

SIC PARVIS MAGNA

JUNE 28th

4th EDITION | ISSUE XVIII



A WARM WELCOME FROM RENAISSANCE UNIVERSITY FAMILY

CA SWAPNIL KOTHARI

Chancellor, Renaissance University and
Founder Chairman, Renaissance Group



Dr. DIVYADITYA KOTHARI

Director, Renaissance University and
Renaissance group,
Founder Chairman, Renaicon (advisory and
research LLP) and Renaicon Legal

CONTENTS

CONSTITUTIONAL LAW

Heritage Protection & Articles 49, 51A(f): Madhya Pradesh High Court Bars Religious Festivities at Protected Dargah Site

Gender Identity, Equality & Article 21: Andhra Pradesh High Court Affirms Domestic Violence Protection for Trans Woman

LABOUR & SERVICE LAW

Lessee Is An 'Occupier' And Liable For EPF Deposits: Himachal Pradesh High Court

Karnataka High Court Orders Regularization Of Mangalore Workers Engaged Via Outsourcing Agency After Contract Labour Abolition Order

MISCELLANEOUS LAW

Mere Deviation In Rules Not Amounting To Fundamental Breach Will Not Exonerate Insurance Company

Violation of personal liberty caused by the delayed release from prison despite a valid court order

HERITAGE PROTECTION & ARTICLES 49, 51A(F): MADHYA PRADESH HIGH COURT BARS RELIGIOUS FESTIVITIES AT PROTECTED DARGAH SITE

SHRI SABLHA HASAN V. UNION OF INDIA & ORS.

In a judgment reinforcing the constitutional commitment to cultural heritage protection, the Madhya Pradesh High Court dismissed an appeal seeking permission to conduct religious activities—specifically Urs and Namaz—within the Muhammad Ghaus Dargah, a monument declared protected under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The case was filed under Article 226, challenging ASI’s refusal to permit the appellant, the Sajjada Nashin (custodian), to host religious ceremonies inside the monument.

The Court grounded its reasoning in Article 49, which obligates the State to protect monuments of national importance, and Article 51A(f), which imposes a fundamental duty on citizens to preserve India’s composite cultural heritage. It emphasised that religious rights under Article 25 must be balanced against these constitutional mandates. The Bench—comprising Justices Anand Pathak and Hirdesh—held that allowing religious events would not only contravene the conservation intent of the AMASR Act but also pose a structural threat due to crowd gatherings, tent installations, and potential physical harm to the ancient structure. Relying on Rule 8

of the AMASR Rules, 1959, the Court noted that no construction, nailing, or activity beyond sunrise to sunset is permissible without prior approval. The appellant's concealment of parallel civil and Waqf litigation was also criticised. Invoking the principle that "he who seeks equity must come with clean hands," the Court found that the petitioner's selective disclosure weakened the credibility of his claim.

The Court clarified that protected monuments are not shrines and thus cannot be claimed for exclusive religious use. Permitting such use would violate Section 18 of the AMASR Act, which mandates that monuments remain accessible to the general public and preserved free from sectarian appropriation. By dismissing the appeal, the High Court upheld ASI's authority and reasserted that constitutional and statutory duties to preserve national heritage cannot be overridden by individual or community claims, especially when such claims risk irreversible damage to public monuments.

This verdict serves as a constitutional reminder that freedom of religion is subject to the higher imperative of heritage conservation. The cultural and historical integrity of protected sites must prevail over religious ceremonies, however longstanding or symbolic they may be.

Read full guidelines:

https://www.verdictum.in/pdf_upload/wa11112025finalorder16-06-20251-1723498.pdf

GENDER IDENTITY, EQUALITY & ARTICLE 21: ANDHRA PRADESH HIGH COURT AFFIRMS DOMESTIC VIOLENCE PROTECTION FOR TRANS WOMAN

***VISWANATHAN KRISHNA MURTHY V. STATE OF ANDHRA PRADESH &
ORS.***

In a landmark judgment reaffirming the constitutional rights to equality (Article 14), non-discrimination (Article 15), and personal liberty and dignity (Article 21), the Andhra Pradesh High Court ruled that a transgender woman, validly married under Hindu customs, is entitled to protection under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act, 1961. The case was brought under Article 226 and Section 482 CrPC seeking quashing of criminal proceedings initiated by the complainant against her husband and in-laws for cruelty and dowry harassment.

The husband argued that Section 498A applies only to cisgender women and cannot extend to a trans woman. The Court rejected this interpretation as incompatible with the constitutional ethos of inclusivity and dignity. Relying on Supreme Court precedents including *NALSA v. Union of India* (2014) and *Supriyo @ Supriya Chakraborty v. Union of India* (2023), the Court affirmed that a trans woman, having undergone gender affirmation and legally self-identifying as female, is protected under laws designed to shield women from domestic violence.

Justice Venkata Jyothirmmai Pratapa emphasised that denying a trans woman the benefit of such protection would amount to a violation of her fundamental rights under Articles 14, 15, and 21. The Court found sufficient prima facie material to allow the proceedings against the husband and one family member to continue, while quashing the case against others due to a lack of specific evidence. By interpreting Section 498A IPC and the Dowry Prohibition Act in harmony with constitutional values, the Court asserted that gender identity must not limit access to justice. It further stressed that criminal protections should evolve to reflect contemporary understandings of gender under India's constitutional framework.

This ruling marks a major advance in LGBTQIA+ rights jurisprudence, confirming that trans persons in marriages—especially those following social and religious customs—are entitled to the full protection of the law against abuse, coercion, and dowry harassment.

Read the full judgment here:

https://www.verdictum.in/pdf_upload/viswanathan-krishna-murthy-v-the-state-of-andhra-pradeshwatermark-1723177.pdf

LESSEE IS AN 'OCCUPIER' AND LIABLE FOR EPF DEPOSITS: HIMACHAL PRADESH HIGH COURT

VINOD KUMAR V/S STATE OF H.P. & OTHERS

The Himachal Pradesh High Court ruled that a lessee who exercises control over the functioning of a factory qualifies as an "occupier" under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, and is therefore legally obligated to deduct and deposit EPF contributions.

Justice Rakesh Kainthla emphasized that since the petitioner fulfilled the legal definition of "occupier," he was responsible for ensuring that EPF contributions were deposited. The Court rejected the argument that proceedings against him were unjustified.

The petitioner, Vinod Kumar, had leased the Sidhbari Cooperative Tea Factory in Dharamshala from January 2015 to December 2019. A First Information Report (FIR) was lodged against him for deducting EPF contributions from workers' wages but failing to deposit them into the EPF fund.

Challenging the FIR, he filed a writ petition before the High Court seeking its quashing, alleging misuse of legal process. He claimed he had no role in the factory's production, processing, or marketing of tea. He contended that the workers were employed by the Sidhbari Cooperative Society, not him, and no employment responsibilities were transferred under the lease. He was not registered under the EPF Act and argued that the liability for

contributions rested with the principal employer. He also claimed the issue was civil in nature and not a cognizable offence.

The State countered that the petitioner qualified as an employer under the EPF Act. Since he deducted EPF from wages, he was legally required to deposit those amounts. Failing to do so amounted to criminal breach of trust under Section 406 of the Indian Penal Code (IPC).

The Court cited Section 2(e) of the EPF Act, which includes the occupier of a factory within the meaning of “employer. “Section 2(k) defines “occupier” as one who has ultimate control over the factory. Given that the petitioner had leased the factory and managed its operations, he fell within this definition. The Court referred to the precedent set in *Basha Khan, In Re* (1965), where the Supreme Court held that a lessee qualifies as an occupier.

Thus, since the petitioner deducted contributions but failed to deposit them, he was liable under Section 406 IPC. The Court held that criminal proceedings were maintainable, and the issue was not purely civil. The High Court dismissed the writ petition and refused to quash the FIR, holding that the petitioner was legally bound to deposit the EPF contributions and his failure constituted a punishable offence

Read full guidelines:

https://www.livelaw.in/pdf_upload/vinod-kumar-1-605941.pdf

KARNATAKA HIGH COURT ORDERS REGULARIZATION OF MANGALORE WORKERS ENGAGED VIA OUTSOURCING AGENCY AFTER CONTRACT LABOUR ABOLITION ORDER

SRI BHAGWAN DAS & ANRS V. THE DEPUTY COMMISSIONER OFFICE OF THE DEPUTY COMMISSIONER MANGALORE

The Karnataka High Court has intervened to secure justice for 16 contract workers employed in the water supply department of Mangalore Mahanagara Palike, directing the corporation to regularize their services. Justice S Sunil Dutt Yadav, presiding over the case, allowed the petition filed by Bhagwan Das and others, mandating that the regularization order be issued within 60 days of receiving the court's directive.

The petitioners, who have served as valve men and pump operators for approximately 28 years, were engaged through contractors despite performing duties equivalent to those of regular employees. The Mangalore Mahanagara Palike had vacant posts but continued to rely on contract labor for these roles.

In 2006, the Karnataka government, under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, abolished the practice of contract labor in the corporation's water supply department based on reports and recommendations.

However, post-2006, the petitioners continued their service through an outsourcing agency, effectively bypassing the abolition order. The court emphasized that if the petitioners' services had been terminated following the 2006 order, their claim for regularization might have been untenable.

However, their uninterrupted service to the municipal authority, despite the abolition of contract labor, strengthened their case. The bench referenced two Supreme Court judgments—*Shripal & Anr v. Nagar Nigam, Ghaziabad* (dated 31.01.2025) and *Jaggo v. Union of India and Others* (2024 SCC OnLine SC 3826)—which condemned the use of contract labor and outsourcing as mechanisms to circumvent direct recruitment. These precedents underscored the exploitation inherent in such practices and supported the petitioners' right to regularization.

Consequently, the court partially set aside prior communications (Annexures W and X) and directed the Deputy Commissioner, Mangalore, to issue an order regularizing the petitioners' services promptly. The court clarified that regularization would be effective from the date each petitioner completed 10 years of service. Additionally, the petitioners are entitled to continuity of service, with their entire period of employment counted toward post-retirement benefits.

This ruling not only addresses the long-standing grievances of the 16 workers but also reinforces judicial efforts to curb exploitative labor practices, ensuring fair treatment and job security for contract workers performing essential public services.

Read full guidelines:

https://www.livelaw.in/pdf_upload/kahc0100519220211-605482.pdf

MERE DEVIATION IN RULES NOT AMOUNTING TO FUNDAMENTAL BREACH WILL NOT EXONERATE INSURANCE COMPANY

BASAVARAJ V. K.M ALTAF HUSSAIN

The Karnataka High Court observed that mere deviation of rules which does not amount to fundamental breach cannot exonerate the Insurance Company to pay compensation to the owner. An appeal was filed before the Karnataka High Court under Section 173(1) of the Motor Vehicles Act praying to enhance the compensation granted by the Motor Accident Claims Tribunal.

The Bench of Justice Hanchate Sanjeevkumar observed, “Therefore, mere deviation of rules in the circumstances as above discussed is not amounting to fundamental breach so as to exonerate the Insurance Company to pay compensation to the owner. Hence, the judgment and award insofar as fastening liability on the owner of bus is liable to be set aside and it is set-aside holding that the insurance company shall indemnify the owner of the bus by paying compensation to the claimants.”

The Karnataka High Court modified the award of the Tribunal and noted that considering the factual scenario of the case, the Tribunal did not appreciate the compelling circumstances to use the bus on the unpermitted route.

The Court was of the opinion that the facts of the case is not that the bus did not have the permit at all, it was only deviation of route under compelling circumstances. The Karnataka High Court referred to Section 66 of the Motor Vehicles Act along with Rule 57 of the Karnataka Motor Vehicles Rules as it stipulates exemption from Section 66.

In the light of the above, the Court held that the Insurance Company shall indemnify the owner of the bus by paying compensation to the claimants. Furthermore, with regard to the quantum of compensation, the Court opined that the compensation awarded by the Tribunal is on a lesser side, thus, the compensation was enhanced by modifying the award. Accordingly, the Appeals were disposed of by the Court.

VIOLETION OF PERSONAL LIBERTY CAUSED BY THE DELAYED RELEASE FROM PRISON DESPITE A VALID COURT ORDER

AFTAB V. STATE OF UTTAR PRADESH

The In this case, the Supreme Court dealt with a grave violation of personal liberty caused by the delayed release of the petitioner, Aftab, from prison despite a valid court order. Aftab was granted bail by the Additional District and Sessions Judge, Ghaziabad, on 27 May 2025. However, due to a minor clerical issue—non-mention of sub-section (1) of Section 5 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021—in the bail order, the prison authorities did not release him until 24 June 2025.

The Supreme Court Bench comprising Justice K.V. Viswanathan and Justice N.K. Singh expressed serious concern over the unjustified detention. The Court observed that the bail order included all necessary particulars such as the name of the detainee, crime number, police station, and applicable legal provisions (including IPC Section 366 and Sections 3 & 5 of the 2021 Act). The delay occurred because the jail authorities insisted on a correction in the order to explicitly include "sub-section (1) of Section 5" and awaited court clarification instead of acting on the existing, sufficiently clear bail order.

Citing a 2012 judgment of the Allahabad High Court, the Supreme Court emphasized that minor clerical omissions should not hinder a prisoner's release if the order contains sufficient reference to the

case and ST number. The Court warned against such "nitpicking" and reminded the authorities of their constitutional obligation to protect personal liberty under Article 21.

The Director General (Prisons), Mr. P.C. Meena, assured the Court that he would sensitize jail officials to prioritize the substance of court orders over technical lapses. The Court, however, ordered that the inquiry into the delay be conducted not by the prison department, but by the Principal District and Sessions Judge of Ghaziabad, to determine if the delay was due to gross negligence or had any malicious intent.

Recognizing the violation of Aftab's liberty, the Court provisionally awarded a compensation of ₹5,00,000, to be paid by the State of Uttar Pradesh by 27 June 2025. The Court also indicated that after the inquiry report, if individual responsibility is established, recovery of compensation from negligent officials would be considered.

The Court concluded by calling the episode "unfortunate" and emphasized that liberty must not be denied due to bureaucratic formalism. It urged thorough inquiry into similar potential detentions.

A SPECIAL THANKS TO

DR. RAJESH DIXIT

Vice Chancellor, Renaissance University

DR. AMIT KUMAR HASIJA

Registrar, Renaissance University

DR. DEEPIKA BHATNAGAR

Principal, Renaissance Law School

PROF. MOHAN KUMAR MOYAL

HOD, Renaissance Law School

OUR TEAM

DRAFTING AND DESIGN

ASST PROF. SAKSHI SHARMA

PROOF READING

ASST PROF. DEVESH PANDEY

TEAM

ASST PROF. NIKITA CHOUDHARY

ASST PROF. DEVESH BHARGAVA

ASST PROF. CHETAN PATWA

ASST PROF. SAMEEP JAIN

ASST PROF. AYUSH GEHLOT