

NEWSLETTER

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LEGALITY VIABILITY FOR ASPIRING RESEARCHERS

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RIGHT OF PROMOTION IS CONTINGENT UPON THE DISCRETION OF THE STATE GOVERNMENT



Reservation in promotion is not a Fundamental right, hence, the State cannot be compelled to make reservations for the Scheduled Castes or Scheduled Tribes (SCs or STs), said the Supreme Court in the case of **Mukesh Kumar & Another V State of Uttarakhand & others**, 2020 SCC OnLine SC 148, decided on 07.02.2020.

Disagreeing with the view given by the High Court, the Supreme Court explained that the information which is collected by the State Government is for the purpose to justify reservation to be made in the appointment or the promotion to public posts, as mentioned according to the Article 16 (4) and 16 (4-A) of the Indian Constitution.

The Supreme Court governed that the State governments need not fill vacancies in accordance with the guidelines of reservation for the Scheduled Castes, Scheduled Tribes, and Other Backward Classes.

The Supreme Court, thereafter, had given the decision to a group of appeals by Mukesh Kumar bearing upon Scheduled Caste and Scheduled Tribe reservations in promotions for the posts of Assistant Engineer (Civil) in the Public Works Department of the Uttarakhand Government.

The Supreme Court had refused to direct Uttarakhand state government to provide reservation to the candidates falling under these categories for filling vacancies. As the availability of reservation is contingent upon the discretion.

Hence, the bench of L. Nageswara Rao and Hemant Gupat, JJ did not issue the writ of mandamus to issue such directions.

Therefore, *Right of Promotion is contingent upon the discretion of the State Government.*

THE COURT HELD THAT THE PROHIBITION OF INTERNET ACCESS IS VALID BUT THERE MUST BE *UNAVOIDABLE CIRCUMSTANCES*

ANURADHA BHASIN V UNION OF INDIA Jan 2020

Even though cherished in our heart as a *Paradise on Earth*, the history of this breath-taking land is carved with militancy and violence.

The state of Jammu and Kashmir has been subject to a decade-long dispute between the 2 countries India and Pakistan. August 5, 2019 witnessed a Constitutional Order 2019, scrapping the Special Status of Jammu and Kashmir that it had enjoyed since 1954. Before that, **August 4, 2019** saw the shutting down of all Internet and Mobile services in Jammu and Kashmir.

The District management imposed **Section 144 of CrPC** and restricted all kinds of movements and gatherings.

The case of Anuradha Bhasin V Union of India, the petitioner stated that the Internet is an essential service, especially in the modern press and by shutting it down, the authorities forced the print media to come to a standstill, and hence the access to Internet and Mobile services is a fundamental right.

The Supreme Court issued that access to such services is not a fundamental right of any citizen. The court held that the prohibition of Internet access is valid but there must be *unavoidable circumstances*, if not then the order passed will cease to exist.

Further, the Court held that Section 144 of CrPC can be exercised when there exists any present danger as well as any apprehension of danger. It cannot be used to suppress a legitimate opinion or grievance or exercise of any democratic rights. Hence, there must be an authority to check the power of the Government without *favoritism* and with *neutrality* over the issue.

For the last issue, the Court held that as a responsible government freedom of press should be taken care of.

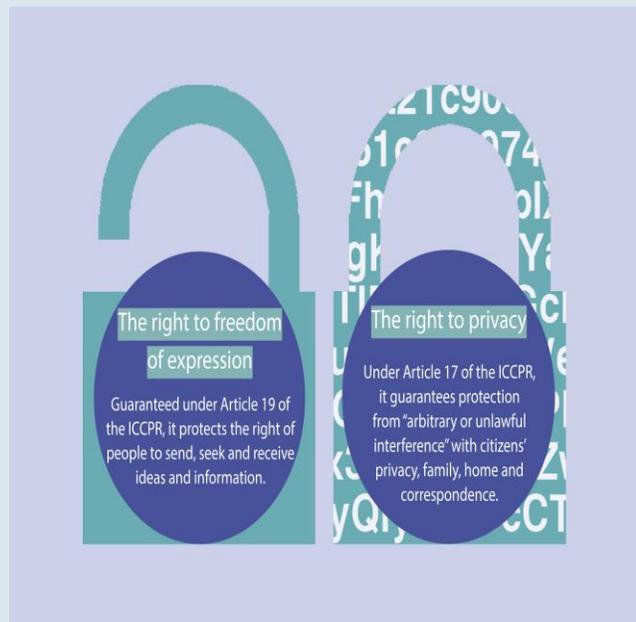


ARTICLE 21 OF INDIAN CONSTITUTION THE RIGHT TO TREAT WITH DIGNITY AND FAIR TREATMENT IS NOT ONLY AVAILABLE TO THE LIVING MAN BUT ALSO HIS BODY AFTER DEATH.

RIGHT TO DECENT BURIAL AND COVID-19

In one of the latest cases amid this widespread crown infecting the body of a neurosurgeon was not permitted to be buried in a cemetery, because he is infected with COVID-19. The neighborhood open contradicted burial of the specialist's body indeed they harmed the emergency vehicle in which the body was transported. Such acts were totally unsatisfactory and **legitimately culpable**. There is one other case in which an eminent otherworldly vocalist who is infected with COVID-19 seem not be incinerated for hours, as inhabitants of his local town in Punjab encompassed the incineration ground and slowed down the burial service since they accepted it would spread the infection. Concurring to the **Article 21** of Indian constitution the right to treat with dignity and fair treatment is not only available to the living man but also his body after death. In this way right to decent burial is additionally recognized as an **aspect of right to life**. Beneath this, it is additionally said that a person's body ought to be treated with nobility unless it is required for the reason for setting up wrongdoing, to discover the cause of their passing. So in the cases related to the COVID-19 it is observed that the organization and other concerned specialists should have to be taken after the rules endorsed by the government of India and the **World Health Organization** (WHO) for secure transfer of bodies contaminated with COVID-19.

RIGHT TO PRIVACY



Privacy is defined as a state of being alone or someone right to keep their personal matter and relationship secret. It is covered as one of intrinsic facet to the *Right to life and Personal liberty* under Article 21 of The Constitution of India. Although privacy is not just a facet under right to life, but is also considered as human right, Article 12 of The universal declaration of Human Rights also explicitly states Right to privacy is a human rights, and that it should not be interfered with. Privacy is also stated under

the European Convention on Human Rights, International

Covenant on Civil and Political Rights etc. However, in all such cases the Privacy is considered as a most intrinsic factor in human life. The definition of privacy varies from person to person, but finally by the case of (*Retd.*) *K.S Puttaswamy vs Union of India*. Privacy was held as one of the intrinsic facet to Right to Life and personal Liberty. However the level to which privacy is entitled is yet unknown, as well as there are no prima facie laws for infringement of privacy.

However, remedies to such privacy infringement remains under Article 32, which states "Remedies and Enforcement of Fundamental Rights" and is claimed against the state. The state in action entitles the violator to pay compensation to the accused. This also serves as precedents to other similar cases if it occurs with others.

UNDERSTANDING THE INTRICACY OF SECTION 319 OF THE CODE OF CRIMINAL PROCEDURE, 1973



Article 20 and 21 of the Indian Constitution gives the right to the fair and effective trial so that the accused does not get preconception of the law being tried on him for the offense. In the same way, it also provides equal protection to the victim to ensure that the accused does not get away from the hammer of the law. In our criminal system, due to poor and ineffective investigation, there are numerous possibilities that the real culprit or abettor may be emancipated.

Section 319 of Cr.P.C. provides the power to proceed against the of inquiry and trial but before the delivery of final judgment. Now the question arises what happens if the judgment is pronounced or delivered by the court. Another person who seemed to be guilty of an offense. The Court either Suo-moto or by accepting the application of the complainant can Summon additional accused to discover the reality and to ensure that the guilty do not go unpunished. It is provided that the court or any officer acting as a Court can accentuate the power by summoning any additional person at any stage to try the accused during the course of or at the completion

In the case of *Sukhpal Singh Khaira vs the State of Punjab (10 MAY 2019)*, the Supreme Court pronounced the judgment against one accused and another accused was absconding that leads to the bifurcation of the trial and the issue was taken into consideration by the larger bench. Therefore, as of now, it is ascertained that the power under Section 319 can only be invoked from inquiry to the trial but before the final delivery of the judgment.



MISUSE OF SECTION 498A, IPC

Concurring to the Section 498A of the IPC, the spouse or any relative of the spouse of ladies would target the ladies to any cruelty might be rebuffed with detainment which can expand up to 3 years and a fine. As there's a limit of cruelty is additionally characterized beneath section 498A. However, there are different cases in which the irate ladies abuse this segment to require advantage of her in-laws family. In one of the cases of misuse of Section 498A, the spouse charged that the family of her husband is requesting share from her and she's been driven out of the marital domestic on the unfulfillment of requests.

On these grounds, her husband's anticipatory bail application was rejected. However, by the special leave petition her husband approached SC. Under this case, the SC observed that, Section 498A, IPC is cognizable and non-bailable offense; it is mostly used as a weapon by the angry wives against her husband's family and his relatives. It results in harassing the whole family and relatives. After this the court laid down certain guidelines for the police before arresting under Sec. 498A, IPC or Sec.4 of the Dowry Prohibition Act, 1961 and the arrest must be based on reasonable facts and under the guidelines.

EXTRADITION



According to the International Law, *Extradition* is the process by which a State, on the request of another, requests the return of a person for the purpose of trial for a crime punishable under the laws of the former. In simpler words to extradite is either to surrender, or obtain the surrender of, an escapee from one State to another. The Legislation in India provides for extradition under the *Extradition Act of 1962*. It consolidates the laws relating to the extradition of criminal escapes from India to different Foreign Countries. The Indian Extradition Act of 1962 was amended in 1993 as the 66th Act of that year. The Nodal or the Central Authority that administers the Extradition Act of India is the Consular, Passport and Visa (CPV) Division, Ministry of External Affairs, Government of India. India has the right to make extradition requests to any country as the treaty partners of India have an obligation to consider such requests. The process of extradition is also possible for non-treaty bound Nations, as per the guidelines under the Section 3(4) of the Indian Extradition Act, 1962. India has such treaties of Extradition with nearly 50 countries and certain extradition arrangements with about 11 countries.

The recent case of Vijay Mallya is an exclusive example of Extradition. The Indian Government had submitted the Extradition request on February 9, 2017, to the Government of the United Kingdom. The request was made due to his involvement in bank fraud and for cheating and for other criminal offenses under the IPC, the Prevention of Corruption Act, 1988, and the Prevention of Money Laundering Act, 2002. Dr. Mallya's application to file an appeal before the Supreme Court was dismissed on May 14, 2020, due to which his Extradition to India is unavoidable.

LABOUR LAWS



The term Labor is considered as any work, which specially comprises of physical work. In India almost 49.8% of total population is labor class, which is often categorized as Below Poverty Line as they are unable to procure enough wage for their living i.e. the almost 50% of population earn a livelihood from labor works. Labor work is not restricted to construction work, but also comprises of various works, from skilled works to unskilled works. The work varies from person to person, which acts as a differentiating criteria for wages, skilled labor have different wage, while the unskilled are given different wage. This wage differentiation occurs not only in skill order, but also in geographical changes. In order to eradicate such uneven distribution the Central Government proposed a unifying law, i.e. Labor Law for the appropriate wage distribution for labors.

Labor law defines the rights and obligation as workers, union member, and employed at workplace. There are various laws for the protection of labor starting from central labour laws, 1970 to bonded labor, child labor, Coal mine labor, etc. All these statutes cover Industrial relations, workplace health and safety as well as employment standards. In India the labor law establishes a legal system which provides a clear reminder and guarantee of fundamental principle of workers at workplace. These laws also directs the working condition for the labor, which deals with emolument, duration of work, holiday vacation, workplace condition etc. It also lays out safety and hygiene, welfare service, dispute settlement, etc. Therefore, this law deals with the issue in life of labor, which can be considered as crucial for the growth, welfare, and development of the labor class people in India.

FAKE NEWS IMPACT



Competition in our society has greatly influenced the news. News has become a business more than a social service. To make themselves no. 1, news channels often sell fake or exaggerated news. This is truly wrong and must be stopped.

It is important for the society to pass verified news and be free of greed so that the people can rely on the news and do not feel compromised. Although there are many channels in the society, which respect the line of, news, but they are often forgotten and suppressed. For example, some news channels are biased over a specific government party.

As we know, India is the largest democracy in the world. News channels are expected to be unbiased but sadly, it is not the case. Many government parties give money to the news channels to support them. They are driven to say good things about the party and eventually form an alliance with them.

Due to this, these news channels also criticize the other channels whether they are better or worse. This causes social injustice and deprives the opportunities of smaller parties that cannot afford such endorsements even if they have better agendas and motives. So let us now pledge to verify every news and not support exaggerated or bias news channels.

SAVING ENVIRONMENT: THE NEED OF THE HOUR

Well, wait a minute and think

“Are we doing enough for our environment?”

Most of us come from a financially stable family and even if we don't, we can at least afford contributing to the environment in

the following ways

- Helping unprivileged kids
- Planting trees
- Being a part of an NGO
- Donating



Taking **ONE** step towards making the world a better place to live in can **ACTUALLY** make a huge difference!

On my part, I help unprivileged kids by buying something they can eat instead of giving them money. Because, not all these kids keep this money with them. We are aware of this, aren't we? I'm also working with two NGOs. One of them is dedicated to nature while the other helps women and kids. Not only this, I even make sure to plant trees, be it in my society or my grandma 's lawn. My society mates and I have various drives too some of them being Swachh Bharat drive, dry and wet waste, tree plantation drive etc.

I hope for everyone to be self-motivated and thrive to make this world a better place to live in. Government alone is not responsible for everything; we hold as much responsibility as they do.

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