



SVKM's
JITENDRA CHAUHAN COLLEGE OF LAW

Date: - 24.01.2018

NOTICE

III.LL.B.

Practical Training 2017 - 2018

YELLOW JOURNAL

Paper VI (Practical Training – II)

Unit I

Most court (minimum 3) oral argument / viva to be presented before the external expert / Teaching Staff members, as the schedule to be displayed and concise written arguments of any 3 moot problems (Moot Problems may be collected from the College Office).

Unit II

1. Moot Court arguments should be drafted in form of memorials, it should include qualitative research. (Sample memorials available in library)

- For every moot problem atleast 10 cases should be referred in all, which should be stated at the end of the arguments. (Questions on all these cases will be asked in the viva. Original source of the case law should also be mentioned in the journal)
- **Students those who copy the content from friends Journal shall be given zero marks.**
- For research students can use All Indian Reporters, Law Journals, Law Reviews, Law websites on internet.

Unit III

Court Assignment (Minimum one each)

- a. Criminal Trial- Recording of observation and co-relation with the relevant provision of law.
- b. Civil proceeding – Recording of observation and co-relation with the relevant provision of law.

Students must attend at least one matter each criminal and civil proceeding in court for 2 dates & write the “name of the court, parties, lawyer and date with the gist about the case and your observations”.

Unit IV

Write a note on preparation required for drafting memorials and presentation of moot court problem.

Note: - The Journals will be issued by the college office on production of Identity Card from: **24th January, 2018 to 10th February, 2018.**
Date of Submission of Journal: **21st March, 2018. (on or before)**
Date of Written Examination: **Will be notified in due course.**

In case of any difficulty students may approach to Prof. Dr.Sharmila Ghuge.

Students may collect moot problem from college counter.

1. NOTE : Kindly keep a photocopy of the Journal for yourself for Practical Training examination.
2. NOTE : Moot Court Viva / Presentation shall be allowed only after Journal submissions.

Sd/-
Dr. Priya J. Shah
(I/c Principal)

MOOT PROBLEM B No. 1

ABC

Vs.

State of Pride

ABC, a company engaged in designation online games have created a game entitled 'red Ox' which is to be played on mobile phones.

The game being challenging in nature, caught immediate attention of the users especially children and youngsters. It became a big hit and popular among the people throughout the world including 'Indica'.

The mode of playing the game is-the user has to download the game from app store. He is required to agree to the terms and conditions of the game. One of such terms and conditions of the game is that the user has to be above the age of 18 years to register and play the game. Once agreed to the terms and conditions, he is required to register for the game by providing his personal details. Once registered, he is provided with one administrator whose shall then observe the given tasks performed by the player. The game consists of 50 levels. On each level, the difficulty level increases. In the beginning, some simple tasks are assigned to be performed by the player which shall be verified by the administrator. In order to verify such performance, the player has to leave some mark and upload the video of the same. As the game becomes more and more challenging, the player gets addicted to it and as a result the last level of the administrator demands the player to commit suicide after drawing an image of Red OX on his hand.

The game became so popular among the youth that even it penetrated into the schools wherein few school going children around the age 10-12 were found committing suicide by embossing a logo of Red Oxon their hand. The 'State of Pride' identifying it as a threat to the life of children and abusive of life have issued notice to the company ABC for withdrawing its game from online portal to which the company responded that they will not withdraw the game as such it do fall within the six golden freedom as guaranteed by the constitution. The company replied to the notice that the object of the game is to make the user more firm and competent at their decision. The reply consists of a statement that 'there is no abatement to suicide as such as the given was supposed to be individual competence and observance and one must understand whether to commit suicide on once provocation or not'. Moreover the reply consisted on allegations on the state that so many persons have committed for various reasons either by hanging to a tree or fan or poisoning even many of the times brides are burnt by gas explosion. The reply further alleges that the government

did nothing to prevent these activities by adopting a mechanism and thus this notice is violative of their fundamental right guaranteed by the Constitution of India under Art. 14, 19(1)(a) and 19(1)(g) read with Art 21.

The state of Pride after due deliberation have registered a crime under Sec. 306 and Sec. 120B of IPC against the company for abatement of suicide by conspirating with the administrators, imposed a ban on the game throughout the country U/S 69-A of information Technology Act-2000.

Aggrieved by this decision, the company have moved a petition under Art. 32 of the constitution claiming violation of their rights under Art. 14, 19(1)(a) and 19(1)(g) read with Art. 21 and for quashing the FIR contending that before this event there were few more games like – ‘CokemanGo’, of the similar nature which were banned by the government. But no criminal case was registered against them. Petitioner also contended that, the state has not given them an opportunity of hearing while imposing ban on their application. Thus, it violated fundamental rights of the petitioner.

The matter is admitted by the Supreme Court and is now kept for final hearing upon the following issues:

- 1) Whether the petitioner has committed any offence under sec. 306 and 120B of IPC?
- 2) Whether the state of Pride has violated the rights of petitioner enshrined under Art. 14, 19(1)(a) and 19(1)(g) read with Art. 21?
- 3) Whether imposing ban on the application “RedOx” u/s 69A of Information Technology Act is constitutionally void?

Note:

- Arguments should be strictly limited up to the issues framed.
- The Laws of India are Mutatis Mutandis to the Law of India.

MOOT PROBLEM No. 2

Citizens

v/s

The State of Indies

The State of Indies is the second most populous country in the world and has democratic system of governance with a structure which is federal in nature and with a unitary bias.

The State of Indies is also the largest democracy in the world and boasts of having a population which is diverse in terms of its language, religion, caste and culture and practices. The State of Indies is popular for its unity in diversity.

The State of Indies has a written Constitution which in its third part deals with the most important facet of fundamental rights. State of Indies is a developing country and has recently made rapid progress and growth in terms of technology and skill development.

The third part contains different provisions which are based or borrowed from different Constitutions of the world like the American Constitution, the Irish Constitution and many other constitutions. The third part of the Constitution of the State of Indies guarantees to every individual fundamental rights amongst which are Articles 14, 19 and 21, and which rights have been popularly quoted as golden triangle.

The Supreme Court of India has in two judgements – in the case of M.P. Sharma and in the case of Kharak Singh held that right to privacy is not a fundamental right. However, the said question again fell for consideration before a recent nine judge bench which while over ruling the earlier two judgements, held that privacy is a fundamental right.

In the elections held in 2014 in the State of Indies, after a long time a singular political party has come into power and now the said party has introduces the Aadhar Act which makes it mandatory for all the citizens of the country to have an Aadhar Card and to link the same to their respective bank accounts, phone numbers, income tax accounts etc.

The validity of the said Aadhar Act has been challenged by the citizens on the ground that it violates the fundamental right to privacy and that the Government wants to control the details of all individuals. On the other hand, the government has argued that the act does not breach the right to privacy.

In this backdrop, the matter is now listed before the apex Court of Indies for final arguments. Both parties are free to advance arguments in this behalf. Reference may be given to various other such similar prevailing laws in various countries, both developed and developing.

Note: 1) The laws and procedure of Indies are *Pari Materia* with the Laws of India.

MOOT PROBLEM No. 3

George & Another

V/s

Somesh & Another

Mr. George, resident of the State of Capricorn, who owned 8 acres of agricultural land under survey no. 77/7, filed a suit bearing R.C.S. no.420/2011 before the Civil Judge Junior division, at State of Capricorn, for Declaration and Injunction against Mr. Joseph on the ground that he is the sole owner of the agricultural land in dispute. On receipt of summons, Mr. Joseph appeared before the said Court and engaged a lawyer to conduct his case. Mr. Joseph not only opposed the suit claim but also filed a counter claim against Mr. George for Declaration and Injunction in respect of the said property.

The suit was decreed in favour of Mr. George declaring him as the owner of 8 acres of agricultural land and restrained Mr. Joseph from interfering with peaceful enjoyment of the said agricultural property of Mr. George.

Aggrieved by the judgement and decree in R.C.S. no. 420/2011 Mr. Joseph filed Regular Appeal before the First Appellate Court, at State of Capricorn. On receipt of Appeal Notice, Mr. George engaged Adv. Somesh a famous civil lawyer in the State of Capricorn to represent and argue his case before the Appellate Court Mr. George paid Fifty Thousand rupees as initial fee to Adv. Somesh.

When Appeal was posted for hearing, Advocate representing Mr. Joseph argued the matter and completed his side. However, Adv. Somesh sought several adjournments to argue on behalf of Mr. George. He did not turn up to argue even when it was posted for final argument.

The Appellate Court reversed the finding of the trial court and decreed the counter claim of Mr. Joseph in R.C.S. no. 420/2011. The Appellate Court in its judgement noted the absence of respondent's Adv. Somesh during the course of argument and pointed out that the Court had no assistance from respondent's Advocate in deciding the matter.

The judgement of the Appellate Court was death knell for Mr. George as land in dispute was life line for him and his family.

Mr. George enquired with his Advocate about his absence during hearing of the Appeal but did not get a satisfactory answer. However, Adv. Somesh advised Mr. George to file Second Appeal against the Judgement of the First Appellate Court and referred the name of Adv. Anthony. Mr. George followed his advice and engaged Adv. Anthony for filing Second Appeal and paid rupees One Lakh as initial fee.

Adv. Anthony took his own time to file Second Appeal and by the time Second Appeal was filed, the limitation period was over. Thereafter, he filed Second Appeal along with an Application to condone the delay.

The Second Appellate Court dismissed the Appeal on the ground of limitation period since no sufficient cause was shown for condoning the delay. Adv. Anthony advised Mr. George to approach the Supreme Court.

Mr. George virtually had no means to continue the litigation before the Supreme Court as he had lost all the money in litigation. Mr. Joseph spared no time to execute the decree passed in his favour by the First Appellate Court and took possession over the land in dispute.

Having lost agricultural land, which was life line for him and his family due to inefficiency and negligence of his Advocates, Adv. Somesh and Adv. Anthony, Mr. George filed case against them before the National Consumer disputes Redressal Commission (NCDRC), at State of Capricorn for deficiency of service and claimed One crore rupees as compensation.

Mr. George argued that there was 'deficiency of service' on the part of both the Advocates who failed to pursue his case before the Appellate Courts in an efficient and professional manner. He also contended that both the advocates were highly negligent, one of them did not argue his case before the First Appellate Court and the other advocate failed to file Second Appeal in time before the High Court and got it dismissed at the threshold, as result of which he had lost his property and means of livelihood. On notice, both the advocates appeared and argued that, advocates are immune from any legal action under the Consumer Protection Act, 1986 of State of Capricorn, as Mr. George is not a 'Consumer' under the Act and their relationship as client and advocate is a 'Contract for personal service'. They argued that they are merely his agents and

represented him in the Court and are Officers of the Court and no legal action can be initiated for actions done in the course of judicial proceeding. Further, it was argued that, it is for the Court to decide the case on its merit and no advocate can guarantee the result.

The NCDRC, however, allowed the claim of Mr. George holding that there was 'deficiency of service' and awarded one rupees as compensation and directed both the advocate to pay together the award amount within two months from the date of the order.

The said order created havoc among the legal fraternity and became national news. Within two months of passing of his Order there were two thousand cases filed against advocates across the country before consumer forums for deficiency of service.

Both the advocates approached the Supreme Court of State of Capricorn against the award of NCDRC and contended that among other things that the said award is also in violation of Article 19 (1) (g) of the Constitution of State of Capricorn. The Supreme Court issued stay against the operation, execution of the award.

Now the case is set for hearing before the Supreme Court of State of Capricorn
Issues:

1. Whether the Advocates fall within the provisions of the Consumer Protection Act, 1986 of State of Capricorn?
2. Whether the award is in violation of the fundamental right to practice any profession, or to carry on any occupation as contemplated under Article 19 (1) (g) of the State of Capricorn?

Note : the Laws of State of Capricorn is similar as State of India.

Moot Problem No. 4

Before the Supreme Court of Indigo Society for Cricket Control in Indigo

v/s

Mr. Dev & Others

1. Indigo is a federal country with 30 states. It is a developing country striving hard to surmount the damage it suffered during the colonial rule. Though it has witnessed a robust economic growth; still the majority of its population are in the state of penury. There are a great number of various sports that the rural masses have engaged themselves with, as Indigo nation has a civilization of over 5000 years. However, as a part of colonial legacy that it has inherited, the sport of cricket has been exceptionally popular in the country, assuming almost a status of a religion and the players a demigod!
2. Society for Cricket Control in Indigo (SCCI) is established in Indigo to control the sports of Cricket. It was formed in 1928 and was registered in 1940 under Societies Registration Act, 1860. It has its head office situated in Erupadi which before States Reorganisation was under Maha Pradesh State and after State Reorganisation in 1956 it fell into the Tamil Pradesh State territory. As Trumbay Public Trust Act 1952 was in force in Maha Pradesh area SCCI was registered as a Public Trust and was filing the change reports and property reports under the 1952 Act, Turmbay Public Turst Act 1952 was applicable to Tamil Pradesh also. The Tamil Pradesh Legislature had subsequently passed Tamil Pradesh Societies Registration Act 1975. Later in 1998 the operation of trumbay Public Trust Act, 1952 in so far as it applied to the State of Tamil Pradesh was repealed.
3. SCCI is engaged in hosting international cricket one day matches and test matches. From 2009 it has started domestic cricket 20-20 matches. It selects Indigo cricket team to represent Indigo in International cricket matches. It is a self-funded organization, generating more than Rs. 10,000 Crore revenue annually from franchisees, sponsors and advertisements. Because of its lucrative ventures in the sports of Cricket, the society attracted many business tycoons, politicians and film stars who occupied dominant positions in the management of SCCI.

4. SCCI has dominant position and controls almost all the State Level Cricket Associations and it functions like Cricket Federation as well. It has absolute power to select the players for Indigo Cricket team; it fixes the remuneration of players by classifying them into three categories. Many former Indigo cricketers are part of team selection committee of SCCI and nepotism is not ruled out in selection. The new format of cricket in the form of 20-20 over matches was introduced by SCCI and it also started Indigo Premier League (IPL) a domestic cricket tournament. It has made cricket more famous among the fans and more lucrative investment for many industrialists, politicians and film stars. IPL gained huge popularity in 2009 and brought lot of revenue to SCCI and owners of different teams earned huge income from advertisements and sale of tickets. IPL became an absolute entertainer than just being a sporting event. It was a feast for the spectators and lucrative business for Film Actors, Politicians and Businessmen.
5. Unfortunately, corruption made inroads into the great entertaining sport in the form of Match Fixing. It turned out to be a biggest scam of the millennium with involvement of team owners, players and middle men. In the raids that the state police conducted and in view of several interceptions conducted, the said scam came into light. Few middlemen and even players and owners were apprehended and prosecuted. The players who were involved in Match fixing were banned for lifetime. Meanwhile dispute arose over election to the Board of Directors (BOD) of SCCI. Mr. Nivasan who was chairman of BOD of SCCI was alleged to have abetted the match fixing through his Son in Law Mr. Lalit, who was owner of one of the teams which took part in IPL. However by wielding money power, he continued to be the chairman, silencing all his opponents in the BOD.
6. Aghast by the enormity of corruption and its impact on the quality of the game of Cricket, a former Cricketer of Indigo, Mr. Dev filed a PIL in the High Court of Maha Pradesh alleging that the top management of SCCI had involved in corruption in elections to BOD, match fixing and betting. Further due to nepotism of members of BOD of SCCI, quality of Cricket in Indigo is affected and real talents are being sidelined and sons, grandsons of members of BOD are being selected for Indigo Cricket team. Briefly in the above facts and grounds, he sought for appropriate directions to revive the credibility of the sports.

7. SCCI appeared before Hon'ble High Court and filed its counter affidavit. Denying the contentions and claims of the petitioner Mr. Dev, it was contended that corruption, if any is an offence and any individual member alleged to have committed such an offence are being prosecuted as per criminal law of the land and the writ petition is not maintainable. Without admitting the allegations, it was further contended that even if there is any mismanagement in SCCI, only the members who have a grievance could approach a civil court to vindicate their rights if any, under the Bye Laws of the SCCI. Upon repeal to Trumbay Public Trust Act, 1952 in Tamil Pradesh State SCCI has become an autonomous body and therefore no writ petition was maintainable in the absence of any statute governing its working. Also it cannot be said to be performing or not performing a statutory function so as to invoke the writ jurisdiction. Alternatively it contended without admitting that the appropriate authority to take action is the Registrar of Societies and hence a writ petition on form of a public interest litigation is not maintainable.
8. After considering the rival contentions, the Hon'ble High Court passed orders constituting a Commission headed by Former judge of the High Court, Mr. Yodha to look into the affairs of the SCCI, corruption charges, amtch fixing issues and also to study the bye-laws of SCCI and suggest reforms to bring out proper functioning of SCCI. Yodha committee was given six months time to submit its report but Committee took 10 months time and submitted its report with number of suggestions which if given effect is tantamount to total revamping of management of SCCI and its affairs. The copy of the report was furnished to SCCI to make its say. After appreciating the report, SCCI agreed to accept some of the suggestions which did not make any major changes in its management. However, it vehemently objected to major portion of the report and contended that it is not possible to accept all suggestions as it affects its autonomy and fundamental right guaranteed under Constitution of Indigo.
9. However, the Hon'ble High Court did not accept the contentions of SCCI. It issued interim directions to SCCI to conduct elections to its BOD as per the recommendations of Yodha Commission, within two months. SCCI did not comply with the interim direction citing impossibility of performance. The High court was pleased to freeze the accounts of the society and also order for appointment of an administrator.

10. Aggrieved by the orders of the High Court, the SCCI filed a special leave petition in Supreme Court of Indigo contending that the orders of the High Court amounts to judicial legislation and it runs contrary to the basic tenets of Constitution of Indigo. Further it has such, is not amenable to the jurisdiction of the High Court. The competent authority being the registrar of societies has not even raised a little finger over the affairs of the society and as such, a petition by a disgruntled former cricketer in the grab of public interest litigation is not maintainable and sought for allowing the petition and setting aside of the orders of the High court.
11. Mr. Dev, the 1st respondent has appeared before Supreme Court, contending that SCCI performs public functions of regulating the game of Cricket in Indigo. It represents Indigo in foreign countries and is tacitly acknowledged by the Indigo Government. Further, SCCI has availed various benefits from GOI in the form of customs duty and tax exemptions, all civic and security during its cricket matches is provided by the State. Visa clearance and other hidden charges are borne by GOI and for majority of its stadiums in Indigo, GOI and State Governments have given huge piece of agricultural land at very meagre price. As such, the society being a State under Article 12 of Constitution of Indigo has been rightly deprecated by the High court. Justifying the orders of the High court, he sought for dismissal of the petition.
12. The Hon'ble Supreme court has granted leave and the civil appeal files by the society is ordered to be placed before a constitutional bench of five judges. The matters stand posted for final hearing. As such, appropriate issues be framed and the submissions on both sides be advanced.

Note : The Constitution and laws of Indigo are similar to similar to India. Courts in indigo accept the decisions of Supreme Court of India as binding precedent. The Trumbay Public Trust Act, 1952 is similar to Bombay Public Trust Act 1950.

