

AMITY LAW TIMES



LEGAL THOUGHT

“It is better to risk saving a guilty man than to condemn an innocent one.”

Voltaire



LEFT TO RIGHT: 1-Moot Court Competition in ALS, 2-Legal thought 3- Hon'ble V.C. Lt. Gen. VK Sharma, AVSM (Retd.) addressing participants., 4- Prize Distribution, 5-Student Nomita Mishra arguing in Moot Court, 6- Dr. Saroj Chaudhary awarding First Prize to the winner of Competition. 7- A glance of Moot Court Proceedings, 8-Jury members of Moot Court

From The Chief Editor's Desk



The Supreme Court order directing cinema halls to play the national anthem before screening to “instill committed patriotism and nationalism” may appear to sometime to be “judiciary’s over-enthusiasm” Legal experts opined that courts cannot direct the public to stand up and do anything, The judiciary should not go into the areas which does not belong to it.

However, it is true that National anthem is sung at various places like schools, public functions, events etc. What’s the harm in playing it at another venue? It causes no harm and it is natural to stand up when the anthem is played. But we should also keep in view that this order could lead to law-and-order problem as it would be difficult for theatre owners to make people stand especially children and elderly viewers or those who are physically challenged. Of course it is always difficult to ensure compliance of any order which is in positive nature because practically their complete performance cannot be ensured. It’s not the function of the courts to decide what public behaviour is ought to be. It will create a huge problem to ensure that the national anthem is not disrespected. Some persons may even overreact and may result in a fist fight when a disabled-man or somebody chose not to stand.

Therefore, with due respect it is humble submission that court should refrain from making such direction which in turn become nugatory.

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Legal News

SC bans liquor shops on national, state highways across India

The Supreme Court today ordered a ban on all liquor shops on national as well as state highways across the country and made it clear that licenses of existing shops will not be renewed after March 31 next year.

A three-judge bench headed by Chief Justice T S Thakur also directed that all signages indicating presence of liquor vends will be prohibited on national and state highways.

The bench also comprising Justices D Y Chandrachud and L Nageswara Rao said the existing licenses of liquor shops across the highways will not be renewed after March 31, 2017.

Last week, the apex court had expressed concern over 1.5 lakh fatalities every year in road mishaps, saying it may direct closure of liquor vends on national and state highways across the nation, besides removal of the signages indicating their location.

The apex court, while reserving verdict on December 7 on a batch of pleas seeking a direction to amend excise laws to ensure that no liquor is sold alongside highways, came down heavily on the Punjab government for seeking relaxation and permitting liquor shops near highways if they are “elevated” ones and the vend are under or near it.

“Look at the number of licences you (Punjab) have given.

Because the liquor lobby is so powerful, everyone is happy.

The excise department is happy, the excise minister is happy and the state government is also happy that they are making money. If a person dies due to this, you give Rs one or 1.5 lakh. That is it. You should take a stand which is helpful for the society,” the bench had said.

Reminding the state government of its constitutional obligation to prohibit liquor sale, the bench had asked the state to do something for general public considering that nearly 1.5 lakh people were dying every year.

The bench had also expressed unhappiness over alleged inaction by various states in removing liquor shops alongside roads which give rise to drunken driving and consequential fatalities.

It had said that revenue generation cannot be a “valid reason” for a state or a Union territory to give licence for liquor shops on highways and the authorities should adopt a positive attitude to remove the menace.

The Supreme Court today held that personnel working in the Indian Air Force cannot sport a beard based on religious grounds.

Legality of Euthanasia: South African SC Says Law-makers Should Decide, Not Judges

Issues engaging profound moral questions beyond the remit of judges to determine, the court said Striking a different note from the Supreme Court, which had legalised passive euthanasia in Aruna Shanbaug case, the South African Supreme court has set aside a high court judgment that had observed that the common law crimes of murder and culpable homicide needed to be or should be developed to accommodate physician-assisted and physician-assisted suicide. Justice Wallis, speaking for the Supreme

Court bench, said issues engaging profound moral questions are beyond the remit of judges to determine and should be decided by the representatives of the people of the country as a whole. Background Stransham-Ford, a chronic cancer patient, had approached the High Court of South Africa, Gauteng Division, Pretoria, claiming an order that a medical practitioner could either end his life by administering a lethal substance, or provide him with the lethal substance to enable him to administer it himself, and that in either event such medical practitioner would not be subject to prosecution or disciplinary steps by the relevant professional body. The high court in his application, ordered that a medical doctor who accedes to the request of the applicant shall not be acting unlawfully, and hence, shall not be subject to prosecution by the fourth respondent or subject to disciplinary proceedings by the third respondent for assisting the applicant. The high court further said the common law crimes of murder or culpable homicide in the context of assisted suicide by medical practitioners, insofar as they provide for an absolute prohibition, unjustifiably limit the applicant's constitutional rights to human dignity. Before this order was pronounced, Stransham-Ford had expired and when it was later brought to the court's notice, the court refused to recall the order on the grounds that his judgment had broader societal implications. The state preferred appeal to the Supreme Court. The judgment of the apex court of South Africa discusses the law and precedents in the matter of physician-assisted and physician-assisted suicide in the country. The appendix attached to the judgment also legality of PAE and

PAS in courts and legislatures in a number of jurisdictions across the world. The court set aside the high court order on three grounds, which are summarised as follows: “Firstly, Mr Stransham-Ford had died on the morning of 30 April 2015 two hours before an order was made. His death did not result in a claim passing to his estate and the estate had no interest in further pursuing this litigation or any locus standi to do so. As a result his cause of action ceased to exist and no order should have been made thereon. Secondly, there was no full and proper examination of the present state of our law in this difficult area, in the light of authority, both local and international, and the constitutional injunctions in relation to the interpretation of the Bill of Rights and the development of the common law. Thirdly, the order was made on an incorrect and restricted factual basis, without complying with the Uniform Rules of Court and without affording all interested parties a proper opportunity to be heard. Viewed overall, the circumstances of the case were such that it was inappropriate for the court below to engage in a reconsideration of the common law in relation to the crimes of murder and culpable homicide”. The court added: “It is of course possible that Parliament will, as has occurred in other countries, intervene and pass legislation on the topic. That would be welcome if only because it would give effect to the proper role of Parliament in a society where the doctrine of the separation of powers has application. Lobby groups could then make their voices heard and a proper debate and process of reflection could occur. In general, whilst recognising the role that the Constitution confers upon the

courts, it is desirable in my opinion that issues engaging profound moral questions beyond the remit of judges to determine, should be decided by the representatives of the people of the country as a whole.”

Parliament Passes Rights Of Persons With Disabilities Bill 2016

The Lok Sabha passed the “The Rights of Persons with Disabilities Bill – 2016”. The Rajya Sabha has already passed the Bill on 14.12.2016. Salient features of the Bill are as follows: (i). Disability has been defined based on an evolving and dynamic concept. ii. The types of disabilities have been increased from existing 7 to 21 and the Central Government will have the power to add more types of disabilities. The 21 disabilities are given below:- Blindness Low-vision Leprosy Cured persons Hearing Impairment (deaf and hard of hearing) Locomotor Disability Dwarfism Intellectual Disability Mental Illness Autism Spectrum Disorder Cerebral Palsy Muscular Dystrophy Chronic Neurological conditions Specific Learning Disabilities Multiple Sclerosis Speech and Language disability Thalassaemia Hemophilia Sickle Cell disease Multiple Disabilities including deafblindness Acid Attack victim Parkinson’s disease iii. Speech and Language Disability and Specific Learning Disability have been added for the first time. Acid Attack Victims have been included. Dwarfism, muscular dystrophy have has been indicated as separate class of specified disability. The New categories of disabilities also included three blood disorders, Thalassaemia, Hemophilia and Sickle Cell disease. In addition, the Government has been authorized to notify any other category of specified disability. Responsibility has been cast upon the appropriate governments

to take effective measures to ensure that the persons with disabilities enjoy their rights equally with others. Additional benefits such as reservation in higher education, government jobs, reservation in allocation of land, poverty alleviation schemes etc. have been provided for persons with benchmark disabilities and those with high support needs. vii. Every child with benchmark disability between the age group of 6 and 18 years shall have the right to free education. viii. Government funded educational institutions as well as the government recognized institutions will have to provide inclusive education to the children with disabilities. For strengthening the Prime Minister's Accessible India Campaign, stress has been given to ensure accessibility in public buildings (both Government and private) in a prescribed time-frame. Reservation in vacancies in government establishments has been increased from 3% to 4% for certain persons or class of persons with benchmark disability. The Bill provides for grant of guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities. xii. Broad based Central & State Advisory Boards on Disability are to be set up to serve as apex policy making bodies at the Central and State level. xiii. Office of Chief Commissioner of Persons with Disabilities has been strengthened who will now be assisted by 2 Commissioners and an Advisory Committee comprising of not more than 11 members drawn from experts in various disabilities. xiv. Similarly, the office of State Commissioners of Disabilities has been strengthened who will be assisted by an Advisory Committee comprising of not more than 5 members drawn from experts in various disabilities. The Chief Commissioner for Persons with Disabilities and the State Commissioners will act as regula-

tory bodies and Grievance Redressal agencies and also monitor implementation of the Act. xvi. District level committees will be constituted by the State Governments to address local concerns of PwDs. Details of their constitution and the functions of such committees would be prescribed by the State Governments in the rules. xvii. Creation of National and State Fund will be created to provide financial support to the persons with disabilities. The existing National Fund for Persons with Disabilities and the Trust Fund for Empowerment of Persons with Disabilities will be subsumed with the National Fund. xviii. The Bill provides for penalties for offences committed against persons with disabilities and also violation of the provisions of the new law. xix. Special Courts will be designated in each district to handle cases concerning violation of rights of PERSON WITH DISABILILTYIES.

IAF officers can't grow beard on religious basis: SC

A bench headed by Chief Justice T S Thakur said that the Centre's decision to prohibit personnel of a particular community from sporting beard does not infringe upon the fundamental rights.

The bench also comprising Justices D Y Chandrachud and L Nageswara Rao dismissed the pleas filed by two Muslim personnel of IAF who had challenged the dismissal of their pleas by the Delhi High Court.

The apex court verdict came on two petitions filed separately by two personnel, Mohammed Zubair and Ansari Aaftab Ahmed, challenging the IAF authorities' "confidential" order dated February 24, 2003, prohibiting Muslim personnel from sporting a beard.

Zubair in his petition had contended that the order was in contravention of fundamental rights of the citizen and also a government letter issued through the Ministry of Home on July 18, 1990.

The said letter of the home minister permitted the uniformed Muslim/Sikh personnel to sport beard on religious grounds, provided prior permission was sought from the authorities, he said.

The Centre had said that the IAF order was in the interest of cohesiveness in a combat force and it also has security implications.

It had said that these policies are secular in character and have not been framed to govern the conduct of air force personnel of any particular religion.

The Centre has earlier told the court that IAF is undoubtedly a secular force having due regard for all religions and it is imperative that its personnel are guided by a sense of brotherhood without any distinction of caste, creed, colour or religion.

The petitioners had challenged the IAF order by way of a writ petition before the Delhi High Court and a single judge, citing certain Muslim religious texts, took the view that sporting beard was not compulsory and hence dismissed the plea.

They then approached a division bench which had also concurred with the order of the single judge and dismissed the plea following which the appeals were filed in the apex court.

SC's national anthem order: Experts have different views

The Supreme Court order directing cinema halls to play the national anthem before screening to “instill committed patriotism and nationalism” has received mixed reactions from legal experts with a few terming it as “judiciary’s over-enthusiasm” and others saying playing it and respecting it won’t cause any harm.

While former Attorney General and noted lawyer Soli Sorabjee said courts cannot direct the public to stand up and do anything, senior advocate K T S Tulsi said judiciary should not go into the areas which does not belong to it.

However, Meenakshi Lekhi, a lawyer and BJP MP from New Delhi constituency, has no reservation on the Supreme Court order saying respecting the anthem “causes no harm”.

“National anthem is sung at various places like schools, public functions, events etc. What’s the harm in playing it at another venue? It causes no harm and it is natural to stand up when the anthem is played,” she said.

Tulsi and senior advocate K K Venugopal were of the view that this order could lead to law-and-order problem as it would be difficult for theatre owners to make people stand especially children and elderly viewers or those who are physically challenged.

Sorabjee, who termed the order as judiciary’s over enthusiasm, said, “They can give directions to the executive government to amend the acts. But they can’t give directions by themselves to stand up, to do this, do

that.”

Lekhi said the law is clear about the national anthem as it was already mentioned in the Prevention of Insults to National Honour Act.

“The court had just read the law,” she said, adding that people living in the country must abide by the law of the land.

Meanwhile, Tulsi reminded the judiciary that its primary responsibility is “adjudication”. “Courts must think through on what is their jurisdiction.

Their primary responsibility is adjudication. Adjudication is getting delaying for decades and we are going into areas which don’t belong to us,” he said. “I don’t agree with the judgement at all. Firstly it’s not the function of the courts to decide what public behaviour is ought to be. It will create a huge problem to ensure that the national anthem is not disrespected,” Tulsi said, adding some persons may even overreact and may result in a fist fight when a disabled-man or somebody chose not to stand.

NGT imposes interim nationwide ban on *manja* for flying kites



The National Green Tribunal today imposed an interim nationwide ban on use of glass-coated 'manja' for flying kites as the sharp string poses a danger to humans, animals and birds.

A bench headed by NGT Chairperson Swatanter Kumar passed the order after noting that 'manja', string coated with glass and metal powder and used for flying kites, poses a threat to the environment.

The green panel said that the ban order would apply on nylon, Chinese and cotton manja which is coated with glass. Panel also directed to Manja Association of India to submit report to Central Pollution Control Board on harmful effects of kite strings.

The direction came after senior advocate Sanjay Hegde and advocate Shadan Farasat, appearing for animal rights body People for Ethical Treatment of Animals (PETA), sought the ban, saying that Makar Sankranti festival was approaching and manja would be used for flying kites.

They also referred to various orders, including the November 2015 order of the Allahabad High Court which banned the use of Chinese manja in entire Uttar Pradesh and sought a ban on "manufacture, import, sale and use" of these strings.

The matter was listed for next hearing on February 1, 2017.

The tribunal had earlier issued notices to all the state governments and sought their response on the plea of PETA on the matter.

In its petition, PETA has contended that 'manja' posed a grave threat to humans and animals as every year a number of deaths are caused by it.

"To increase the chances of being able to cut as many kites as possible, kite strings are made deliberately sharp with churned glass, metals and

other materials in order to make them razor sharp to cut through other persons' kite strings.

The petition had said 'manja' posed a huge threat when it came into contact with live overhead electric wires, leading to grid failure.

"Due to 'manja' being coated with glass, metals and other sharp material, these strings act as good conductors of electricity, increasing the probability of detached manja strings stuck in power lines, electrocuting kite flyers and passers-by coming into contact with these strings," it said.

PETA had averred that minor children were engaged by the cottage industry for the manufacture of 'manja' which caused respiratory problems as they inhaled harmful substances which were extremely detrimental to their health.

Child born out of rape entitled to compensation: Delhi HC

A child born out of rape is entitled to compensation, independent of any such relief granted to the mother, the Delhi High Court has ruled.

The verdict to this effect, in which a man has been sent to jail for his entire "natural life" for raping his minor step-daughter, was delivered after the court noted that there was no such provision under the Protection of Children from Sexual Offences (POCSO) Act or under the Delhi government's victim compensation scheme.

Ironically, the high court, which had earlier laid down a law in this regard, reduced the amount of compensation to the rape victim from Rs 15 lakh awarded by the trial court to Rs 7.5 lakh, saying the higher amount went



against the 2011 compensation scheme formulated by the Delhi government.

It also faulted the trial court by giving a go-by to the guidelines for maintaining confidentiality of the rape victim.

However, a bench of Justices Gita Mittal and R K Gauba said a child born out of rape, either of a minor or a woman who is an adult, “is clearly a victim of the act of the offender and entitled to compensation independent of the amount of compensation paid to his/her mother”.

This “vacuum” in the law came to the court’s attention when it was hearing the appeal of a man convicted and awarded life term for raping his minor step-daughter who, as a result of the crime, gave birth at the tender age of 14 years.

Noting the “sordid scenario” in the instant case, where “the trust and confidence reposed in the man by his wife and step-daughter, was abused by him to bring about, out of sheer lust, untold miseries on the body, mind and psyche of the prosecutrix child leaving scars which would not ever heal”, the court upheld his conviction and sentence.

It also clarified that the man shall remain behind bars for the remainder of

his natural life, saying “we see no scope for any ruth (pity) in the matter of punishment”.

While upholding the sentence, the bench also expressed displeasure over the manner in which the trial court “gave a go-by” to the precaution mandated under POCSO to keep the minor victim’s identity confidential.

The bench, which accepted Khan’s new affidavit tendering unconditional apology, made it clear that no further arguments on behalf of Azam will be entertained further in the matter.

However, the bench said that the questions framed by it earlier regarding the Freedom of Speech and Expression and probable impact of statements of those holding high offices on free and fair probe in heinous cases including rape and molestation are required to be debated and posted the matter for hearing on February 8, next year.

Khurshid for e-courts, video conferencing in high courts

Former Union minister and senior advocate Salman Khurshid said there is a need for e-courts and video conferencing facilities in the high courts of the country for a robust justice delivery system.

He was speaking at a conference on ‘Use of Technology in Courts and Liberalisation of the Indian Legal Profession’ at the Indian Law Institute (ILI) here.

“My ambition is for e-courts and video conferencing in important high courts of the country so that we could have arguments, if not for the final disposal of cases, at least for admission hearings.

“The argument that we have today is between the haves and have nots, rich and poor, enabled and non-enabled in various fields like education, medicine and other fundamental areas of human existence, which remind us that there is a problem in justice delivery system in India. Therefore, there should be a system which enables all to file cases through the use of technology,” he said.

The senior Congress leader also rooted for ‘liberalisation’ of the legal profession.

“With little effort from budding lawyers and universities, law practitioners could be persuaded to support liberalisation,” Khurshid said, adding that it will provide ample opportunities to lawyers.

The inaugural session of the conference was held by the National Law University (NLU) in association with Australia’s Deakin University.

Delhi HC seeks Centre’s stand on fixing MRP of coronary stents

The Delhi High Court asked the Centre as to why the maximum retail price (MRP) of coronary stents, used to treat narrowed or weakened arteries in the heart, has not been fixed despite these devices being included in the national essential list of medicines (NLEM).

“What do you have to say with regard to fixation of MRP of coronary stents?” a bench of Chief Justice G Rohini and Justice Sangita Dhingra Sehgal asked while issuing notice to the Centre and seeking its response by December 22, the next date of hearing in the matter.

The order came on a PIL claiming that the rate of the coronary stents has

not been fixed despite it being included in NLEM 2015 by way of a notification issued on July 19 this year.

The petition, which has been moved by a lawyer, has alleged that the government and the National Pharmaceutical Pricing Authority (NPPA) are being “insensitive and irresponsible” towards the people by not taking any steps to fix the price of such stents which are allegedly being sold at higher rates in the country.

The petitioner, Birender Sangwan, has claimed that people in all age groups in the country suffer from heart ailments requiring use of stents and not all of them can afford this treatment.

He has sought a direction to the NPPA “to control the rate and decide a particular maximum retail price (MRP) of the coronary stents”.

The petition also seeks a direction to the Drug Controller General of India “for providing prompt availability of the coronary stents at medical stores to enable patients to have a quick access” to these devices.

Railway obliged to take care of passenger, luggage: SRDC

The Delhi State Consumer Disputes Redressal Commission (SCDRC) asked the Northern Railway to compensate a passenger for his stolen luggage and said that the national carrier was obligated to ensure that a traveller reaches his destination safely with his baggage.

The commission rejected the railway’s contention, invoking Section 100 of the Indian Railways Act, that the railway administration shall not be responsible for loss, etc.

of any luggage unless the railway servant has booked the luggage and given receipt thereof.

The commission, headed by its president Veena Birbal, asked the railway to pay Rs 25,000 as compensation and Rs 5,000 as litigation cost to west Delhi-resident Sachin Mittal who lost his luggage while travelling to Delhi from Lucknow in 2000.

While allowing the appeal filed by Mittal against a district forum order which dismissed his complaint, the commission also questioned the purpose of Railway Protection Force (RPF) members deployed in each coach if they don't take care of a passenger's life and luggage.

"We also disagree with the observation of the district forum that GRP/RPF persons are not supposed to guard the luggage of each and every information to the young women of India," Susan Fahey, CEO of Women's Legal Service Tasmania, said.

She said the project has been supported by the Australian Government.

Talish Ray, a partner with TRS law offices, said it would be an opportunity to educate women in an accurate and focused manner.

Furthermore, Ray also said that, "It is available on the Internet as a comprehensive resource in a format that would engage the audience,".

"Under every section a brief description about the situation, and legal options available are mentioned. Indian women have got least legal knowledge and this unawareness, often does them more harm than good," a press release issued by the law office said.

Legal Articles

Grey Areas of RTI Act

BY : Mohit Sharma

On the basis of the analysis of the salient features of the RTI Act 2005, this Act is considered one of the important and great piece of legislation that mainly aimed for enhancing the openness, accountability and transparency at all levels in the working system of the public authorities. The enactment of such Act indicates a positive signal in the attitude of the government that recognised a need to shift the culture of secrecy towards a greater transparency and openness. This Act endeavour to cover all the legislative, executive and judiciary branches of the government including the non-government organisations receiving the benefit of government subsidies and grants. Different positive provisions make this Act a potent instrument for good governance.

However, in spite of claiming the positive features contended, the Act yet suffers with many of the weak points that obstruct its uniformity and effective implementation. Such weaknesses are called as grey areas of the Act.

Public Interest:

While making the analysis of this Act, it felt necessary to appreciate the real meaning of the expression, public interest that has been used liberally without properly defined anywhere in the Act. Particularly section 8, which deals the exemption provisions from disclosure of information on the one hand, and the public authority is fully entitled to provide the required information if public interest in disclosure outweighs the harm to the protected interest on the other hand. It is clear that all the exemption

provisions that requires disclosure need to pass through a public interest. This requires not only explaining the term public interest in clear cut wordings but also developing the techniques and methods of determining the significance of the public interest objectively. Unless there is any change in the definition, the public information officer may use such public interest arbitrarily in disclosing or withholding the information.

First Level Appellate Authority:

Section 19(1) of the Act specifies about the appellate authority who is an official senior in rank to the public information officer (PIO) in the same department. There is no provision mentioned about the power and functions of the same under the Act. This results into a confusion about the role and responsibility particularly when no responsibility is fixed in case of changing his decision by the information commission.

In addition the Act also does not make the first appeal mandatory by saying that any person aggrieved by the decision of the public information officer may prefer an appeal to such officer who is senior in rank to the PIO in each public authority. In an ordinary condition an appeal is to file with the information commission only after using all the options available but this contention is not supported by the Act as it is not clear whether the information commission can entertain an appeal without filing the first appeal.

Yet another controversy is about the status of the first appellate authority vis-à-vis the information commissioner. Being both the authorities designated as appellate, the information commission is not entitled to summon and enforce the presence compulsory of the first appellate au-

thority either to produce any document or for evidence in the court of information commission.

Public Authority:

Section 2(h) defined the word public authority as an authority or body or institution of self-government established and constituted inter alia by any notification issued or order made by the appropriate government and include anybody owned, controlled or substantially financed include the non-government organization substantially financed directly or indirectly by the funds provided by the appropriate government.

The Act has used the unclear word 'substantially financed' without qualifying any limit or amount and has not been properly defined or expressed anywhere while defining the term 'public authority'. This omission results in different interpretations by different public authorities.

Similarly the same provision used the word non-government organisations, commonly abbreviated as NGOs which is a class or category different from other private sector. Using the word NGO creates an illusion that only NGOs receiving funds comes under the purview of the Act while other private sector receiving government aid does not come.

Simultaneously another problem is with the identification and understanding of those organisations indirectly received financial aid from the funds provided by the appropriate government. No such provision or guidance is provided under the Act for recognising or identifying such organisations.

Obligations of public authorities:

Sec 4 of the Act imposed certain obligations on the public authorities regarding (a) proper maintenance and upkeep of records and (b) pub-

lication of certain information relating with the functions of the public authority. These obligations are considered as the mandatory provisions and for fulfilling such obligations a time frame has also been fixed by the Act. It is generally observed that such obligations are treated only as an optional one by those public authorities rather than binding.

Time Period for Providing Information:

On receiving any request for information, the designated public information officer of any public authority's duty is either to provide the desired information or reject the application as expeditiously as possible, but not later than 30 days from receiving the application.

If any application for information is made to an assistant public information officer, the time period of 30 days for providing the information extended to 35 days similarly if the same application is made to any public information officer while the information is kept by any other public information officer the time period for providing the information is not fixed.

Simultaneously, where the public information officer has decided for providing the required information on making some further fee required for the process, no time limit is fixed for a response of the requester regarding making such further fee.

Appeal Procedure:

If any appeal is filed with the information commission due to any reason, the commission is to give the notice of its decision, including any right to appeal not only to the complainant but also to the concerned public authority. No such provision is made in the Act that makes it clear

whether the option of appeal can be exercised on the same commission level in the form of review petition.

Lastly, it is clearly stated in the Act that the decision of the information commission shall be binding. It is generally observed that such provision is not followed in letter and spirit.

Demonetisation and its impact on key Sectors

Sanjiv Singh Bhadauria
ALS, AUMP

In simple parlance, when a currency note of a particular denomination ceases to be a legal tender it is termed as demonetization. But since our government is replacing the old Rs 500 notes with newer ones and doing away with the Rs 1,000 notes, it would be more appropriate to call the move as 'scrapping' or 'phasing out' of certain currency notes.

A look at the short- and medium-term impact across businesses, one month into the note ban

Real Estate: *Negative*

Developers and consultants say that home sales have slowed down significantly as consumers defer home purchases. Land transactions are at a standstill. Developers have deferred launches of premium projects while prices of land and properties, particularly luxury homes, are likely to drop in the next 3-6 months. Even secondary (resale) property markets sales have dropped by 50%, say brokers and analysts.

While the short-term impact is negative, developers expect things to return to normal over the course of the fiscal year. Some are hoping that rate cuts in the coming months would boost home sales.

Banks: *Mixed over short-term, neutral to positive in the long term*

A big surge in low-cost deposits will help banks in the short-term. It means lower cost of funds and better margins. The rise in balance sheet size will also help when credit growth picks up. As yields fall, owing to

excess liquidity, banks stand to book treasury gains too. However, on the flip side, loan disbursements are stagnating. With production estimates reduced, there is no need for working capital either. Lenders will be hard pressed to find incremental credit demand even during the busiest of the seasons. And asset quality could worsen as the economy slows.

Non-interest income for banks would increase, but asset quality and credit growth will be hit in the short-term. Over the long term, demonetisation should benefit banks because they will likely attract a disproportionate share of savings and see greater fee income from electronic payment opportunities.

Consumer Packaged Goods: *Negative*

Consumers have cut back on discretionary spending. The whole business has been hit because it is largely dependent on cash. The traditional trade has been hit hard, especially wholesalers and *kirana* stores where transactions are largely in cash. Still, things are recovering; sales are now down only 20-25% on a year-on-year basis compared to 50% in the first week after the note ban. Rural sales have been hit more.

Third quarter numbers for packaged consumer goods sellers will be severely hit, despite the wedding and holiday season. In the long term, things should bounce back as the economy is re-monetized, and firms lower in the supply chain too move to non-cash payments.

Consumer Durables: *Negative*

The market for white/brown goods still operates 80% on cash, thereby affecting volumes. Makers of durable goods are launching new schemes to tempt consumers to go cashless. Some of them are also extending discount offers and promotions such as waiver of processing fees and instalment schemes with delayed start of payments.

Sales are recovering, but still about a fifth less than a year ago. Sales in the third quarter will be hit.

Organised Retail: *Positive*

The sector is a clear beneficiary of demonetisation as consumers flock to large stores which accept non-cash payments. The nature of purchases at modern retail stores has changed. Consumers are stocking and purchasing more of daily needs and essentials such as fruits, vegetables and staples such as sugar and flour.

Sales were up by 15% on a week-on-week basis in the first week after demonetisation was announced at retail stores of Future Group and 25% compared to a year ago. This is true even a month later; sales continue to be higher by 25% compared to the year-ago period. In the long term, things will be positive as some of these new consumers will stick to shopping at large stores.

Airlines: *Negative*

There has been a significant impact on inbound travel. Some airlines have seen bookings go down by about 16% in the week after demonetisation compared to the one before that. Discretionary travel has been the worst hit. Poor sales have forced all airlines to bring forward their airfare sales—usually reserved for the low season starting January. International traffic to West Asia and South-East Asia, especially by traders and low-wage workers, has been hit. Business jet operators say several charter flights have been cancelled as payments are often made in cash.

Because fuel prices have been low, airlines have been able to fill seats by offering cheaper fares but the real impact of demonetization will be visible in December, January and February when the final revenue and traffic numbers are released.

Automobiles: *Negative*

Demand has been hit. Most firms expect to see a decline in sales. In two-wheelers, where transactions are through cash, sales have taken a massive hit. Hero MotoCorp Ltd, for instance, sold 480,000 units in November, down from a monthly average of 600,000 units.

It will take a while for demand to improve, say dealers, but the good part is that enquiry levels have not dropped and that suggests it is a matter of time, may be three months, before the industry gets back on track.

Tourism: *Mixed*

The most difficult period of demonetisation sits squarely in the busiest season for the tourism industry. There was a slump in hotels and associated services bookings in the first week after the currency withdrawal. However, the premium hotel segment has not seen any impact as bookings are mostly done in advance and online. So the hit has mostly been confined to the unorganized sector.

Hotel and travel bookings have made a slow comeback. Offshore travel has been negatively impacted as foreign exchange usage abroad is mostly in cash.

Infrastructure: *Negative for now, positive in long term*

Power demand and road traffic have been hit. Road companies faced short-term cash flow problems because they weren't able to collect tolls, but things are limping back to normalcy. Wage payment to labour can be an issue for some time, which can impact execution in the short term.

The demonetisation and ensuing switch to a less cash-dependent system will aid transparency in the construction sector especially. With economic growth likely to be hit, the government will likely step in and spend more, which will result in increased revenue for the sector.

Microlenders: *Negative over short-term, positive in long term*

Microlenders had to defer cash recoveries for some time after the demonetisation was announced. Local lenders in parts of Maharashtra, Uttar Pradesh, Madhya Pradesh and Kerala are trying to earn brownie points by telling people that their loans have been waived off after RBI gave microlenders a breather. Now, with cash withdrawal limitations, firms are seeing more cash transactions. Centrum Broking said that the repayment

rate across India stood at 74% over 9 November to 25 November. While some microlenders have reported high collection rates, it will take a couple of things for things to get back to normal, says Sa-Dhan, a grouping of microfinance institutions.

Over the long term, demonetisation could pave the way for more people to turn to the organised sector for microcredit.

Pharma: *Negative for now, neutral over the long term*

Pharmaceutical product sales likely fell 8-10% month-on-month in November with sales of medicines for acute diseases feeling the adverse impact of demonetisation due to lower patient turnout, although retail sales of medicines for chronic diseases rose in the first fortnight, as patients stocked up medicines by using old notes at pharmacies, which were among the few outlets accepting old banknotes. Offtake from wholesalers and stockists was sluggish and companies have extended the credit period by 7-21 days.

Owing to advanced buying of medicines for chronic diseases and seasonally weak December-March period for the industry, sales of drugs are expected to remain subdued. The impact of demonetisation on the sector is likely to be temporary as demand for drugs is largely inelastic but the growth rate in the coming months may be slower than the 9-10% witnessed in the first 6-7 months.

Conclusion

Undoubtedly, there is vast improvement in the liquidity but still in short run majority of the key-sectors are adversely affected by this process of demonetisation but I am sure that in long term Indian economy in general and people in particular will be beneficial from this demonetisation.

KNOW YOUR CHIEF JUSTICE INDIA



Hon'ble Mr. Justice Jagdish Singh Khehar (DoB) 28.08.1952
Term of Office: (DoA) 13.09.2011 to (DoR) 27.08.2017

PROFILE

His Lordship was born on August 28, 1952. After graduating in science from Government College, Chandigarh in 1974, His Lordship was awarded the LL.B degree by the Panjab University, Chandigarh in 1977, he then acquired the LL. M. qualification from the same University in 1979, for the latter qualification, His Lordship was awarded the Gold Medal for having stood first in the University.

His Lordship was enrolled as an Advocate in 1979 and practiced mainly in the Punjab and Haryana High Court, Chandigarh, Himachal Pradesh High Court, Shimla and the Supreme Court of India, New Delhi. His Lordship was appointed as Additional Advocate General, Punjab, in January 1992, and then as Senior Standing Counsel, Union Territory, Chandigarh. His Lordship was designated as Senior Advocate in February, 1995. His Lordship remained standing counsel for Universities of the area, Corporate Bodies and a large number of companies and cooperative organizations.

His Lordship appeared as counsel for Mr. M. Krishnaswamy, M.P. (from the Arani constituency in Tamil Nadu), in the defence of Mr. Justice V. Ramaswami, then Judge of the Supreme Court of India, before the Judges Inquiry Committee (comprising of Mr. Justice P.B. Sawant, then Judge Supreme Court of India; Chief Justice Mr. P.D. Desai of the Bombay High Court; and Mr. Justice O. Chinnappa Reddy, former Judge of the Supreme Court of India) constituted to investigate the grounds on which the removal of Justice V. Ramaswami was sought.

His Lordship was elevated to the Bench of High Court of Punjab and Haryana, at Chandigarh, on February 8, 1999. His Lordship was appointed as Acting Chief Justice of the Punjab and Haryana High Court twice i.e., with effect from August 02, 2008, and again, with effect from November 17, 2009. His Lordship was elevated as Chief Justice of the High Court of Uttarakhand, at Nainital, on November 29, 2009 and thereafter he was transferred as Chief Justice of High Court of Karnataka, where he assumed his office on August 8, 2010.

By a notification dated May 20, 2010 the Chairman of the Rajya Sabha appointed His Lordship as a member of the Judges Inquiry Committee for investigating the grounds on which the removal of Mr. Justice P.D. Dinakaran, Chief Justice of the Karnataka High Court, has been sought.

On appointment as Judge of the Supreme Court of India, he assumed office as Judge, Supreme Court on September 13, 2011.

He is due to retire from Supreme Court on August 28, 2017.

Happening @ AUMP

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Legal Terminology

<u>ad valorem</u>	according to value		<u>/æd və'ləərəm/</u>
<u>adjournment sine die</u>	adjournment without a day	When an assembly adjourns without setting a date for its next meeting.	<u>/sɑ:ni: 'dɑ:ɪ:/</u>
<u>affidavit</u>	he has sworn	A formal statement of fact.	<u>/æfi'deɪvɪt/</u>
<u>alter ego</u>	another I	A second identity living within a person.	
<u>amicus curiae</u>	friend of the court	A person who offers information to a court regarding a case before it.	<u>/ə'maɪkəs 'kju:əri.i:/</u>

KNOW YOUR FORMER CHIEF JUSTICE OF INDIA

NAME	DATE OF AP- POINTMENT	DATE OF AP- POINTMENT AS C.J.I.	HELD TILL	OFFICE
1. Hon'ble Mr. Justice Harilal Jekisundas Kania	26/01/1950	26/01/1950	06/11/1951*	
2. Hon'ble Mr. Justice M. Patanjali Sastri	26/01/1950	07/11/1951	03/01/1954	
3. Hon'ble Mr. Justice Mehr Chand Mahajan	26/01/1950	04/01/1954	22/12/1954	
4. Hon'ble Mr. Justice Bijan Kumar Mukherjea	26/01/1950	23/12/1954	31/01/1956**	
5. Hon'ble Mr. Justice Sudhi Ranjan Das	26/01/1950	01/02/1956	30/09/1959	
6. Hon'ble Mr. Justice Bhuvneshwar Prasad Sinha	03/12/1954	01/10/1959	31/01/1964	
7. Hon'ble Mr. Justice P.B. Gajendragadkar	17/01/1957	01/02/1964	15/03/1966	
8. Hon'ble Mr. Justice A.K. Sarkar	04/03/1957	16/03/1966	29/06/1966	
9. Hon'ble Mr. Justice K. Subba Rao	31/01/1958	30/06/1966	11/04/1967**	
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11. Hon'ble Mr. Justice M. Hidayatullah	01/12/1958	25/02/1968	16/12/1970
12. Hon'ble Mr. Justice J.C. Shah	12/10/1959	17/12/1970	21/01/1971
13. Hon'ble Mr. Justice S.M. Sikri	03/02/1964	22/01/1971	25/04/1973
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19. Hon'ble Mr. Justice E.S. Venkataramiah	08/03/1979	19/06/1989	17/12/1989
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36. Hon'ble Mr. Justice Y.K. Sabharwal	28/01/2000	01/11/2005	13/01/2007
37. Hon'ble Mr. Justice K.G. Balakrishnan	08/06/2000	14/01/2007	11/05/2010
38. Hon'ble Mr. Justice S.H. Kapadia	18/12/2003	12/05/2010	28/09/2012
39. Hon'ble Mr. Justice Altamas Kabir	09/09/2005	29/09/2012	18/07/2013
40. Hon'ble Mr. Justice P. Sathasivam	21/08/2007	19/07/2013	26/04/2014
41. Hon'ble Mr. Justice R. M. Lodha	17/12/2008	27/04/2014	27/09/2014
42. Hon'ble Mr. Justice H.L. Dattu	17/12/2008	28/09/2014	02/12/2015

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