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Dr. DIVYADITYA KOTHARI

Director, Renaissance University and
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research LLP) and Renaicon Legal

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HANUMANT JAGGANATH NAZIRKAR V. STATE OF MAHARASHTRA

In a significant ruling reinforcing the constitutional protection against unlawful detention, the Bombay High Court held the arrest of Hanumant Jagganath Nazirkar to be illegal due to a delay of over 24 hours in producing him before a Magistrate, in violation of Article 22(2) of the Constitution and Section 57 of the Criminal Procedure Code (CrPC). Nazirkar, a retired government officer accused of embezzling over ₹3.37 crore, was taken into police custody on October 25, 2024, at 1:00 p.m. from Shivajinagar, Pune.

Despite being under the physical custody and control of the police from that time, he was formally arrested only on the evening of October 26 and produced before a Magistrate at 12:20 p.m. on October 27—nearly 43 hours later. A Division Bench of Justices Revati Mohite Dere and Manjusha Deshpande ruled that the constitutional clock under Article 22(2)—which requires an accused to be presented before a Magistrate within 24 hours of arrest—starts ticking from the moment liberty is curtailed, not when a formal arrest is recorded. The Court noted that police documentation described Nazirkar as "in custody" as early as October 25, clearly establishing the commencement of detention.

The Court delved deeply into the interpretation of Article 22(2), which states that no person who is arrested shall be detained in custody without being informed of the grounds of arrest and shall be produced before a Magistrate within 24 hours of such arrest. The provision acts as a vital safeguard against arbitrary detention and custodial abuse by ensuring judicial oversight within the first 24 hours of detention. The judgment emphasised that Article 22(2) must be interpreted in light of its spirit to protect personal liberty and not be circumvented by merely delaying the formal arrest process while keeping a person under de facto police control.

The Court rejected the argument that a medical examination before formal arrest could justify the delay, reiterating that any restriction on liberty, even without formal arrest, triggers protection under Article 22(2). By declaring the arrest unlawful, the Court reaffirmed that procedural technicalities cannot override fundamental rights, and any detention beyond the 24-hour limit without Magistrate approval is unconstitutional and illegal. This interpretation strengthens the right to liberty and underscores the judiciary's role in checking executive overreach, especially in criminal investigations

Read full guidelines:
Hanumant Jagganath Nazirkar v. State of Maharashtra (PDF)

HIGH COURT DISMISSES PLEA BY STUDENT SEEKING MODIFICATION OF CLASHING EXAM SCHEDULES FOR TWO DEGREES PURSUED SIMULTANEOUSLY

SATYENDRA PRAKASH SURYAWANSHI V. STATE OF CHHATTISGARH & ORS.

The Petitioner, appearing in person, submitted that he was simultaneously pursuing two degrees. He submitted that the examination timetables issued by both universities included four subjects scheduled on the same date and time, resulting in a direct conflict that rendered it impossible to attend both. He argued that he had taken re-admission in accordance with notifications issued by the Respondent universities and contended that the schedules were framed arbitrarily.

He relied on the UGC's revised guidelines allowing the simultaneous pursuit of two degrees and submitted that the State of Chhattisgarh had constituted a Task Force for the implementation of the National Education Policy (NEP) 2020, which encouraged inclusive education.

The Petitioner further invoked Article 21 of the Constitution of India, contending that his right to education and personal liberty was being violated, and urged the Court to stay the examination schedules until disposal of the petition.

The Court, upon hearing the Petitioner, observed that no grounds were made out for invoking its writ jurisdiction. It held that the Petitioner had no locus to demand that examination schedules be altered by judicial direction.

The Court noted, "The petitioner has no locus to direct the respondent authorities to make modifications in the final examination timetable for the two academic programmes…"

The Court found no procedural or legal infirmity justifying interference and held that the scheduling of exams by the universities could not be subject to judicial review in the facts of the present case.

Accordingly, the Court dismissed the petition as being devoid of any merit.

MADHYA PRADESH HIGH COURT: DISMISSAL OF WRIT PETITIONS BY DAILY WAGE WORKERS

RAM DAS SAHU AND OTHERS VERSUS THE STATE OF MADHYA PRADESH AND OTHERS

A single judge bench of Justice Maninder Bhatti at the Madhya Pradesh High Court dismissed two writ petitions filed by daily wage workers (gardeners), Ramdas Sahu and Pramod Agarwal, challenging their termination. The workers contended that their employer failed to comply with Section 25F of the Industrial Disputes Act, 1947 (ID Act) before terminating their services. However, the court ruled that providing retrenchment compensation and sending the termination order via registered post constituted valid compliance with Section 25F, and actual acceptance of the compensation was not necessary.

The petitioners, employed as gardeners (Malis) for several years, were never granted permanent employee status. Seeking regularization, they approached the Labour Court under the ID Act. During these proceedings, their employer issued termination orders in 2008. The workers argued that the terminations were unlawful, citing violations of Sections 25F and 33 of the ID Act. Section 25F mandates that an employee with at least one year of continuous service must receive one month's notice (or equivalent wages) and retrenchment compensation before termination. Section 33 prohibits altering a worker's service conditions during pending Labour Court proceedings without prior court approval.

The workers filed writ petitions in 2012, claiming non-compliance with these provisions. Although a single judge dismissed their petitions in 2012, a Division Bench overturned this decision in 2013, noting the lack of clarity on whether Labour Court permission under Section 33 was obtained. The case was remanded to the single judge for reconsideration.

The workers argued that their termination violated Sections 25F and 33, as they received no notice, wages, or compensation as required by Section 25F, and the employer terminated them without Labour Court approval during ongoing proceedings, contravening Section 33. They cited Pramod Jha v. State of Bihar (Appeal (civil) 4157 of 2000) to support their claim that these violations rendered the termination illegal.

The employer countered that they had obtained Labour Court permission under Section 33 via an interlocutory order dated 22 November 2001, which allowed termination subject to legal compliance. Regarding Section 25F, they stated that the termination order and retrenchment compensation cheques were offered in person, but the workers refused them. Subsequently, these were sent via registered post, fulfilling Section 25F requirements.

On Section 33, the court confirmed that the 2001 interlocutory order explicitly permitted the termination, satisfying the prior approval requirement. For Section 25F, the court reviewed evidence, including copies of the cheques, termination order, and a 2008 letter, confirming that these were offered during the

termination process. The workers' refusal to accept them prompted the employer to send the documents via registered post, which the court deemed sufficient compliance with Section 25F.

Citing Pramod Jha v. State of Bihar, the court clarified that the law only requires offering compensation before termination, not its forced acceptance. Thus, sending the compensation via registered post met the legal standard. Concluding that both Sections 25F and 33 were adhered to, the court dismissed the workers' petitions.

Read full guidelines:
https://www.livelaw.in/pdf_upload/ram-das-sahu-607526.pdf

CALCUTTA HIGH COURT RULING ON REINSTATEMENT OF BUS DRIVER

HANSRA SHRI C. CHITAMBARAM VERSUS THE DIRECTOR OF TRANSPORT

Th A single judge bench of the Calcutta High Court, presided over by Justice Raja Basu Chowdhury, overturned a labour court's decision denying reinstatement to C. Chitambaram, a bus driver, despite deeming his termination illegal. The court ruled that reinstatement, not mere compensation, is the appropriate remedy when termination violates natural justice principles.

C. Chitambaram was employed as a daily-rated bus driver by the Directorate of Transport since 2008, with his tenure extended uninterrupted until 2015. In 2014, he faced allegations of stealing over 20 liters of HSD oil from a government bus, leading to an FIR and his arrest. After being released on bail, Chitambaram sought to resume work, but the Directorate rejected his requests despite multiple representations. In July 2015, a show-cause notice was issued, citing the FIR and arrest as "serious misconduct." Chitambaram responded, alleging the accusations were retaliatory, stemming from his prior complaint against two senior officers for pilferage. Nevertheless, in October 2015, his services were terminated retrospectively from the date of his arrest.

In 2018, Chitambaram was acquitted of all charges. He then sought reinstatement through conciliation, which failed, prompting the government to refer the matter to a labour court to determine his eligibility for reinstatement. The labour court found the termination illegal under Sections 25B and 25F of the Industrial Disputes Act, 1947, but awarded only compensation for mental harassment, denying reinstatement. Aggrieved, Chitambaram filed a writ petition challenging the labour court's decision.

Chitambaram contended that the labour court correctly deemed his termination illegal but erred in denying reinstatement. Citing Ramani Mohan Industries Pvt. Ltd. v. Second Industrial Tribunal and Surendra Kumar Verma v. CGIT, he argued that reinstatement is the standard remedy for illegal retrenchment under Section 25F, and exceptions to this rule did not apply in his case, given his years of continuous service.

The employer, however, argued that the labour court lacked jurisdiction to rule on the legality of the termination, as the government's referral question was limited to reinstatement. Relying on Municipal Corporation of Delhi v. Sandeep Yadav (2024), they claimed the labour court exceeded its scope by addressing the termination's legality.

The court addressed two key issues: the labour court's jurisdiction and the appropriateness of reinstatement. On jurisdiction, the court

held that the labour court was not restricted to a narrow interpretation of the referral question. It reasoned that evaluating reinstatement inherently required assessing the termination's legality, thus affirming the labour court's authority to rule on the issue.

On the merits, the court identified significant procedural flaws in Chitambaram's termination: the key witness statement was recorded without his presence, he was denied the opportunity to cross-examine or present evidence, and no departmental inquiry was conducted post-acquittal. The termination, based solely on the FIR, violated natural justice principles. Citing Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, the court held that reinstatement is the default remedy when a termination is deemed illegal due to procedural violations, though back wages are not automatic. Accordingly, the court ruled that Chitambaram was entitled to reinstatement but not back wages.

The Calcutta High Court allowed the writ petition, set aside the labour court's order, and directed Chitambaram's reinstatement, emphasizing that violations of natural justice warrant full relief through reinstatement.

Read full guidelines:
https://www.livelaw.in/pdf_upload/shri-c-chitambaram-607614.pdf

NO BAR ON POWER OF DM TO ENTERTAIN A SECOND PLEA U/S 14 SARFAESI ACT: ALLAHABAD HC ENDORSES BOMBAY HC'S VIEW

DCB BANK LTD VS. STATE OF UTTAR PRADESH

The Allahabad High Court recently agreed with the view of the Bombay High Court that in cases where the borrower illegally re-enters the secured asset after possession has already been delivered to the Bank under Section 14 of the SARFAESI Act, a fresh application under the said provision is maintainable.

Following the decision of the Bombay High Court in The Nashik Merchant Co-operative Bank (Multi State Scheduled Bank) v. The District Collector, Jalna and others, a bench of Justice Shekhar B Saraf and Justice Praveen Kumar Giri directed an Additional District Magistrate to decide and pass orders on fresh application under Section 14 of 2002 Act, when the borrower trespasses on the secured asset.

The bench was essentially dealing with a plea moved by DCB Bank, which had sanctioned a loan of around Rs. 18 lakhs where equitable mortgage of secured asset was created by the borrower. Since the borrower failed to repay the bank, the mortgaged property was declared a Non-Performing Asset. The bank issued a notice under Section 13 to the borrower and proceeded to take symbolic possession of the property.

Subsequently, the petitioner-Bank filed an application under Section 14 of the SARFAESI Act for obtaining possession of the secured asset. The same was allowed. Thereafter, auction proceedings were conducted and a sale certificate was issued in favour of the successful bidder. However, the borrowers allegedly broke the locks and trespassed into the property

.

Due to the inaction on the part of the authorities in restoring the possession of the property in favour of the petitioner, the Bank filed an application under Section 14 of SARFAESI Act, which was rejected on the grounds that once the order for possession had already been executed, a fresh application could not be entertained.

Petitioner approached the High Court seeking restoration of possession of the secured asset forcefully taken over by the borrower. Relying on the aforesaid decision of the Bombay High Court, it was argued that in case of illegal trespass by the borrower, the Additional District Magistrate has the power to decide a fresh application under Section 14 of SARFAESI.

For context, in this case, the Bombay High Court specifically held that there on no bar in law on the powers of the District Magistrate or his delegate to exercise the powers under Section 14 of the SARFAESI Act for a second time to pass orders on an application filed for execution. Following this ruling, the division bench directed the Additional District Magistrate to grant the petitioner bank an opportunity of hearing and pass orders of the application

filed by it.

THE LEGAL HEIRS OF A PERSON WHO CAUSES AN ACCIDENT BY HIS OWN NEGLIGENCE CANNOT CLAIM COMPENSATION

G. NAGARATHNA & ORS. V. G. MANJUNATHA & ANR.

This case arose from a fatal motor accident in which N.S. Ravisha, while driving a Fiat Linea car at high speed and in a rash and negligent manner, lost control, causing the car to topple and resulting in his own death. His legal heirs — wife, son, and parents — filed a compensation claim of ₹80 lakhs under Section 166 of the Motor Vehicles Act, 1988, before the Motor Accident Claims Tribunal (MACT), Arsikere, Karnataka.

1. Can legal heirs of a deceased tortfeasor (wrongdoer) claim compensation under Section 166 of the MV Act?
2. Does the fact that the deceased borrowed the vehicle affect the liability of the insurance company?

Findings of the Lower Courts:

MACT:

- Dismissed the claim.
- Held that Ravisha was the tortfeasor; hence, his heirs could not claim compensation for his own negligence.

Karnataka High Court:

- Upheld MACT's order.
- Relied on:

Ningamma v. United India Insurance Co. Ltd., (2009) 13 SCC 710:

Held that no compensation is payable when the deceased is the negligent driver and hence the tortfeasor.
Minu B. Mehta v. Balkrishna Nayan, (1977) 2 SCC 441: Clarified that no liability of the insurer arises in absence of fault or negligence of another party.

Rejected the appellants' argument that since Ravisha was not the owner but merely a borrower, the insurer is liable. Held that Ravisha, by borrowing the car, stepped into the shoes of the owner. Hence, he cannot be indemnified by the insurance company for his own negligent act.

The Supreme Court dismissed the appeal, upholding the reasoning of the High Court and the MACT. It reiterated:

- A person cannot benefit from his own wrong.
- The legal heirs of a person who causes an accident by his own negligence cannot claim compensation under Section 166 of the Motor Vehicles Act.
- The insurer is not liable to compensate in such cases even if the deceased was not the registered owner, as the borrower is treated as the owner for liability purposes.

1. Tortfeasor Rule:
   - A person who is responsible for his own death due to negligent driving is considered a tortfeasor, and their legal heirs cannot claim compensation under Section 166 MV Act.
2. No Double Compensation:
   - Allowing such a claim would be tantamount to rewarding a person for his own breach of law, which is contrary to public

policy.

3. Doctrine of "Stepping into the Shoes":
   - A borrower of a vehicle is treated as the owner for the purpose of determining liability.
   - If the borrower (deceased) is negligent, the insurer is not liable to compensate either the borrower or their legal heirs.

The Supreme Court refused to interfere with the Karnataka High Court's decision and dismissed the petition filed by the legal heirs of the deceased. It reaffirmed the settled legal position that compensation is not payable under Section 166 MV Act where the deceased was himself the negligent driver, even if the vehicle was borrowed and not owned.

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Dr. Deepika bhatnagar

Principal, Renaissance Law School

Prof. Mohan Kumar Moyal

HOD, Renaissance Law School

OUR TEAM

PROOF READING

ASST PROF. DEVESH PANDEY

TEAM

ASST PROF. SAKSHI SHARMA

ASST PROF. NIKITA CHOUDHARY

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ASST PROF. CHETAN PATWA

ASST PROF. SAMEEP JAIN

ASST PROF. AYUSH GEHLOT