. State of Tamil Nadu, AIR 1974 SC 555



Article 14 strikes at the arbitrariness in State action and ensures fairness and equality of treatment.

National Legal Services Authority v. Union of India, AIR 2014 SC 1863



Members of Transgender community should be treated as Third Gender.

RIGHT TO EQUALITY

Mrs. X v.Registrar General,High Court of M.P., W.P. (Civil) 1137 of 2018



There is a presumption of validity of the State action

Mrs. X v. Registrar General,High Court of M.P., W.P. (Civil) 1137 of 2018



Scope of judicial review is limited only to satisfy that the State action is not vitiated by the vice of arbitrariness.

R. Muthukumar v. Chairman And Managing Director TANGEDCO, C.A. No. 1144 of 2022



There cannot be a negative equality.

ARTICLE 15

Kathi Raning Rawat v. State of Saurashtra, AIR 1952 SC 123



When a law comes within the prohibition of Article 15 it cannot be validated by recourse to Article 14

State of Madras v. Champakam Dorairajan, AIR 1951 SC 226



G.O. by Madras government was declared void

because it classified students on the basis of caste and religion.

Ashok Kumar Thakur v. Union of India, (2008) 6 SCC 1



93rd Constitutional Amendment

Supreme Court upheld its constitutionality

Pramati Educational and Cultural Trust v. UOI , AIR 2014 SC 2114



Classification of unaided private educational institutions and aided private educational institutions is not violative of Article 14.

Balaji v.State of Mysore, AIR 1963 SC 649



'Caste' of a person cannot be the sole test for ascertaining whether a particular class is backward class or not

ARTICLE 16

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Balaji v.State of Mysore, AIR 1963 SC 649



Article 16(4) provision only confers discretion to make special provisions for backward classes of citizens.

T.M.A. Pai Foundation v.State of Karnataka, AIR 2003 SC 355



State could not make reservations of seats in privately run educational institutions and higher educational institutions.

State of Bihar v. Chandreshwar Pathak, AIR 2014 SC 3752



Equality of opportunity means equality before members of same class of employees

Union of India v. Virpal Singh, AIR 1996 SC 448



Caste criterion for promotion is violative of Article 16(4) of the Constitution.

Article 16(4) and 16(4A) does not mandate seniority over general category as a matter of right.

B.K. Pavitra v. Union of India, (2019) 16 SCC 129



Creamy layer has no application to grant of consequential seniority.

M. Nagraj v. Union of India, AIR 2007 SC 71



Article 16(4A) and Article 16(4B) flow from Article 16 and do not alter the basic structure of Article 16(4).

U.P. Power Corporation Ltd. v. Rajesh Kumar, (2012) 7 SCC 1



State can make reservation laws under Articles 16(4), 16(4A) and 16(4B) only on the basis of clear and certain factual foundation.

ARTICLE 16

Indira Sawhney v.Union of India, AIR 1993 SC 477

* Backward class of citizen can be identified on the basis of caste and not only on economic basis

* Backward classes in Article 16(4) is not similar to socially and educationally backward in Article 15(4).

* Article 16(4) is not an exception to Artiele 16(1). It is an instance of classification.

* Article 16(4) permits classification of backward classes into backward and more backward classes.



* 'Carry forward' rule is valid provided it should not result in breach of 50% rule.

* Struck down economic criterion for reservation

* Reservation under Article 16(4) cannot be made in promotions.

* Creamy layer must be excluded from backward classes.

* Reservation shall not exceed 50 percent.

ARTICLE 16

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Chebrolu Leela Prasad Rao & Ors. v. State of A.P., C.A. No. 3609 of 2002



100% reservation of teachers belonging to the Scheduled Tribe category at schools situated in 'Scheduled Ares' is constitutionally invalid.

Satyajit Kumar & Ors. v. State of Jharkhand & Ors., C.A. 4038- 4050 of 2022



Making 100% reservation for the local resident of the concerned Scheduled Area/ Districts

is ultra vires to Article 35 r/w Article 16(3) of the Constitution

Mukesh Kumar v. State of Uttarakhand, (2020) 3 SCC 1



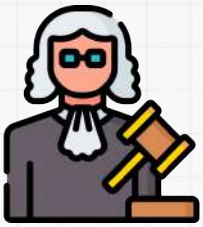
Articles 16(4) and 16(4A) do not confer fundamental right to claim reservations in promotion.

Telangana Judges Association v. Union of India, (2019) 18 SCC 769



Nativity for public employment runs counter to the fundamental right guaranteed under Article 16(2)

Dr Jaishree Laxmanrao Patil v. Chief Minister; (2021) 8 SCC 1



Supreme Court struck down the Maratha quota in excess of 50% ceiling limit as unconstitutional.

State of Punjab v.Davinder Singh, (2020) 8 SCC 1



Reservation was not contemplated for all the time by the framers of the Constitution

State of Punjab v. Davinder Singh, (2020) 8 SCC 1



Ceiling limit of 50%, the concept of creamy layer and the, backwardness, inadequacy of representation and overall administrative efficiency are all constitutional requirements without which the structure of in Article 16 would collapse.

Pravakar Mallick v. State of Orissa, (2020) 15 SCC 297



Collection of quantifiable data which can be tested by the courts

Mandatory pre-condition for grant of reservation in promotion with consequential seniority under Article 16 (4A).

ARTICLE 16

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Pattali Makkal Katchi v. A. Mayilerumperumal C.A. 2600 of 2022



Tamil Nadu Law providing 10.5% Vanniyar reservation quota

Is in violation of Articles 14,15 and 16 of the Constitution

Chebrolu Leela Prasad Rao v.State of A.P., (2021) 11 SCC 401



Reservation are not anti-meritarian

Dr Jaishree Laxmanrao Patil v. Cheif Minister; (2021) 8 SCC 1



Supreme Court struck down the Maratha quota in excess of 50% ceiling limit as unconstitutional.

Saurav Yadav v. State of U.P., SLP (Civil) No. 23223/2018



Quota provided for social groups are characterized as vertical reservation while which are in favour of woman, handicapped, ex-servicemen etc are horizontal reservations.

Horizontal reservations should be calculated along with the vertical reservation quotas. They cannot be carried forward.

ARTICLE 16

Janhit Abhiyan v. Union of India
W.P.(C) 55 of 2019

Supreme Court held that 103rd Amendment and EWS Reservations are constitutionally valid. The Supreme Court observations:

Permitting the State to make special provisions, including reservation, based on economic criteria. It is not violative of the basic structure.



Breach of 50% ceiling for reservations Does not result in violation of any essential feature of the Constitution

Excluding the SEBCs/OBCs/SCs/STs from the scope of EWS Reservation. Does not violate Equality Code and does not cause damage to the Constitution

Permitting the State to make special provisions for admission to private unaided institutions

ARTICLE 17-18

People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473



Asiad Project Worker's case

Right under Article 17 is available against private individual also.

Balaji Raghavan v. Union of India, AIR 1996 SC 770



'National Awards' would not amount to 'title' within Article 18.

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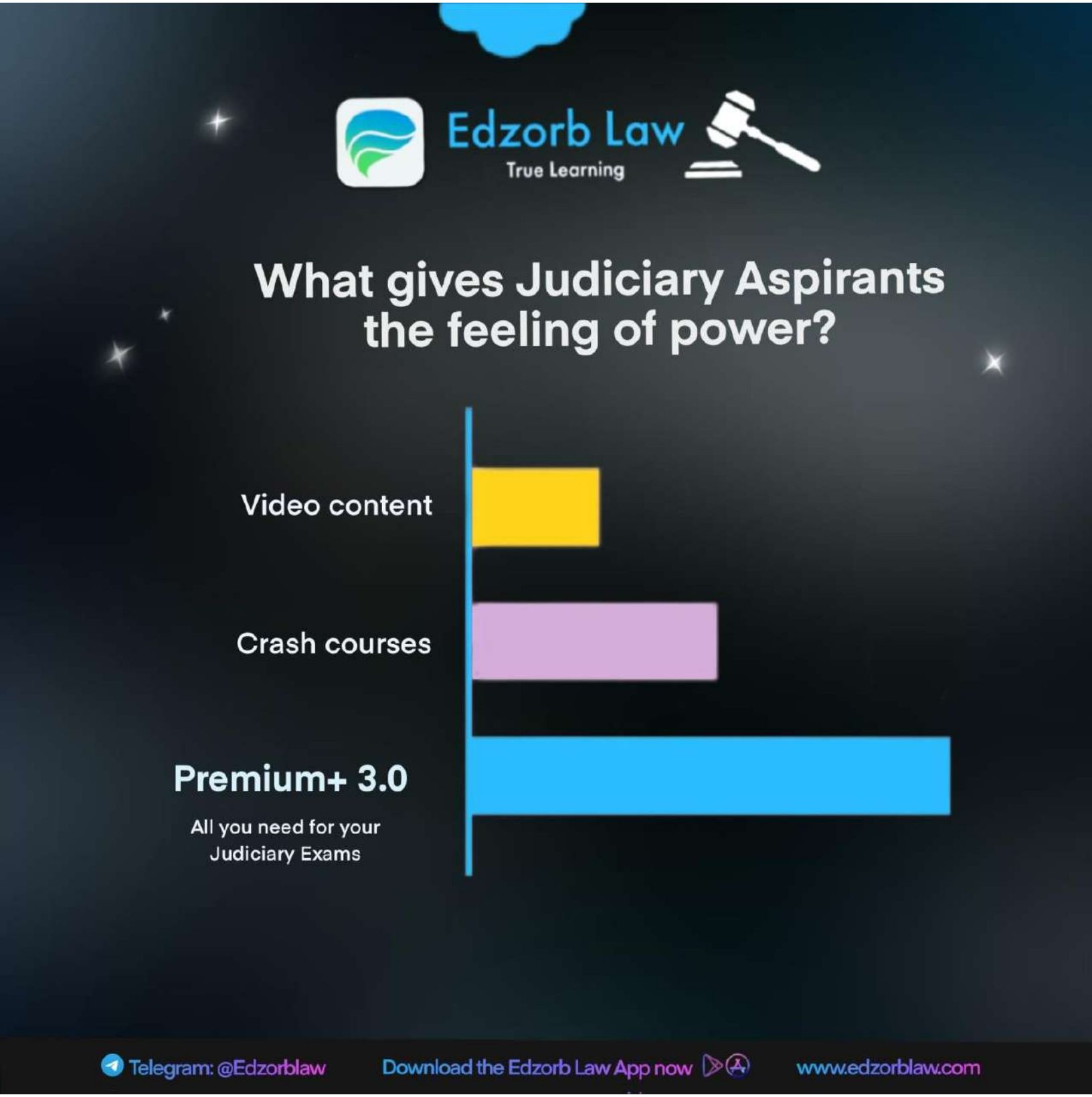
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RIGHT TO FREEDOMS

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Indibly Creative (P) Ltd. v. State of W.B., (2020) 12 SCC 436



Freedoms as recognized by the Constitution are not entrusted by State but are inseparable from existence as human beings

Alagaapuram R. Mobanraj v. Tamil Nadu Legislative Assembly, AIR 2016 SC 867



Rights guaranteed under Article 19 are available to citizens

Bennett Coleman and Co. v. Union of India, AIR 1973 SC 106



Rights of shareholders with regard to Article 19(1)(a) were protected through medium of corporation

D.C. & G.M. v. Union of India, AIR 1983 SC 937



Writ petition filed by the company for violation of Fundamental Rights under Article 19 is maintainable

Romesh Thappar v. State of Madras, AIR 1950 SC 124



Freedom of speech and of press lay at the foundation of all democratic organizations.

Indian Express Newspapers v. Union of India, (1985) 1 SCC 641



'Freedom of press' means freedom from interference from authority

Bennet Coleman and Co. v. Union of India, AIR 1973 SC 106



Order fixing the maximum number of pages which a newspaper can print is violation of freedom of speech and expression

Express Newspapers v. Union of India, AIR 1958 SC 578



Press is not immune from the laws of taxation and industrial application.

RIGHT TO FREEDOMS

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Sakal Papers Ltd. v. Union of India, AIR 1962 SC 305



Order imposing minimum price and number of pages was held to be violative of Article 19(1)(a).

R. Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632



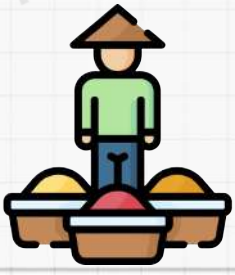
Government has no authority in law to impose a prior-restraint upon publication of defamatory material

Devidas Ramchandra Tuljapurkar v. State of Maharashtra, (2015) 6 SCC 1



Use of obscene language cannot be allowed in the name of artistic freedom, critical thinking or creativity under Article 19(1)(a)

Sodan Singh v. New Delhi Municipal Committee, AIR 1989 SC 1988



Hawkers have fundamental right to carry on trade on pavement of roads

Khoday Distilleries Ltd. v. State of Karnataka, (1995) 1 SCC 574



A citizen has no right to carry on trade or business in liquors as beverage

B.R. Enterprise v. State of U.P., AIR 1999 SC 1867



Lottery cannot be construed as trade or business within the meaning of Article 19(1)(g)

Damayanti v. Union of India, AIR 1971 SC 966



Right to form association necessarily implies that the person forming the association have also the right to continue to be associated with only those whom they voluntarily admit in the association

Om Prakash v. State of U.P., AIR 2004 SC 1896



Ban on sale of eggs within the municipal limits of Rikshikesh is valid as it contains reasonable restriction.

RIGHT TO FREEDOMS

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Godawat Pan Masala Products Private Ltd. v. Union of India, AIR 2004 SC 4057



Ban on pan masala and guthka to under age persons is not volative of Article 19(1)(g).

Mazdoor Kisan Shakti Sangatban v. Union of India, (2018) 17 SCC 324



Right to protest is recognized as fundamental right under the Constitution

State of Gujarat v . Mirzapur Moti Qureshi Kasab Jamat, AIR 2006 SC 212



Ban on slaughter of cows and calves and draught cattles is not violative of Article 19(1)(g)

Anuradha Bhasin v. Union of India, (2020) 3 SCC 637



Indefinite suspension of internet is not permissible and that repeated orders under Section 144 CrPC will amount to abuse of power.

Election Commission of India v. M.R. Vijaya Bhaskar,(2021) 9 SCC 770



Freedom of speech and expression under Article 19(1)(a) extends to reporting judicial proceedings as well.

Gujarat Mazdoor Sabha v. State of Gujarat,(2020) 10 SCC 459



Concept of security of State is narrower than public order.

Aishat Shifa v. State of Karnataka and Ors., C.A. No. 7095 of 2022



Supreme Court passed a split verdict on a batch of appeals against Karnataka High Court challenging restriction on Muslim girl students wearing Hijab in educational institutions in Karnataka.

Anuradha Bhasin v. Union of India, (2020) 3 SCC 637



Freedom of speech and expression through the medium of internet is an integral part of Article 19(1)(a) and any restriction on the same must be in accordance with Article 19(2) of the Constitution.

RIGHT TO FREEDOMS

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Amit Sahini (Shaheen Bagh) v. State, (2020) 10 SCC 439



Holding meeting by blocking public place or road in protest against particular legislation for indefinite period is not democratic way of expressing protest.

Kaniz Fatima v. Commissioner of Police, C.A. No. 3282 of 2020



The demonstrations expressing dissent have to be in designated places alone.

The right to protest cannot be anytime and everywhere

Mohammad Salimullah v. Union Of India, W.P. (Civil) No. 793 of 2017



Right not to be deported is ancillary to the fundamental right to reside or settle in any part of India

Amish Devgan v. Union of India, (2021) 1 SCC 1



Article 19(1)(a) of the Constitution cannot be pressed into service for defeating the fundamental right guaranteed by Article 21

Indian School, Jodhpur v. State of Rajasthan, (2021) 10 SCC 577



State's regulation of profiteering by education institutions cannot be held to be violating the right to trade and profession under Article 19(1)(g) of the Constitution.

Kaushal Kishor v. State of U.P., W.P. (Crl) No. 113 of 2016

* A fundamental right under Article 19 or 21 can be enforced even against persons other than the state

* State is under a duty to affirmatively protect the rights of a person under Article 21

* The grounds lined up in Article 19(2) for restricting the right to free speech are exhaustive



* Discussed the vertical and horizontal approach to fundamental rights

* A statement made by a minister cannot be attributed vicariously to the government by invoking the principle of collective responsibility

ARTICLE 20

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T. Barai v. Henry Ah Hoe, (1983) 1 SCC 177



Accused can take advantage of a beneficial provision under ex post facto laws

Government of Andhra Pradesh v. Ch. Gandhi, AIR 2013 SC 2113



If ex post facto law is ameliorative it may be retrospective.

R.K. Dalmia v. Delhi Administration, AIR 1962 SC 1821



A person is said to be accused if the formal accusation relating to the commission of an offence has been leveled

M.P. Sharma v. Satish Chandra, AIR 1954 SC 300



A person whose name is mentioned in the FIR as an accused could claim the protection under Article 20.

Nandini Satpathy v. P.L. Dani, AIR 1977 SC 1025



Protection of Article 20(3) is available from the stage of police interrogation

Selvi v. State of Karnataka, AIR 2010 SC 1974



Lie detector tests should be administered only with the consent of the accused.

M.P. Sharma v. Satish Chandra, AIR 1954 SC 300



Article 20(3) has following three essentials:

- Person must be accused of an offence
- Protection against compulsion to be a witness
- Protection is against compulsion to give evidence against himself

State of Bombay v. Kathi Kalu, AIR 1961 SC 1808



Self incrimination

only mean conveying information based on personal knowledge of the person and it cannot include the process of producing documents or giving finger impressions or blood samples etc

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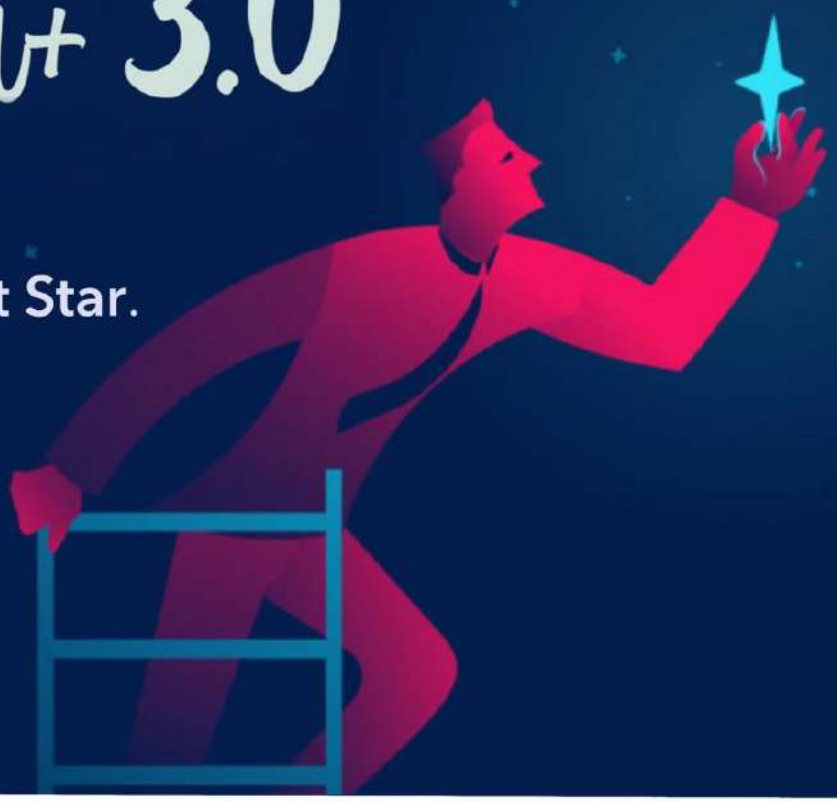

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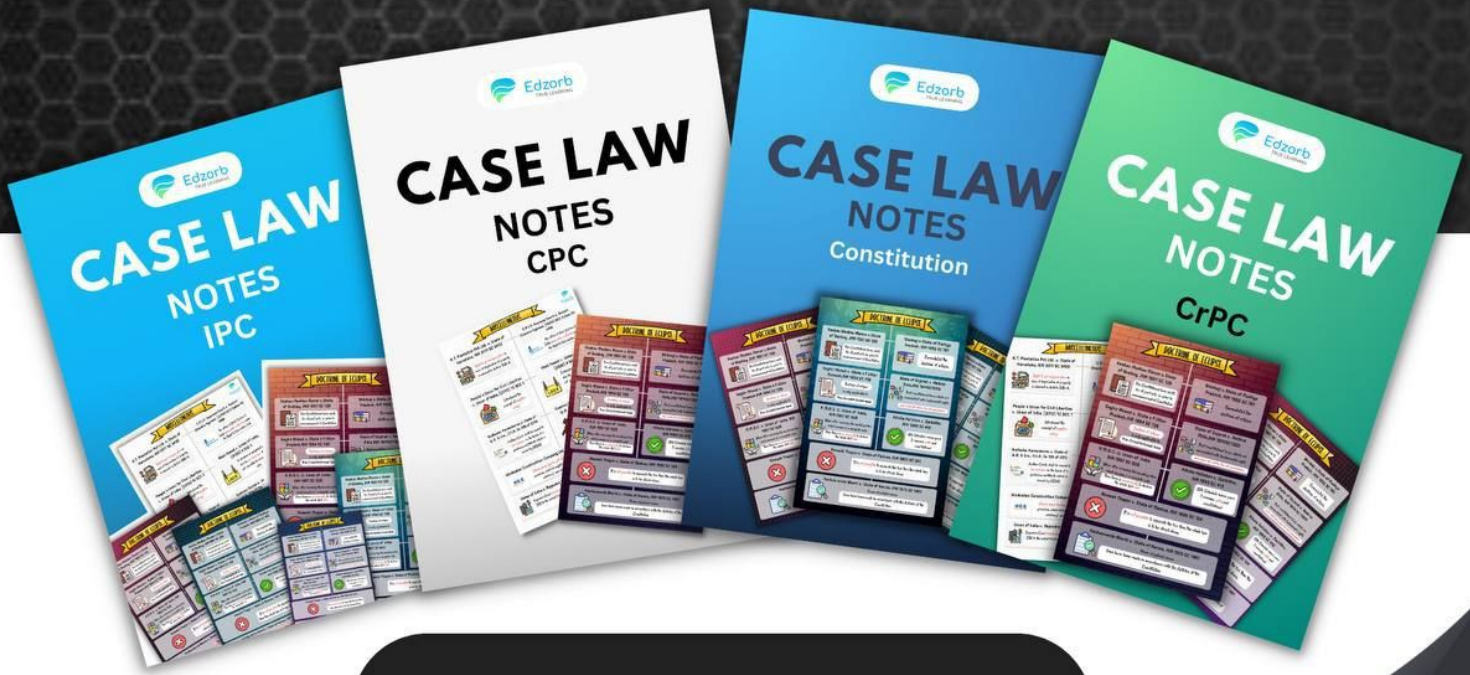

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RIGHT TO LIFE AND LIBERTY

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A.K. Gopalan v. Union of India, AIR 1950 SC 27



Procedure established by law does not mean due process of law.

Maneka Gandhi v. Union of India, AIR 1978 SC 597



The procedure established by law should be just, fair and resonable. Law means having elements of principles of natural justice.

Francis Coralie v. U.T. of Delhi, AIR 1981 SC 746



Right to live is not limited to mere animal existence.

Indian Hotel and Restaurant Asso. v. State of Maharashtra, (2019) 3 SCC 429



There cannot be a total prohibition of dance bars in Maharashtra

Justice K.S. Puttaswamy & Anr. v. UOI and Ors., AIR 2017 SC 4161



Right to privacy is a fundamental right and it is protected under Article 21.

Justice K.S. Puttaswamy & Anr. v. UOI and Ors., (2019) 3 SCC 39



Aadhaar held to be constitutional

Joseph Shine v. Union of India, (2019) 3 SCC 39



Offence of Adultery is unconstitutional

Section 497 of Indian Penal Code is struck down

Navtej Singh Johar v. Union of India, (2019) 3 SCC 345



Section 377 of Indian Penal Code, unconstitutional insofar as it criminalizes homosexual acts between consenting adults

RIGHT TO LIFE AND LIBERTY

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People's Union for Democratic Rights v. UOI, AIR 1982 SC 1473



Non-payment of minimum wages is violation of Article 21.

Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180



Right to life include right to livelihood also.

Chameli Singh v. State o f UP, (1996) 2 SCC 549



Right to shelter is a fundamental right under Article 21

Suchitra Srivastava v. Chandigarh Adminsitration, AIR 2010 SC 235



Right to make reproductive choices is included in Article 21

Parmanand Katara v. Union of India, AIR 1989 SC 2039



Right to health

all doctors are obliged to extend medical assistance

Ramlila Maidan v. Home Secretary, Union of India, (2012) 5 SCC 1



Right to sleep is a fundamental right

Jolly George Varghese v. State Bank of Cochin, AIR 1980 SC 470



Arrest and detention of honest judgment debtor, in absence of willful failure to pay is violative of Article 21

Neerja Chaudhary v. State of M.P., AIR 1984 SC 1099



Bonded labour should be identified and rehabilitated

RIGHT TO LIFE AND LIBERTY

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Gian Kaur v. State of Punjab, (1996) 2 SCC 648



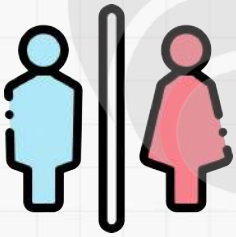
'Right to life' does not include 'Right to die'

Aruna Ramchandra Shanbaug v. Union of India, AIR 2011 SC 1290



In certain cases passive euthanasia is allowed

National Legal Service Authority v. UOI, AIR 2014 SC 1863



Self-determination of gender is part of personal liberty

Bachpan Bachao Andolan v. Union of India, AIR 2011 SC 3361



Sexual, physical and emotional abuse of children is violation of Article21.

M.H. Hoskot v. State of Maharashtra, AIR 1978 SC 1548



Right to free legal aid

Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360



Right to speedy trial

Nirmal Singh Khalon v. State of Punjab, AIR 2009 SC 984



Fair trial includes fair investigation

Sunil Batra v. Delhi Administration, AIR 1980 SC 1579



Keeping undertrials with convicts in jail offends Article 21.

RIGHT TO LIFE AND LIBERTY

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Prem Shankar v. Delhi Administration, AIR 1980 SC 1535



Right against handcuffing

Kishore Singh v. State of Rajasthan,AIR 1981 SC 625



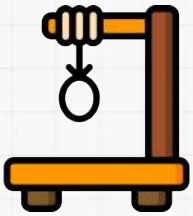
'Third degree' method by police is violative of Article 21

Murli S. Deora v. Union of India, AIR 2002 SC 40



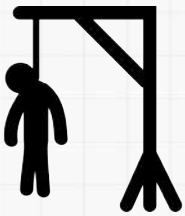
Ban on smoking in public places

Attorney-General of India v. Lachma Devi, AIR 1986 SC 467



Execution of death sentence by public hanging is violative of Article 21

Deena v. Union of India, (1983) 4 SCC 645



Hanging by rope does not violate Article 21

T.U. Vatheeswaran v. State of Tamil Nadu, AIR 1981 SC 643



Delay in execution of death sentence is violative of Article 21.

Nilabati Bebra v. State of Orissa, (1993) 2 SCC 746



Custodial torture/death

Compensation to family of deceased who died in police custody

D.K. Basu v. State of W.B., AIR 1997 SC 610



Guidelines to be followed in cases of arrest and detention

RIGHT TO LIFE AND LIBERTY

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Joginder Kumar v. State of U.P., (1994) 4 SCC 260



Guidelines regarding arrest of persons during investigation.

Rudal Shah v. State of Bihar, (1983) 4 SCC 141



Compensation for violation of Article 21

Vishaka v. State of Rajasthan, AIR 1997 SC 3011



Prevention of sexual harassment of working women in workplace

M.C. Mehta v. Union of India, (1986) 2 SCC 176

(Shriram Food Fertilizer Case)



Right to clean environment

Mohini Jain v. State of Karnataka, (1992) 3 SCC 666



Right to education at all levels is a fundamental right

Unni Krishnan v. State of A.P., (1993) 1 SCC 645



Right to education is a fundamental right flowing from Article 21

State of Tamil Nadu v. K. Shyam Sundar, (2011) 8 SCC 737



Have quality education without discrimination

Deepika Singh v. Central Administrative Tribunal, C.A. No. 5308 of 2022



A woman cannot be declined maternity leave with respect to her biological child

A.K. Roy v. Union of India, AIR 1982 SC 710

Guidelines relating to arrest under preventive detention law

* Family members of detenue should be informed
* Detained in a place where he habitually resides
* Entitled to books, writing materials, own food and visits
* Kept separate from those who are convicted
* Treatment of punitive character should not be meted out to him



RIGHT TO LIFE AND LIBERTY

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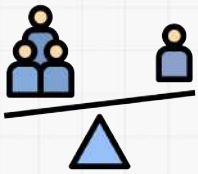
Mazdoor Kisan Shakti Sangathan v. UOI, (2018) 17 SCC 324



If there is a conflict of two rights then the test of 'larger public interest' is required

K.S. Puttaswamy v. UOI (Aadhaar Case), (2019) 1 SCC 1



Right to privacy as a fundamental right is not limited to Article 21

Privacy is both negative and positive concept

M.C. Mehta v. Union of India, (2019) 17 SCC 490



Right to life includes the right to a decent environment.

Union of India v. Omkar Nath Dhar, (2021) 1 SCC 40



Right to shelter does not mean right to government accommodation

S. Amutha v. Govt. of Tamil Nadu & Ors, SLP (Cr.) No. 9512 of 2021



Preventive detention order is liable to be quashed if detenu's representation is considered after long delay.

Laxmibai Chandaragi B. v. State of Karnataka, (2021) 3 SCC 360



Right to marry person of one's choice is integral part of Article 21.

Bhola Kumhar v. State of Chhattisgarh, Crl.A. No. 937 of 2022



When a convict is detained beyond the actual release date it violates not only Article 19(d) but also Article 21

Mohammed Latif Magrey v. Union Territory of Jammu and Kashmir, C.A. No. 6544 of 2022



Right to dignity and fair treatment under Article 21 is not only available to a living man but also to his body after his death.

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RIGHT AGAINST EXPLOITATION

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People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1943



Less than minimum wage also amounts to forced labour.

Deena v. Union of India, AIR 1983 SC 1155



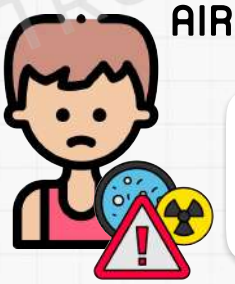
Labour taken from prisoners without paying proper renumeration is violative of Article 23

People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1943



Employment of children in construction industry amounts to violation of Article 24.

M.C. Mehta v. Union of India, AIR 1997 SC 699



Children below the age of 14 years cannot be employed in any hazardous industry

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RIGHT TO FREEDOM OF RELIGION

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S.R. Bommai v. Union of India, AIR 1994 SC 1918



Secularism is the basic feature of the Constitution

Aruna Roy v. Union of India, AIR 2002 SC 3176



Study of religion in school is not against secular philopshy

Ismail Faruqui v. Union of India, (1994) 6 SCC 360



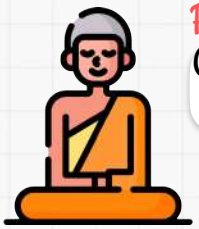
Offer of prayer or worship is a religious practice

Church of God (Full Gospel) of India v. K.K.R.M.C. Welfare Association, AIR 2000 SC 2773



Religious prayers through loudspeakers are not an essential element of any religion

S.P. Mittal v. Union of India, AIR 1983 SC 1



Religious denominations must satisfy

- Collection of individuals who have a system of beliefs
- Common organization
- Designated by a distinctive name.

Indian Young lawyers Association v. State of Kerala (Sabarimala Temple Case), (2019) 11 SCC 1



Right to freedom of religion is not absolute and must be harmonized

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CULTURAL AND EDUCATIONAL RIGHTS

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Frank Anthony Public School Employees Assoc. v. UOI, AIR 1987 SC 311



Idea of giving special rights to minorities is to give them a sense of security and confidence

Islamic Academy of Education v. State of Karnataka, (2003) 6 SCC 697



Educational institutions can have their own fee structure but no profiteering and capitation fee

Ram Sharan Maurya and Ors. v. State of UP., C.A. No. 3707 of 2020



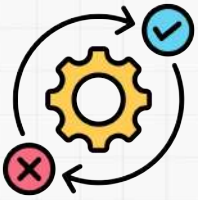
Right to education would envisage qviality education being imparted

S.K. Md. Raffique v. Managing Committee, Contai Rebmania High Madrasah, (2020) 6 SCC 689



No absolute and unqualified right of appointment for minority educational institutions.

Christian Medical College Vellore Assoc. v. UOI & Ors,(Civil) No. 98 of 2012



It is not an 'absolute right' and is not free of 'regulation' from the State.

In Re The Kerala Education Bill, AIR 1958 SC 956



State can prescribe regulations to ensure the excellence of the institution

Ahmedabad St. Xavier's College Society and Anr. v. State of Gujarat and Anr., (1974) 1 SCC 717



It is not reasonable to claim that minority institutions will have complete autonomy.

St. Stephen's College v. University of Delhi, (1992) 1 SCC 558



So long as the basic right of minorities to manage educational institution is not taken away, the State is competent to make regulatory legislation

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TMA Pai Foundation v. State of Karnataka, (2002) 8 SCC 481

Following guidelines were laid down by Supreme Court:

* State is to determining linguistic as well as religious minority.

* Institutes which receive aid could be subject to government rules and regulations.

* Unaided institutions only regulation regarding the qualifications and minimum conditions of eligibility

* Conditions of recognition and affliliation

* May have its own procedure and method of admission

* Admit a reasonable number of non-minority students.

RIGHT TO CONSTITUTIONAL REMEDIES

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Romesh Thapar v. State of Madras, AIR 1950 SC 124



Supreme Court is protector and guarantor of fundamental rights

Prem Chand Garg v. Excise Commissioner, U.P., AIR 1963 SC 996



Right to move to Supreme Court can be described as cornerstone of the democratic edifice raised by the Constitution

Daryao v. State of U.P., AIR 1961 SC 1457



When the matter has been heard and decided under Article 226 the writ under Article 32 is barred by the principle of res judicata.

Rupa Ashok Hurra v. Ashok Hurra, AIR 2002 SC 1771



Court will allow curative petition to seek second review of the final order

A.B.S.K Sangh (Rly.) v. UOI, AIR 1981 SC 298



Access to justice through 'class action', 'public interest litigation' or 'representative proceedings'

S.P. Gupta v. Union of India, AIR 1982 SC 149



Any member of public or social group, acting bonafide could invoke the writ jurisdiction

L. Chandra Kumar v. Union of India, AIR 1997 SC 1125



Jurisdiction of High Court under Article 226 and Supreme Court under Article 32 is inviolable basic structure of the Constitution

Shrimanth Balasabeb Patil v. Karnataka Legislative Assembly, (2020) 2 SCC 595



Jurisdiction conferred on the Supreme Court by Article 32 is an important and integral part of the basic structure

RIGHT TO CONSTITUTIONAL REMEDIES

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Ramesh Sanka v. Union of India
(2019) 3 SCC 589



Writ under Article 32 not maintainable for enforcement of personal contractual rights.

State of Uttaranchal v. Balwant Singh Chaufal,
AIR 2010 SC 2551

Directions in order to maintain the sanctity of public interest litigations

* Courts must encourage genuine ad bona fide PIL and discourage PILs filed for extraneous considerations

* Courts should prima facie verify the credentials of the petitioner



* Courts should be prima facie satisfied regarding the correctness of the contents of the petition

*Courts should ensure that the PIL involves greater public interest

* Courts should ensure that there is no personal gain

* Courts should ensure that petition filed for extraneous considerations and ulterior motives must be discouraged by imposing exemplary costs

DIRECTIVE PRINCIPLES

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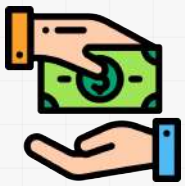
Randhir Singh v. Union of India, AIR 1982 SC 879



Equal pay for equal work is not a fundamental right but since it is a constitutional goal it can be enforced through Article 32

In Re Kerala Education Bill, AIR 1957 SC 956



Court may adopt a principle of harmonious construction

State of Madras v. Champakam Dorairajan, AIR 1951 SC 228



In case of conflict between Fundamental Rights and Directives Principles, the Fundamental Rights would prevail.

Keshvananda Bharti v. State of Kerala, AIR 1973 SC 1461



Fundamental rights and directive principles can be interpreted and applied together.

Minerva Mills v. Union of India, AIR 1980 SC 1789



Giving absolute primacy to the directive principles disturb the harmony of the Constitution

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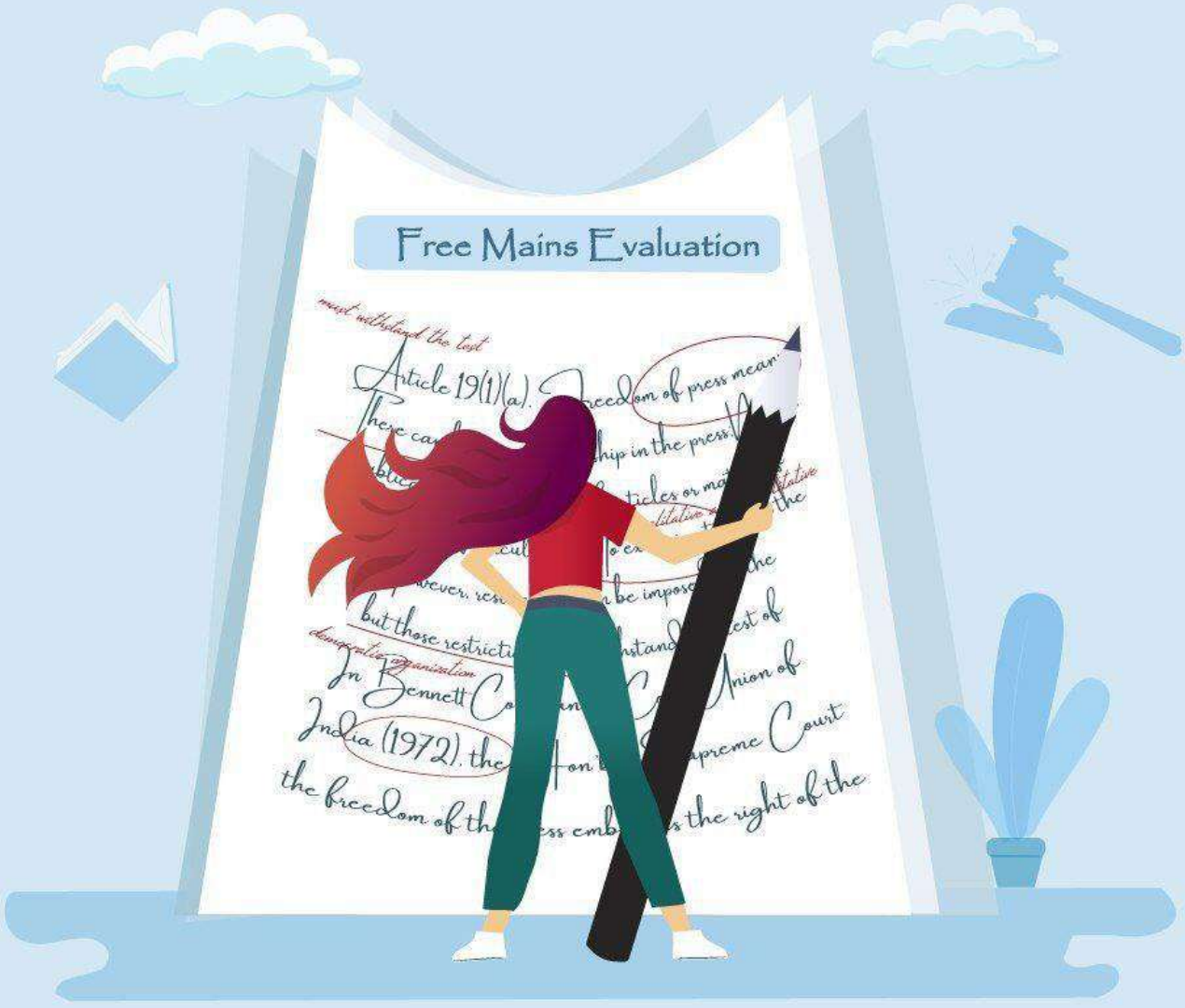

RJS Mains

Law Paper 1 (12th Feb, 2022)

1 1/5 / 3

Ques. 1 Sec. 21 (1), of Code of Civil procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied :

* Rule of Convenience
* Maxim - Vigilantibus non dormientibus jura subvenient

Court of first Instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

Ques 2. Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing majorly on financial and social aspects. So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years.

* Provision missing Art. 16, 335, 338, 334, 341 & 342
* Indira Sawhney case
* Balaji Vs State of Mysore

1 1/5 / 3

Ques 3 No, a remand order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statue. In case of Venkatarama v Angathayammal it is held that

2 1/3

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an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4.

* Start with Sec 9 of CPC along with explanations of the section
* Meaning of Civil Suit
→ Kehar Sinha V/s Custodian General
→ Shankar Narayan Potti V/s K. Sreedevi

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.

It is subject matter of suit which determines whether it is suit of civil nature or not.

In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not? If its decision doesnot entirely depends on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature

(ii) Right of Pardanasheen Lady to observe parda is a suit of civil nature

(iii) Right to franchise is a suit of civil nature

11/5/3

Ques 5

* Provision
* Maxim

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been reiterated that requisite conditions should be fulfilled to apply principle of resjudicata as between defendants and that are:

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1) There must be conflict of interest between the defendants concerned
2) it must be necessary to decide the conflict in order to give the reliefs which plaintiff claims.
3) the question between plaintiff the defendants must have been finally decided.
4) the co-defendants were necessary or proper party in former suit. (Govindammal by LRs vs Vaidyanathan)

* Sec 11 CPC

Res judicata

- suit which is finally decided by competent court
- In this a case is heard & finally decided
- Subsequent suit on same subject matter is prohibited
- Objective is to prevent multiple litigation

* section 10 CPC

Res subjudice

- A suit which is pending in a competent court
- In res subjudice, case is pending in court
- subsequent suit on same subject matter is stayed.
- Objective is prohibition of concurrent justice

2/3

Maxims / Nemo debet bis vexare pro una et eadem causa

Manohar Lal vs Seth Hiralal

Res judicata

- In this suit is finally heard & decided which cannot be presented further as a suit
- Object is to prohibit multiplicity of litigation
- It is result of judgment of court

Re Estoppel

→ Sec 115 IEA
→ Pickard vs Sears

- In this a person cannot be allowed to change his position if he makes another to believe in good faith
- Its object is to protect right of such person who acts in good faith
- It is based on act of parties

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Ques 24 (a) Right of private defence of property extend to causing of death

Such right of private defence of property extending to cause death is dealt under Sec 103 of Indian Penal Code. It permits a person to extend its right of private defence to cause death only under certain circumstances as mentioned under the provision of the Code. Such circumstances are

1. When robbery is committed
2. When offence of housebreaking by night is committed
3. When mischief by fire committed on any building, tent or vessel, which is used as human dwelling or as a place for the custody of property
4. When theft, mischief or house trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be consequence, if such right of private defense is not exercised.

This right commences as soon as a reasonable apprehension of danger to body arises from an attempt, or threat to commit offence, although offence may not have committed but not until there is that reasonable apprehension. the right lasts as long as reasonable apprehension exist

Amar Nath v. State of Kerala.

S. 104 & S. 105 should also be mentioned

* Case law without principal useless (S. 105 eg)

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(b) Police officer's report after completing investigation

Police Off Officers submits its report after completing investigation under sec 173 of code of criminal proceeding. It is stated that every investigation should be completed without unnecessary delay. In case investigation relates to an offence under sec 376, 376 A, 376 B, 376, AB, 376 C, 376 D, 376 DD or 376 E of Indian Penal code it ~~shall~~ should be completed within 2 months which shall be calculated from date of information was recorded by officer incharge of police station

Such report shall be forwarde from officer incharge of police station to Magistrate empowered to take cognizance of offence under Sec 173 (2) of IPC

Such report shall be in format or form as prescribed by state government. Shall

It will contain following details

1. Nature of information
2. Name of the parties
3. Name of person acquainted with case
4. Offence which appears to have been committed?
5. If so, by whom
5. Whether accused has been arrested
6. Whether released on bond or sureties
7. Whether he has been forwarded in custody under sec 170
8. Medical report of a woman.

definition of police report in 2(r) of CrPC can be mentioned

don't mention the act if you are not sure

IPC or CrPC ?

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Remarks :-

1. Answer not in Answer format rather on notes format.
2. Don't copy things from Internet. The Answer on Internal & External aid are exact copy.
3. Missed out on lot of Questions.
4. Next time copies won't be evaluated if they are not in Answer format.
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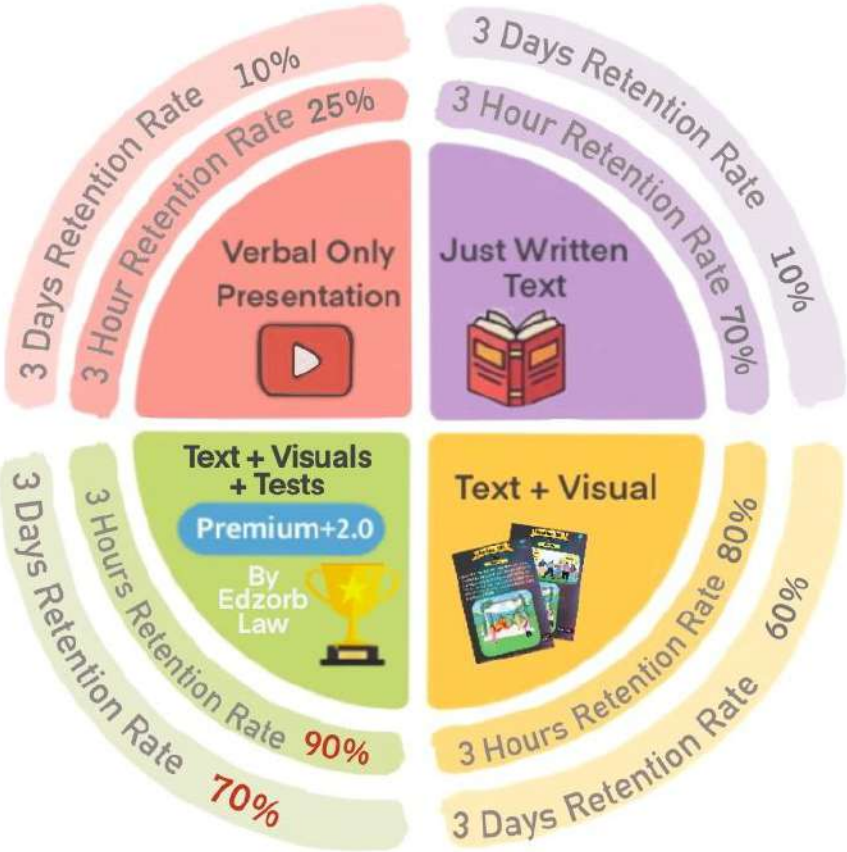

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EXECUTIVE

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U.N. Rao v. Indira Gandhi, AIR 1971 SC 1002



President cannot exercise the executive power without the aid and advice of the Council of Ministers

Ram Jawaya Kapur v. State of Punjab, AIR 1955 SC 549



President has been made constitutional head of the executive and the real executive powers are vested in the Council of Ministers

Hargovind v. Raghukul, AIR 1979 SC 1109



The Office of Governor of a State is not under the control of or subordinate to the Central government.

B.P. Singhal v. Union of India, (2010) 6 SCC 331



Governors cannot be dismissed arbitrarily

Rameshwar Prasad v. Union of India, AIR 2006 SC 980



Governor could exercise his discretionary powers only when there is a compelling necessity

S.P. Anand v. H.D. Deve Gowda, (1996) 6 SCC 734



Article 75(5) permits the President to appoint a person who is not a member of either House of Parliament

Shamsher Singh v. State of Punjab, AIR 1974 SC 2192



Whenever the Constitution requires the satisfaction of the President or Governor, it is the satisfaction of Council of Ministers

U.N. Rao v. Indira Gandhi, AIR 1971 SC 1002



Article 74(1) is mandatory, the President cannot exercise executive power without the aid and advice of the Council of Ministers.

EXECUTIVE

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Kehar Singh v. Union of India, AIR 1989 SC 653



Pardon is an act of grace and cannot be demanded as a matter of right.

Epuru Sudhakar v. Government of A.P., AIR 2006 SC 3385



Pardon power is open to judicial review

Kehar Singh v. Union of India, AIR 1989 SC 653



The petitioner for mercy has no right to an oral hearing by the President.

Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1



Inordinate delay in rejection of mercy petition amounted to 'torture'

Rameshwar Prasad & Others v. UOI & Anr., (2006) 2 SCC 1



Immunity granted by Article 361 (1) does not take away the power to examine the validity of the action

Shivraj Singh Chouhan v. M.P. Legislative Assembly, (2020) 17 SCC 1



Discretion by the Governor to call for the floor test is not immune from judicial review.

Epuru Sudhakar v. Government of A.P., AIR 2006 SC 3385



Pardoning powers of President under Article 72 and of Governor under Article 161 are subject to judicial review

Shivraj Singh Chouhan & Ors. v. Speaker M.P. Legislative Assembly & Ors., (2020) SCC Online SC 363



Governor can call for floor test when there are reasonable grounds to believe that the government has lost the confidence of the house.

LEGISLATURE

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In Re Keshav Singh, AIR 1965 SC 745



Articles 194 and 105 are subject to fundamental rights guaranteed under Articles 21 and 22.

S.P. Anand v. H.D. Deve Gowda, AIR 1997 SC 272



A person who is not a member of either House can be appointed by the Prime Minister for six months.

Lily Thomas v. Union of India, (2013) 7 SCC 653



Convicted Members of Parliament will be immediately disqualified from holding membership

R.K. Garg v. Union of India, (1981) 4 SCC 675



Power to promulgate an ordinance is co-extensive with the power of Parliament to make laws

B.R. Kapoor v. State of Tamil Nadu, 2001 (6) SCALE 309



A non-member who does not possess the qualifications prescribed cannot be appointed as Chief Minister

P.U. Narsimha Rao v. State, AIR 1998 SC 2120



Scope of protection of immunity is available to them against all action and criminal proceedings

Keisham Meghachandra Singh v. Speaker Manipur Legislative Assembly & Ors., 2020 SCC Online SC 55



Speaker of the Legislative Assembly should decide a petition seeking disqualification within a period of three months, in the absence of exceptional reasons

D. C. Wadhwa v. State of Bihar, (1987) 1 SCC 378



Successive re-promulgation of ordinances would amount to fraud on Constitution and the ordinance so repromulgated is liable to be struck down.

LEGISLATURE



Jaya Bachchan v. Union of India, AIR 2006 SC 2119

An 'office of profit' is an office which is capable of yielding a profit or a pecuniary gain.



Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly, (2020) 2 SCC 595

Speaker does not have any explicit power to specify the period of disqualification under the Tenth Schedule

JUDICIARY

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Union of India v. Sankalchand Seth, AIR 1977 SC 2328



'Consultation' means full and effective consultation.

S.P. Gupta v. Union of India, AIR 1982 SC 149

Also known as 1st Judges Case



Executive had supremacy in appointment of judges.

S.C. Advocates on Record Assoc. v. Union of India, (1993) 4 SCC 441

Also known as 2nd Judges Case



In the matters of appointment of judges of S.C. and H.C. the CJI should have primacy

In Re Presidential reference, AIR 1999 SC 1

Also known as 3rd Judges Case



Consultation process to be adopted by the CJI requires consultation of plurality of judges

In Re Kerala Education Bill, AIR 1958 SC 956



The court is not bound to answer a reference made to it by the President.

Rajeshwar Singh v. Subrata Roy Sahara, AIR 2014 SC 476



Jurisdiction of Supreme Court under Article 129 is independent of the provisons of Contempt of Court Act, 1971.

Supreme Court Advocates-on-Record Assoc. v. Union of India, AIR 2015 SCW 5457



Declared both the 99th Constitutional Amendment as well as the NJAC Act, 2014 as unconstitutional and void.

Bengal Immunity v. State of Bihar, AIR 1955 SC 661



Supreme Court can depart from its previous decisions. The expression 'all courts within the territory of India' means all courts except Supreme Court

JUDICIARY

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Delhi Judicial Service Assoc. v. State of Gujarat, (1991) 4 SCC 406



Article 129 the Supreme Court has power to punish a person for the contempt of itself

State of Jharkhand v. Surendra Kumar Srivastava, (2019) 4 SCC 214



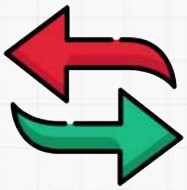
Writ Petition under Article 227 Challenging Judicial Orders are maintainable, but not under Article 226

Rajendra Diwan v. Pradeep Kumar Ranibala, (2019) SCC Online SC 1586



State Legislature cannot enact law which affects jurisdiction of Supreme Court

Rajesh Prasad v. State of Bihar, Crl.A. No. 111-113 of 2015



An appeal may be reversed by Supreme Court while exercising jurisdiction under Article 136 of the Constitution.

Anil Kumar v. UOI & Ors., (2019) 4 SCC 276



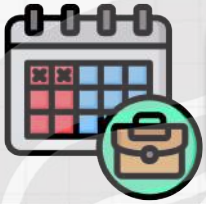
No authority can claim a privilege not to comply with its judgment.

Rupa Ashok Hurra v. Ashok Hurra, AIR 2002 SC 1771



A curative petition can be filed, seeking review of a decision which has become final

Kunhayammed & Ors. v. State of Kerala & Anr., AIR 2000 SC 2587



While hearing the petition for special leave to appeal, the Court is not exercising its appellate jurisdiction; it is merely exercising its discretionary jurisdiction to grant or not to grant leave to appeal.

Satish Chandra Yadav v. Union of India, SLP(C) 20860 of 2019



The wide discretionary power is invested under Article 136 is to be exercised sparingly and in exceptional cases only

JUDICIARY

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PLR Projects Ltd v. Mahanadi Coalfields Put Ltd, (2020) 20 SCC 791



C.G. should proceed to make appointments immediately after the S.C. Collegium has cleared the names

M Siddiq (D) through LR's v. Mahant Suresh Das and others, (2020) 1 SCC 1



The entire disputed land of 2.77 acres in Ayodhya must be handed over for the construction of Ram Mandir

Kantaru Rajeevaru v. Indian Young Lawyers Assoc., (2020) SCC OnLine SC 158



Supreme Court can refer questions of law to a larger bench while exercising its review jurisdiction.

Dheeraj Mor v. Hon'ble High Court of Delhi, (2020) SCC Online SC 213



Civil judges are not eligible to seek direct recruitment to post of District Judges in bar quota.

Vidya Devi v. State of H.P., (2020) 2 SCC 569



Condonation of delay is a matter of judicial discretion, which must be exercised judiciously

State v. Kalyan Singh, (2017) 7 SCC 444



Article 142 gives a very wide power to do complete justice to the parties before the court.

Sunil Rathee v. State of Haryana, (2020) SCC OnLine SC 594



Supreme Court, while exercising the jurisdiction under Article 139A must be satisfied that such questions are substantial questions of general importance

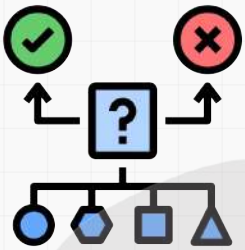
Union of India v. M.U. Mohanan Nair, (2020) 5 SCC 421



Article 141 is essentially a principle laid down by the court and it has the effect of precedent. Such principle must be delivered only after consideration of matter of merits. It can never be in a summary manner.

JUDICIARY

Balakrishna Ram v. Union of India, (2020) 2 SCC 442



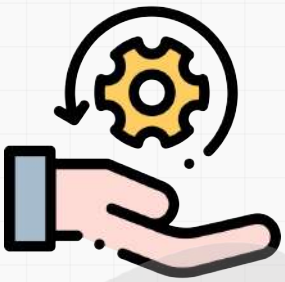
The principle that the High Court should not exercise its extraordinary writ jurisdiction when an efficacious alternative remedy is available, is a rule of prudence and not a rule of law

Ivy C.Da.Conceicao v. State of Goa, (2017) 3 SCC 619



The power of judicial review under Article 226 is available to go into the question whether the action of an aided educational institution is transparent and fair.

Neelam Manmohan Attavar v. Manmohan Attavar (D) Thr LR's, Case (Criminal) No. 1 of 2020



Writ petition would not be maintainable in order to challenge an order passed by the High Court in the exercise of its judicial powers.

Garment Craft v. Prakash Chand Goel, SCP (C) No. 13941 of 2021



Supervisory jurisdiction under Article 227 is not to correct a legal flaw when the final finding is justified or can be supported

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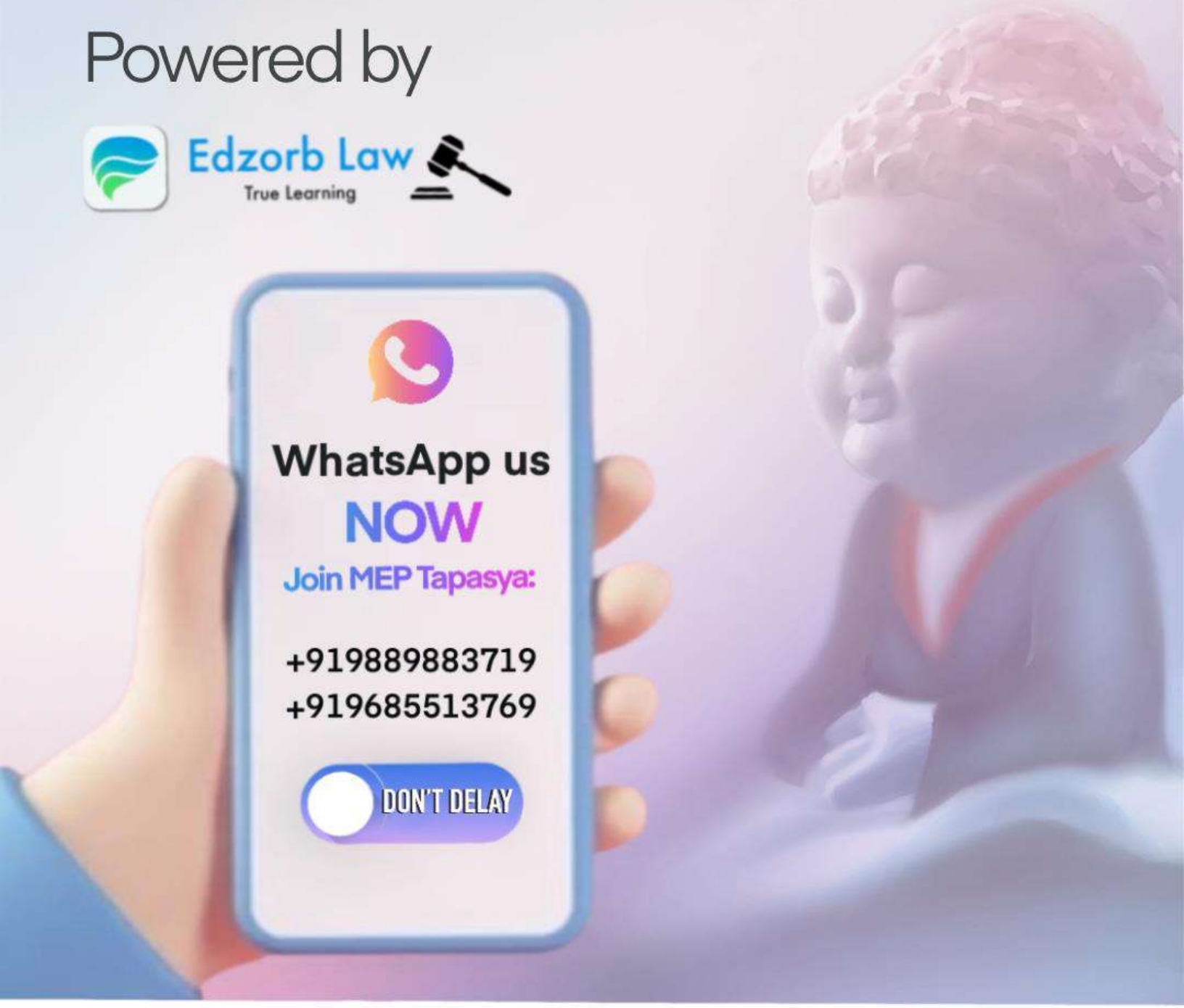

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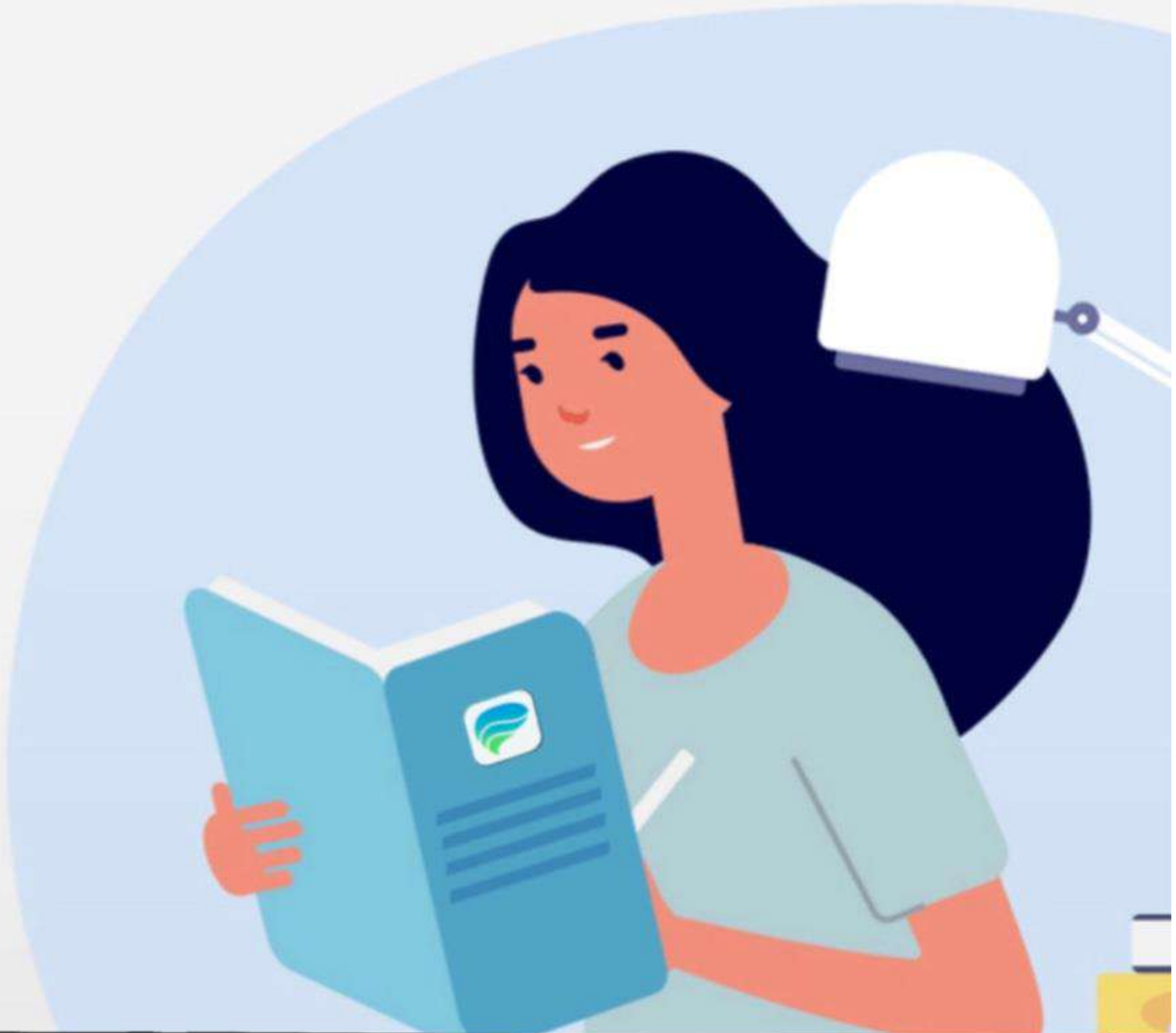

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LEGISLATIVE RELATIONS

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A.H. Wadia v. Commissioner of Income Tax, AIR 1949 FC 18



State Legislature cannot make extra-territorial laws except when there is sufficient connection between the State and the subject matter of legislation

Prafulla Kumar v. Bank of Commerce, Khulna, AIR 1947 PC 60

In ascertaining the pith and substance of the Act the court must consider



- The object of the Act
- The scope of the Act
- The effect as the whole

Javed v. State of Haryana, AIR 2003 SC 3057



Supreme Court held that the Constitution gives autonomy to the Centre and the States within their respective fields.

R.D. Joshi v. Ajit Mills, AIR 1977 SC 2279



Supreme Court held that the entries in the list must be given wide meaning implying all ancillary and incidental powers

State of Bombay v. F.N. Balsara, AIR 1951 SC 318



The court held the Bombay Prohibition Act, as valid because the pith and substance of the Act fell in State List

G.U.K. Industries v. Income Tax Officer, (2011) 4 SCC 36



Any law enacted by Parliament with respect to 'extra territorial aspects would be ultra vires to Article of the Constitution.

State of Bombay v. R.M.D.C., AIR 1957 SC 699



Supreme Court held that extra-territorial legislation can be upheld only when there is a sufficient nexus between the object sought to be achieved and the State seeking to achieve them.

K.C.G. Narayana Deo v. State of Orissa, AIR 1953 SC 375



Colourable Legislation means that the legislature passing the statute purported to act within the limits of the powers yet in substance it transgressed these powers.

LEGISLATIVE RELATIONS

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Javed v. State of Haryana, AIR 2003 SC 3057



A legislation of one State cannot be held to be discriminatory because the Parliament or State Legislatures of other States have not chosen to enact similar laws.

K.C. Gajapati Narayan Deo v. State of Orissa, AIR 1956 SC 375



Doctrine of colourable legislation has reference to the competence and not to the motives, bond fides or mala fides of the legislature.

Secretary, Kerala Irrigation Department & Ors. v. James Varghese & Ors., C.A. No. 6258 of 2014



When the legislative competence of a State Legislature is questioned the doctrine of pith and substance has to be applied

State of Rajasthan v. Ashok Khetoliya, C.A. No. 1814 of 2022



The Constitution (74th Amendment) Act, 1992, does not take away legislative competence of the State Legislatures to legislate on the subject of local Government.

FREEDOM OF TRADE AND COMMERCE

Atiabari Tea Co. v. State of Assam, AIR 1961 SC 232



The object behind the provisions from Article 301-307 is to create and preserve a national economic fibre

State of Bombay v. R.M.D.C., AIR 1957 SC 699



It was held that protection offered under Article 301 is available to lawful trading activity and does not extend to activities which are res extra commercium

Automobile Transport Ltd. v. State of Rajasthan, AIR 1962 SC 1406



Supreme Court recognized the concept of regulatory and compensatory taxes and held that compensatory taxes are outside the purview of Article 301.

EMERGENCY

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A.D.M., Jabalpur v. Shivkant Shukla, AIR 1976 SC 1207

Also known as habeas corpus case.



During the proclamation of emergency rights under Article 21 can also be suspended

Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789



There is no bar to judicial review of the validity of proclamation of emergency

S.R. Bommai v. Union of India, (1994) 3 SCC 1



Judicial review of Presidential proclamation is permissible if the allegations of mala fides have been leveled

Rameshwar Prasad v. Union of India, (2006) 2 SCC 1



The Governor while recommending dissolution of Assembly has to annex with the report relevant materials substantiating his decision

Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789



There is no bar to judicial review of the validity of a proclamation of emergency issued by the President under Article 352.

AMENDMENT

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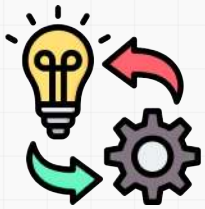
Shankari Prasad v. Union of India, AIR 1951 SC 458



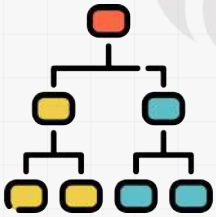
Power to amend the Constitution including the fundamental rights is contained in Article 368

Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845



'Amendment of the Constitution' means amendment of all parts of the Constitution.

Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461



Parliament can amend any Part of the Constitution but cannot amend basic structure of the constitution.

I.R. Coelho v. State of Tamil Nadu, AIR 2007 SC 861



Any law placed in 9th schedule of the Constitution after April 24, 1974, would be open to challenge in the court of law

Golaknath v. State of Punjab, AIR 1967 SC 1643



Parliament had no power. from the date of decision, to amend Part III of the Constitution so as to take away or a bridge Fundamental Rights.

Minerva Mills v. Union of India, AIR 1980 SC 1784



Supreme Court struck down clauses (4) and (5) of Article 368 on the ground that it destroys basic structure of the Constitution

MISCELLANEOUS

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K.T. Plantation Put Ltd. v. State of Karnataka, AIR 2011 SC 3430



Right to get compensation in case of deprivation of property is inherent in Article 300-A.

C.P.I.O. Supreme Court v. Subash Chandra Agarwal, (2019) SCC Online SC 1459



The office of Chief Justice of India is a public authority under the Right to Information Act.

People's Union for Civil Liberties v. Union of India, (2013) 10 SCC 1



Introduced the concept of 'negative voting'.

Shah Faesal v. Union of India, (2020) 4 SCC 1



A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio

Budhadeu Karmaskarus v. State of W.B. & Ors., Crl.A. No.135 of 2010



Aadhar Cards shall be issued to sex workers on the basis of a proforma certificate which is issued by UIDAI

Common Cause v. Union of India, W.P. (Civil) No. 215 of 2005



Supreme Court has simplified the procedure for executing living will or advance directives

Hindustan Construction Company Ltd v. Union of India, (2020) 4 SCC 310

HCC infrastructure

Struck down Section 87 of the Arbitration and Conciliation Act, 1996, the provision, which brought back the automatic stay provision, to be "manifestly arbitrary" and violative of Article 14 of the Constitution of India

Union of India v. Rajendra Shah & Ors., C.A. No. 9108-9109 of 2014



Supreme Court struck down the provisions of the Constitution (97th Amendment) Act 2011 to the extent it introduced Part IX B in the Constitution to deal with co-operative societies

MISCELLANEOUS

Nisha Priya Bhatia v. Union of India, (2020) 13 SCC 56



Article 311 is manifestation of principles of natural justice and government to ensure that such decision is preceded by inquiry, coupled with opportunity of being heard and making representation against such decision

Brajesh Singh v. Sunil Arora, (2021) 10 SCC 241



The political parties must publish the criminal antecedents, if any, of the candidates within 48 hours of their selection

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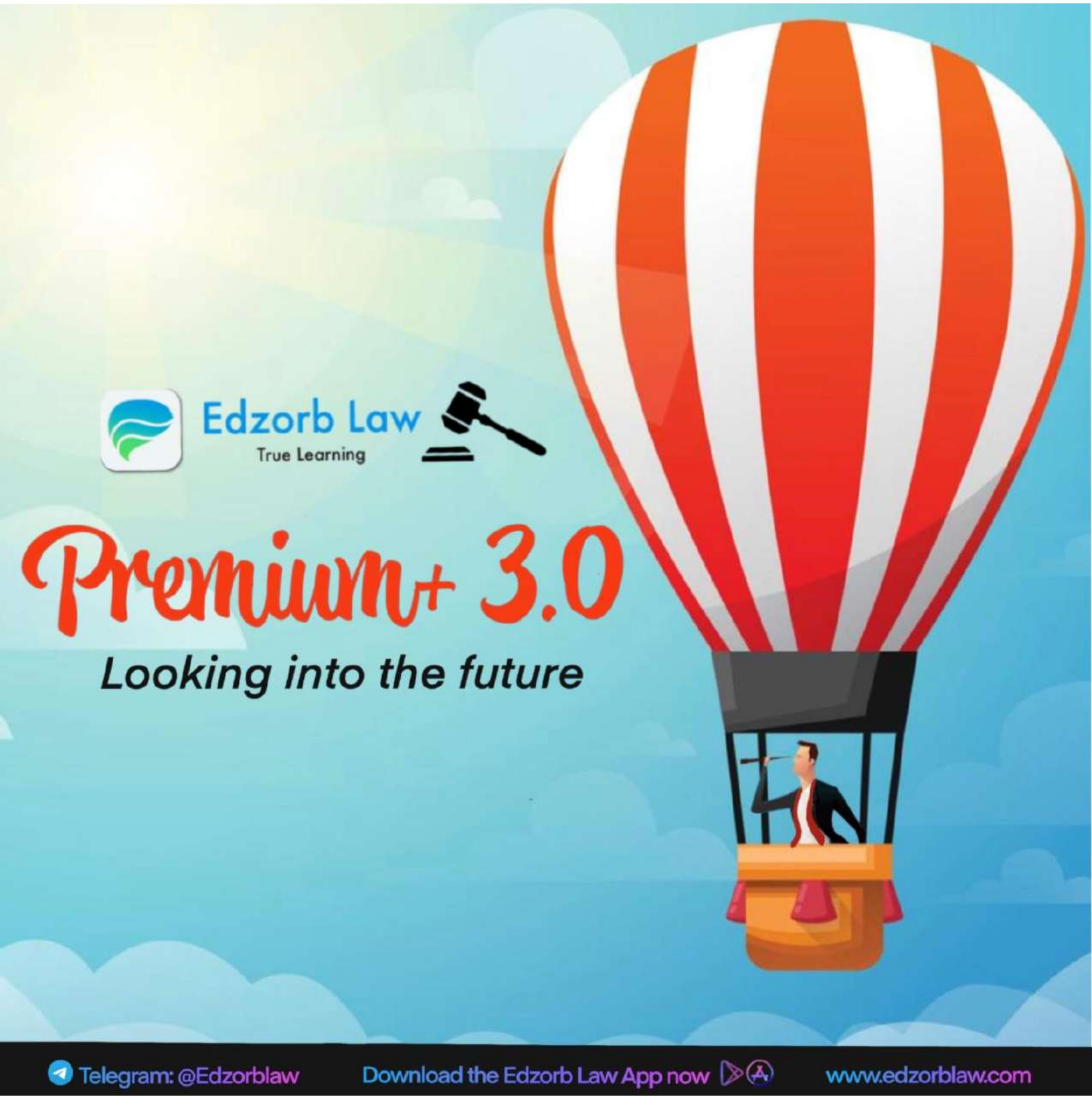

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