

## Weekly Update for Law optional UPSC

**A mix of Conceptual, Current/Contemporary Topics**

Date: 29th Apr- 5th May 2024

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### Treatment of Meritorious Reserved Category Candidates

In a recent verdict on **Deependra Yadav and others v. State of Madhya Pradesh and others**, the Supreme Court articulated a significant observation regarding the treatment of meritorious candidates from reserved categories.

The bench, led by Justices C.T. Ravikumar and Sanjay Kumar, emphasised that if deserving candidates from reserved categories do not utilise reservation benefits, they should be considered on par with unreserved candidates based on their merit.

The ruling, echoing the decision of the M.P. High Court, highlighted the potential adverse impact on the reservation system if meritorious candidates from reserved categories are not distinguished from those availing reservation benefits. Notably, Rule 4(3)(d)(III) of the Madhya Pradesh State Service Examination Rules, 2015, came under scrutiny for its alleged detriment to deserving candidates from reserved categories.

An amendment to Rule 4 of the aforementioned rules aimed to address this issue. The amendment sought to adjust and segregate meritorious candidates at the final selection stage rather than at the preliminary results stage.

However, the Supreme Court, drawing from its precedent in **Saurav Yadav and others v. State of U.P. and others**, reaffirmed the principle that candidates from vertical reservation categories are entitled to selection in the 'open category' based on their own merit, without compromising the quota reserved for their respective categories.

The court lauded the State of Madhya Pradesh for recognizing the adverse effects of the previous rule and restoring Rule 4 to its original form. This restoration facilitates the segregation of deserving candidates from reserved categories with meritorious unreserved candidates at the preliminary examination stage, ensuring a fairer selection process.

### **Supreme Court Reserves Judgment on 'Material Resource of the Community'**

The recent proceedings of **Property Owners Association v. State of Maharashtra** before the Supreme Court have drawn attention to a pivotal constitutional issue concerning Article 39(b). The Court, comprising a nine-judge bench led by Chief Justice DY Chandrachud, deliberated on whether private resources fall within the ambit of 'material resource of the community' as outlined in Article 39(b) of the Constitution.

**“After five days of extensive arguments focusing on the definition of 'community', the interpretation of 'material resource', and the implications for Article 31C post the Minerva Mills v. Union of India ruling, the Court concluded the hearing.”**

The case, stemming from petitions initiated in 1992 and eventually referred to a nine-judge bench in 2002, revolves around the constitutional validity of Chapter-VIII A of the Maharashtra Housing and Area Development Act, 1976. This chapter, introduced in 1986, addresses the acquisition of specific properties, linking its provisions to the mandate of Article 39(b) to distribute material resources for the common good.

The Court's attention was drawn to earlier interpretations of Article 39(b), notably the diverging opinions in *State of Karnataka v. Ranganatha Reddy & Anr.* The contention arose from conflicting judgments, with one advocating for the inclusion of privately owned resources under 'material resources' and another expressing reservations.

The appellants, represented primarily by Senior Advocate Zal T. Andhyarujina and Mr. Sameer Parekh, argued that 'material resource' should encompass any resource capable of generating wealth for the community's benefit. They cautioned against an overly broad interpretation that could infringe on property rights, emphasising the need for balance.

Conversely, the Union, represented by Attorney General Mr. R Venkataramani and Solicitor General Mr. Tushar Mehta, asserted that the interpretation of Article 39(b) should align with evolving constitutional principles rather than ideological leanings. They emphasised the dynamic nature of a community's interactions in shaping the concept of 'material resources'.

The Court's deliberations also extended to the interplay between Article 39(b) and Article 31C, with arguments regarding the post-Minerva Mills landscape and the revival of the original Article 31C.

As the Court reserves its judgement, the implications of its decision on the distribution of resources and the balance between public good and private property rights remain significant considerations in shaping constitutional jurisprudence.

## Legislative Review of Section 498A IPC Provisions

In a significant ruling in **ACHIN GUPTA v. STATE OF HARYANA & ANR.**, the Supreme Court has called for legislative scrutiny regarding the misuse of Section 498A of the Indian Penal Code (IPC). Justices JB Pardiwala and Manoj Misra, presiding over the bench, emphasised the need for amendments to the recently enacted Bharatiya Nyaya Sanhita, 2023 (BNS), specifically Sections 85 and 86, which mirror the provisions of Section 498A IPC.

Expressing concerns over the potential abuse of Section 498A, the Court stressed on the importance of balancing the protection of women from domestic violence with safeguarding against false allegations. It cited the case of **Preeti Gupta v. State of Jharkhand (2010)**, where similar apprehensions were raised regarding exaggerated complaints under Section 498A.

The judgement in ACHIN GUPTA highlighted the verbatim replication of Section 498A in BNS, urging Parliament to consider amendments to ensure fairness and prevent misuse. Notably, the Court directed the Registry to submit a copy of the judgement to the Union Home Minister and Union Minister of Law & Justice for their attention.

In the case's background, a divorce petition filed by the husband led to the wife filing an FIR under various sections of the IPC, including 498A. Despite the High Court's refusal to quash the criminal case, the Supreme Court intervened, emphasising the need to quash proceedings initiated with malicious intent.

The Court invoked the principles laid down in the State of Haryana v. Bhajan Lal judgement, emphasising the High Court's duty to quash proceedings initiated with an ulterior motive. It cautioned against the mechanical application of Section 498A, stressing the need for a pragmatic assessment of matrimonial disputes to prevent the abuse of legal provisions.

## Supreme Court Dismisses PIL on Namesake Candidates in Elections

In a recent development, the Supreme Court, presided over by a three-judge bench comprising Justice B.R. Gavai, Satish Chandra Sharma, and Sandeep Mehta, dismissed a Public Interest Litigation (PIL) filed by Sabu Steephen against the Election Commission of India. The PIL sought directions to prevent the participation of namesake or duplicate candidates in elections, especially those fielded deliberately to disrupt the chances of other candidates.

Upon hearing the petition, Justice Gavai expressed skepticism regarding the viability of the case, questioning whether individuals with similar names should be barred from contesting elections. He highlighted the potential infringement on candidates' rights, using the hypothetical examples of individuals named Rahul Gandhi or Lalu Prasad Yadav.

The petitioner's counsel attempted to bolster their argument by citing Rule 22(3) of the Conduct of Elections Rules, 1961, which mandates the distinction of candidates sharing the same name. However, failing to convince the bench, the counsel opted to withdraw the petition, which was subsequently dismissed.

The petitioner highlighted the need for a mechanism to assess the background of namesake candidates and their campaigns post-nomination. An incident involving multiple candidates named

"O. Paneerselvam" competing in the same constituency was highlighted to illustrate the prevalence of such practices.

While acknowledging the right of independent candidates to contest elections, the petitioner emphasised the importance of curbing deceptive practices that create confusion among voters. The petition advocated for amendments to the Representation of People Act, 1951, and Conduct of Elections Rules, 1961, to address this issue and ensure electoral transparency.

## Compelling Consent for Compounding Cheque Dishonour Case

In the case of **RAJ REDDY KALLEM v. THE STATE OF HARYANA & ANR.**, the Supreme Court delivered a significant observation regarding cheque dishonour cases under Section 138 of the Negotiable Instruments Act (NI Act). The Court clarified that courts cannot force the complainant to consent to the compounding of the offence solely because the accused has compensated the complainant.

The Court emphasised that even if the accused has reimbursed the complainant, it does not automatically absolve them of criminal liability under Section 138 of the NI Act. While distinguishing between compounding and quashing of complaints, the Court acknowledged that quashing a case is a separate matter. In the present case, considering the appellant's one-year incarceration before being released on bail, as well as the compensation provided to the complainant, the Court found no purpose in prolonging the proceedings.

In line with these considerations and exercising powers under Article 142 of the Constitution, the Court quashed the criminal proceedings. Additionally, the Court reiterated that seeking compounding at the initial stages of the case is advisable but not mandatory, indicating that compounding can be pursued at any stage of criminal proceedings, even after conviction.

## Case of the Week

### **Cassidy v. Daily Mirror Newspapers Ltd. [1929] 2 KB 331**

The case of Cassidy v. Daily Mirror Newspapers Ltd. revolves around a defamation claim brought by Ms. Cassidy against the Daily Mirror. Ms. Cassidy was engaged to a man named Mr. X. The Daily Mirror published a photograph of Mr. X with another woman, captioned as if suggesting that Mr. X was engaged to this other woman.

### **Issue**

The primary legal issue was whether the newspaper's publication of the photograph and the accompanying caption could be considered defamatory towards Ms. Cassidy.

### **Argument**

Ms. Cassidy argued that the publication implied she was either not engaged to Mr. X or that Mr. X was unfaithful to her, both of which she claimed were defamatory. The defence argued that the newspaper could not have known about the engagement between Ms. Cassidy and Mr. X, and thus could not intend to defame her.

## Decision

The Court of Appeal held in favour of Ms. Cassidy. The court found that the publication of the photograph with the caption was capable of being defamatory as it could lead those who knew of her actual engagement to Mr. X to think less of her, either because she was no longer engaged to him or he was unfaithful to her.

The judges reasoned that the test for defamation should consider whether the publication would lower the plaintiff in the estimation of right-thinking members of society. In this case, even though the wider public and the defendant might not have been aware of Ms. Cassidy's engagement to Mr. X, among those who were aware, the publication was capable of being defamatory.

## Repeated PYQ

**Q. The Dispute Settlement Body (DSB) of the World Trade Organization (WTO) is playing an important role in maintaining the stability of the global economy. Comment.**

**Ans.** The Dispute Settlement Body (DSB) of the World Trade Organization (WTO) plays an important role in maintaining the stability of the global economy by ensuring that international trade flows as smoothly, predictably, and freely as possible. The DSB is instrumental in resolving disputes that arise between member countries regarding the interpretation and application of the WTO agreements.

### Mechanism of the DSB

The DSB administers the rules and procedures for dispute resolution outlined in the **Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)**. The process is renowned for its structured phases, including consultation, panel hearing, and if necessary, an appellate review.

This mechanism is designed to ensure that disputes are handled in a systematic and transparent manner, reducing the scope for unilateral actions that could destabilise international markets.

### Impact on Global Economic Stability

By providing a dedicated forum for addressing and resolving trade disputes, the DSB helps prevent trade conflicts from escalating into trade wars. This contributes to economic stability by maintaining open channels for trade.

For instance, in the case of **United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia (DS177 and DS178)**, the DSB played a critical role in resolving the dispute under the WTO rules, thereby preventing potential retaliatory measures and promoting a stable trade environment.

### Enhancing Rule-Based Trading System

The DSB reinforces the rule-based international trading system by ensuring that WTO members adhere to agreed rules. This predictability allows countries to participate in international trade with

confidence that their rights under international agreements will be respected and any disputes will be resolved impartially.

For example, in **European Communities – Measures Concerning Meat and Meat Products (Hormones) (DS26 and DS48)**, the DSB's intervention clarified the extent to which countries can apply trade measures based on health concerns, thereby reinforcing the application of scientific principles in trade-related matters.

DSB's role transcends mere economic calculations; it promotes justice, fairness, and legal predictability in international trade. This not only supports economic stability but also builds trust among nations by providing a peaceful means to resolve conflicts.

### **Capacity Building and Technical Assistance**

Additionally, the DSB contributes to the capacity building of less developed countries by providing technical assistance and training in the nuances of WTO law and its dispute settlement procedures. This empowerment enables smaller nations to defend their interests effectively within the global trading system, promoting a more equitable international trade environment. The inclusion and support of these nations help sustain a diverse and multi-faceted global economy, mitigating the dominance of more economically powerful countries and fostering a more balanced economic development.

