

# Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 1st - 7th Jan 2024

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## New Law optional Batch Started 5th Jan 2024

- Aiming for UPSC 2025 (For early starters it would be good time)
- Weekly tests along with Model Answer
- 12 Full length test after Syllabus Completion
- 4.5 Month, Mon - Thu: 4- 6 PM
- First lecture Watch [here](#)

### 1. No Rape by False Promise of Marriage When Marriage is Solemnized

In a significant ruling on January 3rd in AJEET SINGH vs. STATE OF UTTAR PRADESH, the Supreme Court quashed a criminal case against an accused-appellant who was charged with raping a 25-year-old woman under the pretext of marriage.

The Court's decision was based on the fact that there was a consensual relationship between the parties that ultimately led to marriage. Justices Abhay S. Oka and Pankaj Mithal observed that the allegation of the physical relationship being maintained due to a false promise of marriage had no basis since the relationship culminated in a solemnised marriage.

Furthermore, the Division bench noted that the allegations in this case were insufficient to proceed against the appellant, stating that "no prudent person" could conclude that there was sufficient ground for such proceedings.

- The case originated from a complaint filed by the victim's father, alleging fraud and maintaining a physical relationship through false promises. However, the appellant's counsel presented a notice in which the victim acknowledged the marriage's solemnization and referred to herself as the appellant's wife. Based on these facts and statements, the Court allowed the appellant's appeal and quashed the FIR.
- This case underscores the importance of examining all relevant evidence and circumstances before pursuing criminal charges.

## 2. Orders Allowing Ex Post Facto Environmental Clearance

In a significant development this week, the Supreme Court has suspended two union government orders issued in July 2021 and January 2022, which allowed ex-post facto clearance for mining projects without the prior environmental clearance mandated by the 2006 Environment Impact Assessment (EIA) notification. The decision comes in response to a public interest litigation (PIL) petition filed by the non-governmental organisation (NGO) Vanashakti, arguing that the government orders contradicted the non-negotiable requirement of prior environmental approval before commencing any activity under the EIA framework.

The NGO contended that the 2021 order issued by the environment ministry, providing a Standard Operating Procedure (SoP) for ex-post facto clearance, went against the fundamental nature of the EIA's requirement for prior approval. The Supreme Court acknowledged the balance between sustainable development and environmental protection, emphasising the importance of adhering to the EIA's stipulations.

The government orders under scrutiny dealt with ex-post facto clearance for mining projects, allowing them to proceed without the necessary prior clearances. Vanashakti's petition seeks to quash the standard operating procedure and prevent the processing of applications for ex-post facto environmental clearance filed after April 13, 2018, the expiration date of the specified window period in a 2017 notification.

The Supreme Court's interim order restrains the government from implementing these orders nationwide and seeks the government's response, with the next hearing scheduled in four weeks.

## 3. 'Blenders Pride' vs. 'London Pride'

The Supreme Court issued a notice on a special leave petition filed by Pernod Ricard India Pvt Ltd, challenging the Madhya Pradesh High Court's refusal to grant an injunction against alleged trademark infringement involving whiskey brands "Blender's Pride" and "Imperial Blue," among others.

The Respondents in the case were accused of infringing on the bottle design, packaging, and name through their product, "London Pride." Senior Advocate Mukul Rohatgi, representing the petitioners, presented the bottles of the brands to the bench, emphasising the alleged copying. He pointed out that both "Blender's Pride" and "Imperial Blue" were registered brands with a combined turnover of 2000 crores. The copying was particularly apparent in the case of "Imperial Blue," as Rohatgi explained, showing identical bottle designs.

He highlighted the issue by stating, "Something worse, the bottle is absolutely identical, Seagram is also mine, they are using it. They are getting it either manufactured from somewhere else or getting it from kabaddi (scrap dealers), because they can't get Seagram." The counsel stressed that there were violations on three fronts: registered mark, name, and packaging.

The Supreme Court bench issued notice in the case and scheduled the matter to return on January 19, 2023. The High Court had previously refused to pass an injunction order, arguing that premium whiskey consumers could differentiate between the brands, and there was no "deceptive similarity" between them. The bench at Indore noted that liquor consumers of scotch whiskey were educated and discerning individuals, typically belonging to the affluent class of society.

## 4. Pregnancy Termination After Husband's Death

***The Delhi High Court, in R v. THE UNION OF INDIA THROUGH SECRETARY MINISTRY OF HEALTH AND FAMILY WELFARE & ORS***, allowed a woman to terminate her pregnancy at 29

weeks due to extreme trauma following her husband's death. Justice Subramonium Prasad emphasized that the right to reproductive choice includes the right not to procreate and recognized the woman's emotional distress and suicidal tendencies as grounds for the termination.

The court referred to a Supreme Court decision and stated that it is each woman's prerogative to evaluate her life and make choices based on changing circumstances.

The petitioner, who had been married since February of the previous year, sought permission for a medical termination of her pregnancy after her husband passed away in October 2023. She discovered the pregnancy while staying at her parents' house and decided not to continue with it due to the emotional turmoil caused by her husband's death.

A psychiatric evaluation conducted at AIIMS Hospital revealed the woman's depressed mood, suicidal thoughts related to the pregnancy, and a provisional diagnosis of depression with issues linked to the death of her spouse. The court noted the change in her marital status, emphasizing the potential harm to her mental well-being if the pregnancy continued.

The Delhi High Court allowed the woman to undergo the termination procedure at AIIMS, even though she had exceeded the gestation period of 24 weeks, recognizing the exceptional circumstances of the case.

## **5. Lucknow Court Awards ₹1 Lakh in Defamation Case Against AAP MP Sanjay Singh**

In a recent ruling, a Lucknow Court has decreed a defamation suit in favour of Dr. Mahendra Singh, an ex-UP Minister and BJP leader (now an MLC), against AAP Rajya Sabha MP Sanjay Singh. The court has directed Sanjay Singh to pay ₹1 Lakh as compensation to Mahendra Singh. The defamation suit was filed by Mahendra Singh in response to derogatory and defamatory remarks made by Sanjay Singh during a press conference in August 2021. Sanjay Singh had accused Mahendra Singh, who was the State Jal Shakti Minister at the time, of being involved in corruption related to the Jal Jeevan Mission scheme of the state government. Sanjay Singh had used terms like 'Paani Chor,' 'Corrupted,' and 'thief' to describe Mahendra Singh.

Since Sanjay Singh did not appear before the court after being served with summons, the case proceeded ex-parte, leading to the court's decision. The court, after reviewing statements made by Sanjay Singh on social media and during the press conference, found that he had indeed made defamatory statements against the plaintiff.

The court noted that a police investigation had found the allegations against Mahendra Singh to be false, and there was no rational basis for such charges. While recognizing the importance of freedom of speech under the Indian Constitution, the court emphasised that this right comes with reasonable restrictions. Sanjay Singh was expected to exercise due diligence, ascertain the truth, and avoid using unparliamentary language until then.

The court concluded that the unsubstantiated false charges of corruption were defamatory and ruled in favour of the plaintiff. The evidence presented in court supported the claim that the plaintiff's reputation had been harmed by these defamatory statements, even though it was later restored.

## 6. Case of the Week

### Graham v. John Deere Co.

The **case of "Graham v. John Deere Co." (383 U.S. 1, 1966)** is a landmark U.S. Supreme Court decision that significantly shaped patent law, specifically the determination of nonobviousness, a key criterion for patentability.

The case involved two separate patent infringement suits where the patents in question were challenged as being obvious. The patents were for a plough and a clamp. Graham, the patent holder, sued John Deere Co., among others, for infringement.

Central to this case was the interpretation of the term "nonobviousness" as set out in Section 103 of the 1952 Patent Act. The Supreme Court was tasked with determining the standard for what constitutes non obvious subject matter for the purposes of obtaining a patent.

The Court, led by Justice Tom Clark, held that the patents in question were obvious and therefore not patentable. The decision established the "Graham Factors," a test to determine whether an invention is obvious. These factors include:

- The scope and content of the prior art.
- The differences between the prior art and the claims at issue.
- The level of ordinary skill in the pertinent art.

The Court also noted that "secondary considerations" such as commercial success, long felt but unsolved needs, and failure of others, might be indicative of nonobviousness.

## 7. Repeated PYQ

**Q:- Pragmatic regime of right to information for citizens is the key to good governance in India, but it is not being implemented in its original spirit. Examine in the light of the Supreme Court decision in Anjali Bhardwaj v. UOI.**

The case of Anjali Bhardwaj v. Union of India (UOI) is a significant one in the context of the Right to Information (RTI) Act in India and its implications for good governance. In examining whether the RTI Act is being implemented in its original spirit, it's important to consider the principles established by this case in light of the objectives of the RTI Act and the challenges it faces.

### Objectives of the RTI Act

The RTI Act was enacted to promote transparency and accountability in government operations, thereby enhancing good governance. It seeks to establish a regime where citizens can access information held by public authorities, which is crucial for democratic participation and oversight.

### Implementation Challenges

Despite its noble intentions, the RTI Act has faced challenges in its implementation. These include delays in responding to RTI queries, non-appointment or delayed appointment of Information Commissioners, and reluctance among some public authorities to disclose information. These challenges hinder the effectiveness of the RTI regime.

### Supreme Court's Decision in Anjali Bhardwaj v. UOI

The Supreme Court in this case emphasised the need for a transparent and diverse appointment process for Information Commissioners. The court's directives aimed to ensure that the Information Commissions, both at the Central and State levels, are not only adequately staffed but also represent diverse backgrounds, enhancing their effectiveness and impartiality.

**Impact on Good Governance:**

- **Diversity and Efficiency:** By advocating for diversity in the appointment of Information Commissioners, the Court acknowledged that a range of perspectives is crucial for a balanced interpretation and enforcement of the RTI Act. This diversity can contribute to more efficient and fair handling of RTI requests.
- **Transparency in Appointments:** The emphasis on transparency in the appointment process of Information Commissioners aligns with the core principles of the RTI Act. A transparent process is likely to instil more confidence among citizens regarding the impartiality and effectiveness of the Information Commissions.
- **Timely Disposal of Cases:** Addressing the issue of vacant positions and delays in appointments is key to the timely disposal of RTI appeals and complaints, which is crucial for the effectiveness of the RTI regime.

In light of the Supreme Court's decision in *Anjali Bhardwaj v. UOI*, it is evident that while the RTI Act is a powerful tool for ensuring good governance, its effectiveness largely depends on the strength and functioning of the Information Commissions. The decision underscores the need for a robust, transparent, and diverse administrative mechanism to enforce the RTI Act.

