

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 20th - 26th November 2023

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1. Verdict on Vidhan Sabha Reconvening

The State Of Punjab v Principal Secretary To The Governor Of Punjab And Anr.

Key Points:

- The Supreme Court ruled that reconvening a sitting of the Vidhan Sabha (state legislature), which hasn't been prorogued, is lawful and falls within the exclusive purview of the Speaker.
- This decision came against the backdrop of the Punjab Governor's refusal to assent to four bills passed in a session he deemed "illegal," as it was presented as an extension of the budget session.
- The Court clarified that if a session is not prolonged, the Speaker has the right to reconvene the Vidhan Sabha.

Distinction Between Prorogation and Dissolution

- The Court distinguished between the power to prorogue (temporarily end a session without dissolving the assembly) and the power to dissolve the assembly, stating they are distinct constitutional concepts.
- It emphasised that a sitting of the legislature can be part of a single session and that there can be multiple sittings in one session.

Speaker's Authority and Practice

- The Court noted that it's common for the Speaker to call a sitting of the House after it is adjourned sine die (without assigning a day for a further meeting or hearing), provided the session isn't prolonged.
- This practice is recognized in the Rules of Procedure for various state legislatures and the Lok Sabha.
- The Supreme Court recognized that under Article 122(2), the Speaker's decision regarding the procedure and conduct of business in the House is final.
- The Speaker, therefore, has the authority to adjourn and reconvene the House, and these decisions cannot be challenged based on procedural irregularities.

2. Supreme Court on Lumpy Skin Disease in Cattle

Ashutosh Bansal v. Union of India.

In a significant development, the Supreme Court recently closed a petition concerning the outbreak of Lumpy Skin Disease (LSD) among cattle, expressing satisfaction with the measures taken by the Union and State governments. The case, titled *Ashutosh Bansal v. Union of India*, dealt with the response to the LSD epidemic, which is caused by the Lumpy Skin Disease Virus (LSDV) and had resulted in over 75,000 cattle deaths since April 2022. The Court's decision followed after reviewing the actions taken following its notice issued on October 31, 2022, seeking details on the National Health Plan for combating LSDV.

Both the Union of India and the Animal Welfare Board of India, in their responses, emphasised that the issue primarily falls under state jurisdiction. They highlighted the issuance of various guidelines and policies, including a vaccination drive that covered approximately 8.16 crore cattle. Additionally, several states, including Rajasthan, Maharashtra, Madhya Pradesh, Gujarat, Haryana, Punjab, and the Government of NCT of Delhi, filed counter-affidavits detailing the steps they had undertaken to combat the disease.

The Supreme Court noted the diverse budgetary allocations and expenditures across different states, which varied according to the cattle population and each state's financial condition. Acknowledging the extensive measures implemented by the states, the Court concluded that the petition could be closed, while allowing the petitioner to approach the Central/State Governments for any related future issues.

Moreover, the Court granted the petitioner the liberty to prompt the Union government to take policy decisions on various aspects. These include formulating policies for sustainable programs for indigenous cows, exploring the medicinal value of cow urine, and ensuring the effective implementation of the Pashu Aadhar numerical database. Concluding the matter, the Supreme Court bench, comprising Justices Surya Kant and Justice Dipankar Datta, expressed confidence in the proactive measures already taken by the states and anticipated that they would continue to address any future concerns raised by the petitioners with promptness and seriousness. This case underscores the Supreme Court's role in monitoring public health crises that impact livestock and its reliance on collaborative efforts between Union and State governments to manage such crises effectively.

3. Counterfeit Goods and Brand Protection

AERO CLUB v. M/S SAHARA BELTS

The Delhi High Court recently emphasised the detrimental impact of selling counterfeit goods on public interest and brand value in a trademark infringement case involving the well-known brand Woodland. In the case titled *AERO CLUB v. M/S SAHARA BELTS*, Justice Prathiba M Singh awarded Rs. 11 lakhs in damages and costs to Woodland, highlighting the serious consequences of such illegal activities. The defendant, M/s Sahara Belts, operated by Javed Alam in Sadar Bazar, Delhi, was found to be marketing and selling counterfeit products like belts, belt-buckles, and wallets bearing Woodland's registered trademark.

The court observed that such sales of counterfeit goods not only harm the market for genuine products but also significantly reduce the value of the original brand and trademark, going against public interest. In light of the infringement, over 11,000 counterfeit products were seized from the

defendant's premises. The court decreed a permanent injunction against M/s Sahara Belts, prohibiting them from manufacturing, selling, advertising, or dealing in any products that bear the 'WOODLAND' mark or any similar marks. This ruling serves as a strong precedent in brand protection, underlining the legal repercussions for entities involved in producing and selling counterfeit goods and reinforcing the importance of safeguarding trademarks and brand integrity.

4. Dynamic+ Injunction Against Piracy

Universal City Studios LLC. & Ors. v. Fztvseries.Mobi & Ors.

In a recent decision, the Delhi High Court, under Justice Prathiba M. Singh, granted an ex-parte ad-interim injunction in favour of major content creators such as Universal, Warner Bros, Netflix, Paramount Pictures, and Disney. This ruling was against rogue websites found to be unlawfully disseminating copyrighted content belonging to these entities. Following the precedent established in the case of Universal City Studios LLC. & Ors. v. Dotmovies.baby & Ors., the court issued a "Dynamic+ injunction." This type of injunction is particularly noteworthy as it not only protects the plaintiffs' existing copyrighted content but also extends to safeguard their future works.

The decision arose from the need to address the immediate and rampant uploading of copyrighted films, TV series, and other content on rogue websites as soon as they are released. Justice Singh highlighted the significant monetary losses and copyright infringements faced by content creators due to the unauthorised replication and distribution of their works. She pointed out the challenges in regulating online piracy, especially given the ease of registering domain names and the anonymity provided by privacy protection features, which often allow the operators of these websites to avoid legal consequences.

A notable aspect of the ruling was its focus on the dynamic nature of online piracy. The court acknowledged the tendency of rogue websites to morph and re-emerge under new domains once they are blocked or receive legal notices, a phenomenon also observed in the case of UTV Software Communication Ltd. v. 1337x.to. The effectiveness of the Delhi High Court's anti-piracy orders was also acknowledged, as they have led to the locking and suspending of rogue domain names and a consequent shift of customers towards legitimate platforms.

5. District Court's Modification of Arbitral Award under A&C Act

In a significant legal development, the High Court of Telangana set aside an order of the District Court, which had modified an arbitral award under Section 34 of the Arbitration and Conciliation Act (A&C Act). This ruling, delivered by Justice M.G. Priyadarsini, came in response to an appeal against the decision of the District Court, which the High Court found had overstepped its boundaries under Section 34.

The case involved a contract dispute between the Union of India (appellant) and B.R. Enterprises (respondent) regarding repair and re-erection of sheds in a military campus. Despite extensions, the respondent ceased work, leading to a contract cancellation by the appellant. The respondent then sought arbitration, and the High Court appointed an arbitrator. The arbitrator awarded amounts to both parties, but ultimately found the respondent liable to pay a significant sum, including various costs and damages.

Dissatisfied, the respondent approached the District Court under Section 34 of the A&C Act, seeking a reduction in the payable amount. The District Court partially granted this request, reducing the amount to be paid by the respondent. This led to the present appeal by the Union of India.

The appellant contended that the District Court had exceeded the scope of Section 34 by essentially modifying the arbitral award. They argued that the amount awarded was based on a specific contract condition pertaining to liquidated damages for breach, which the District Court overlooked.

In its analysis, the High Court observed that while the lower court recognized the respondent's breach of contract, it unjustifiably exempted them from paying the awarded damages. The court underscored that the respondent's breach had caused a loss to the department, and they were liable to pay liquidated damages as per the contract.

The court emphasised that under Section 34, interference with an arbitrator's findings is limited and should only occur in cases of fundamental irregularity. The High Court found that the lower court's modification of the compensation amount constituted such an irregularity. As a result, the High Court set aside the order of the lower court and upheld the original arbitral award, reaffirming the respondent's liability to pay liquidated damages as initially decided by the arbitrator.

6. Case of the Week

Anoop Baranwal v. Union of India

In this judgement, the Supreme Court altered the procedure for appointing the Chief Election Commissioner and Election Commissioners, introducing a three-member committee consisting of the Prime Minister, the Leader of the Opposition (or the leader of the largest opposition party in Parliament), and the Chief Justice of India. This change was made to ensure the independence of the Election Commission from executive control, which was a key concern in the case.

The judgement was based on a comprehensive analysis of the historical context of the constitutional provisions concerning the Election Commission, particularly Article 324. The Court found that the framers of the Constitution intended to keep the Election Commission free from executive interference, a principle that was not fully actualized in the existing appointment process. The Court's decision was also influenced by the expanding scope, powers, and functions of the Election Commission and the essential role of free and fair elections in sustaining constitutional democracy.

7. Repeated PYQ

Discuss the rule in *Rylands Vs Fletcher*. Examine whether this rule is applicable in case of physical injuries caused to innocent persons by discharge of noxious fumes from industrial plants.

The landmark case of ***Rylands v. Fletcher (1868) L.R. 3 H.L. 330***, has been a cornerstone in the development of the law of torts, particularly concerning the doctrine of strict liability. The essence of the ruling can be captured in the dictum of Blackburn J.: "The person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must

keep it at his peril, and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape."

Core Elements of the Rule:

- **Accumulation:** The defendant must have 'brought' something onto the land. This element denotes an intentional act of placing something which may potentially be hazardous.
- **Escape:** The substance must escape from the land where it was contained to a place outside of the defendant's control.
- **Non-natural use of land:** This is pivotal in the application of the rule. The use of the land from which the thing escapes must be extraordinary and not ordinary use.
- **Damage:** There must be damage, and it should be a foreseeable result of the escape.

Application to Industrial Emissions and Physical Harm

When we apply the **Rylands v. Fletcher** rule to modern scenarios, such as physical injuries caused by noxious fumes from industrial plants, we must navigate through a nuanced legal landscape.

- **Nature of the Substance:** Unlike the water in *Rylands v. Fletcher*, noxious fumes are inherently hazardous. This inherent dangerousness could potentially make it easier to apply the rule, but it also raises questions about the 'ordinary' nature of industrial activities in modern times.
- **Escape and Non-natural Use of Land:** The escape of fumes outside the premises of the industry can be likened to the 'escape' in the original rule. However, whether the operation of an industrial plant constitutes a 'non-natural' use of land in the contemporary context is debatable and often depends on the specific circumstances and local industrial standards.
- **Foreseeability and Damage:** Foreseeability of harm plays a crucial role. In modern industrial contexts, the potential harm from emissions is often well-known, which could strengthen the argument for liability under the *Rylands v. Fletcher* doctrine.

In contemporary legal analysis, the **Rylands v. Fletcher** rule has been both critiqued and limited in its application. Modern industrial and environmental regulations have introduced specific standards and compliance mechanisms that often supersede the broad principles set out in *Rylands v. Fletcher*. Additionally, the development of negligence law, particularly following the case of ***Donoghue v Stevenson [1932] AC 562***, has provided an alternative framework for dealing with harm caused by industrial activities.