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A WARM WELCOME FROM RENAISSANCE UNIVERSITY FAMILY

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RIGHT TO PERFORM FATHER'S LAST RITES PROTECTED UNDER ARTICLE 21: DELHI HIGH COURT GRANTS PAROLE

***Ajmer Singh @ Pinka v. State of NCT of Delhi (Neutral Citation: 2025
DHC 7564)***

In a notable judgment on prisoners' rights and human dignity, the Delhi High Court granted parole to a convict to perform the last rites of his father, holding that the right to dignity under Article 21 extends even to prisoners and includes the right to fulfil religious and moral duties towards deceased parents. The Court emphasised that parole rules cannot be applied rigidly or mechanically where humanitarian considerations are at stake.

The case arose when Ajmer Singh @ Pinka, serving a 14-year rigorous imprisonment sentence under Sections 376, 354B, 506 IPC and Section 66E of the IT Act, sought emergency parole for two months to conduct the "Tehravi" ceremony of his father. The prison authorities opposed the application on procedural grounds, contending that the request did not strictly fall within parole guidelines.

Rejecting this contention, the Bench observed that performing the last rites of one's parent is both a sacred religious duty and a personal obligation, and depriving a convict of this opportunity would be violative of Article 21.

The Court clarified that while parole is generally governed by statutory rules, these rules must be interpreted in line with constitutional values, ensuring that the dignity of prisoners is preserved.

The Court accordingly directed that the petitioner be released on parole for four weeks to perform the last rites. It reiterated that parole jurisprudence is not merely administrative but rooted in humanitarian principles, and that denying parole in such circumstances would undermine both constitutional protections and societal values.

This judgment is significant as it reaffirms that prisoners, despite their incarceration, do not lose their fundamental rights under Article 21. It highlights that the justice system must balance penal considerations with humanitarian obligations, ensuring that convicts are not stripped of their dignity or denied the chance to perform essential familial and religious duties.

Read the full judgment here:

https://www.verdictum.in/pdf_upload/highcourtorder-1746771.pdf

WRIT OF HABEAS CORPUS FOR MINOR'S CUSTODY IS MAINTAINABLE BUT CANNOT BE USED SOLELY TO ENFORCE FOREIGN COURT ORDERS: MADHYA PRADESH HIGH COURT

A V. THE STATE OF MADHYA PRADESH (WP-22416/2024)

The Madhya Pradesh High Court held that a writ of habeas corpus is maintainable for seeking custody of a minor, but cannot be invoked merely to enforce a foreign court's directions. The Court clarified that in custody disputes, the welfare of the child is the paramount consideration, and foreign court orders are only one factor to be considered.

The case arose when the petitioner (father) sought a writ of habeas corpus to secure custody of his minor child, alleging that the respondents had wrongfully taken the child away through fraud, despite a Canadian family court's order directing the child's repatriation to Canada, where he was born and raised. The respondents challenged the maintainability of the petition, arguing that it amounted to enforcing a foreign judgment.

Rejecting this objection, the Bench reaffirmed that habeas corpus petitions in child custody matters are maintainable under Indian law. However, the Court cautioned that such petitions cannot serve as a mechanical tool for executing foreign decrees. Instead, the High Court must independently examine whether custody with the respondents is unlawful and whether a change in custody is justified based on the child's best interests.

The Court emphasised that the principle of comity of courts cannot override the welfare principle, which is the supreme guiding factor in custody cases. Accordingly, while the Canadian court's order could be considered, the determinative factor for granting relief would be the welfare and well-being of the child within the Indian legal framework.

This judgment is significant as it draws a clear distinction between the maintainability of habeas corpus for child custody and the enforceability of foreign custody orders. It underscores that while Indian courts respect foreign judgments, they remain duty-bound to prioritise the best interests of the child under domestic law.

READ THE FULL JUDGMENT Here:

https://www.verdictum.in/pdf_upload/wp224162024order18-09-2-1746644.pdf

ENSURING FAIR LABOUR PRACTICES: REGULARIZATION OF SKILLED CONTRACTUAL EMPLOYEES UNDER MGNREGA MISUSE

***SUBASH KUMAR & OTHERS V. STATE OF HIMACHAL PRADESH
& ANR. (HIMACHAL PRADESH HIGH COURT, 2025).***

The Himachal Pradesh High Court ruled that the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is intended solely for unskilled manual work and cannot be misused to deny regularization to skilled roles such as Computer Operators. The court criticized the State for improperly using MGNREGA funds to pay for skilled services despite the availability of sanctioned posts, thereby exploiting contractual employees.

Justice Sandeep Sharma, while delivering the judgment, observed that MGNREGA is designed for physical, unskilled labour that requires no special training. He noted, “Unskilled manual work means any physical work which any adult person can do without special training. Petitioners, being skilled Computer Operators, could not have been assigned such work, but the State, noting the need for manpower, employed them and used MGNREGA funds to meet the expenditure.” The court found this practice unjust, as it circumvented the regularization of skilled workers who were performing duties equivalent to permanent employees.

In 2007, the Himachal Pradesh government had approved the recruitment of Computer Operators, with posts sanctioned after

obtaining concurrence from the Finance Department. The petitioners, selected on a contract basis with a fixed salary of ₹6,000 per month, began their service that year. In 2012, the government introduced Recruitment and Promotion Rules, stipulating that contractual employees would be regularized after six years of service. By 2014, the petitioners had completed the required six years, but their services remained unregularized. In 2017, the government granted contractual Computer Operators regular pay scales and allowances, aligning their compensation with that of permanent employees. However, benefits such as earned leave and medical allowances were still denied to them.

The petitioners, having served continuously for 18 years, approached the court through writ petitions, seeking regularization and equal treatment. The court observed that the petitioners were performing duties identical to those of permanent Computer Operators and were receiving comparable pay scales. It further noted that other employees in similar circumstances had already been regularized, highlighting the State's inconsistent application of its own policy. The court rejected the State's argument that the petitioners' initial appointment, made outside the Himachal Pradesh Public Service Commission process, or disputes over their qualifications justified denying regularization. The court emphasized that such technicalities could not override the petitioners' long-term service and contributions.

The court held that denying regularization to the petitioners, who had worked for over 18 years under the same conditions as permanent employees, was arbitrary and discriminatory. It

underscored that the State's reliance on MGNREGA funds to sustain skilled roles was a misuse of the scheme and perpetuated unfair labour practices. Consequently, the court quashed the State's stance and directed the regularization of the petitioners' services, effective from the date they were granted regular pay scales in 2017. This ruling reaffirms the judiciary's commitment to protecting the rights of contractual workers and ensuring equitable treatment in line with established policies.

Read full guidelines:

https://www.livelaw.in/pdf_upload/subhash-kumar-623396.pdf

PENSIONERS ELIGIBLE FOR REEMPLOYMENT UNDER PUNJAB POLICE RULES EVEN AFTER SEEKING VOLUNTARY RETIREMENT

PREM LAL V. STATE OF H.P. & ORS. (HIMACHAL PRADESH HIGH COURT, 2025).

The Himachal Pradesh High Court directed the State to reconsider the reemployment application of a retired Assistant Sub-Inspector (ASI), Prem Lal, affirming that pensioners who voluntarily retire are eligible for reemployment under Rule 12.25 of the Punjab Police Rules. The court rejected the State's argument that voluntary retirement disqualified the petitioner from reemployment, emphasizing the inclusive nature of the rule.

Justice Sandeep Sharma clarified that Rule 12.25 permits re-enrolment in three distinct scenarios:

- (i) discharge with compensation,
- (ii) discharge with invalid gratuity, or
- (iii) receipt of a pension. The use of the word “or” in the rule indicates that fulfilling any one of these conditions is sufficient for eligibility.

The court stated, “...a person concerned can seek re-enrolment in three situations;

- i) discharge with compensation;
- ii) discharge with invalid gratuity; or
- iii) he should be in receipt of pension.

In the aforesaid rule, word ‘or’ has been used... meaning thereby, person having any one of the aforesaid three situations can seek reemployment...” This interpretation dismissed the State’s restrictive view that voluntary retirement barred reemployment.

The petitioner, Prem Lal, was appointed as a constable in the Himachal Pradesh Police Department in 1986. He progressed to Head Constable and was promoted to ASI in 2010. In 2012, due to adverse family circumstances, he sought voluntary retirement, which was approved, and he began receiving a regular pension under the Central Civil Services Pension Rules. In 2014, Prem Lal applied for reemployment under Rule 12.25, which allows police pensioners to seek re-enrolment until the age of 55. His application was rejected on the grounds that voluntary retirement disqualified him from reemployment, prompting him to file a writ petition before the High Court.

The court scrutinized Rule 12.25 and found that the petitioner, being a pension recipient, clearly fell within the rule’s scope. It rejected the State’s contention that all three conditions needed to be met, emphasizing that the disjunctive “or” in the rule meant any single condition sufficed. The court held that denying reemployment to a pensioner like Prem Lal, who met the pension criterion, was arbitrary and contrary to the rule’s intent. The judgment underscored that the purpose of Rule 12.25 is to enable qualified pensioners to contribute their expertise to the police force, provided they meet age and fitness criteria. The court further noted that the State’s rejection lacked legal grounding, as the petitioner’s voluntary retirement did not negate his eligibility under the rule.

The prolonged service of the petitioner, spanning over 26 years before retirement, and his continued receipt of a pension reinforced his suitability for reemployment consideration. Consequently, the court set aside the rejection order and directed the authorities to reconsider Prem Lal's application within two weeks, ensuring a fair and lawful evaluation in line with Rule 12.25. These ruling highlights the judiciary's role in upholding the rights of pensioners and ensuring administrative compliance with statutory provisions.

Read full guidelines:

https://www.livelaw.in/pdf_upload/prem-lal-622394.pdf

VOLUNTARILY FILED RETURNS CANNOT BE REVISED THROUGH ADDITIONAL EVIDENCE UNDER RULE 29 ITAT RULES: KERALA HIGH COURT

SRAVAN KUMAR NEELA V. ASSISTANT COMMISSIONER OF INCOME TAX

The Kerala High Court held that voluntarily filed returns cannot be revised through additional evidence under Rule 29 of the ITAT Rules (Income Tax (Appellate Tribunal) Rules, 1963). **Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963** permits the Tribunal to admit additional evidence for any substantial cause.

In this case, an amount was seized from the possession of three passengers. The custody of the entire amount was taken over by the officials. Later, Sravan Kumar Neela and Uma Maheswara Rao Chinni submitted letters declaring the entire cash seized from them as their income from other sources.

The returns were also filed accordingly, and the amounts returned by the respective assesseees were treated as unexplained income under Section 69A of the Income Tax Act, and tax under the provisions of Section 115BBE of the Act was demanded. The respective assesseees preferred appeals before the Commissioner of Income Tax (Appeals).

Sravan Kumar Neela filed some additional evidence in the form of financial/bank statements of a partnership firm, and the income tax returns of some of the family members to explain the source of the income. The first appellate authority did not accept the additional evidence adduced since that would, in effect, lead to the revision of his returned income, which could not be permitted.

Separate appeals were filed before the Income Tax Appellate

Tribunal, contending essentially that the source of the cash was properly explained and the provisions of Section 69A of the Act ought not to have been applied.

The Tribunal, by the impugned order, refused to act on the additional evidence produced as above, thereby dismissing the appeals. The assessee argued that such additional evidence could be produced before the Tribunal under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963.

The bench looked into Rule 29 of the ITAT Rules and observed that the Tribunal requires to accept such additional evidence only in a situation where the assessee was prevented from adducing such evidence by the assessing authority.

The bench stated that the Income Tax Appellate Tribunal can accept additional evidence filed before it. However, it is not as if such evidence once produced requires to be accepted by the Tribunal and acted upon.

The bench further opined that the additional evidence in the form of affidavits produced before the Tribunal is the result of an afterthought alone. The Tribunal is justified in refusing to act on the afore basis.

In view of the above, the bench dismissed the appeals.

[S.6 CGST ACT] J&K&L HIGH COURT UPHOLDS GST SHOW CAUSE NOTICES BASED ON INTELLIGENCE INPUTS

M/S R.K. SPAT LTD. & ORS. V. UNION OF INDIA & ORS., 2025

The Jammu & Kashmir and Ladakh High Court has held that intelligence-based enforcement actions can be initiated by either the Central or the State tax authorities, irrespective of taxpayer assignment, and such actions do not require a separate notification for cross-empowerment.

The court dismissed a batch of writ petitions filed by several companies challenging show cause notices issued under the Central Goods and Services Tax Act, 2017 (“CGST Act”) on the ground of lack of jurisdiction.

A Division Bench comprising **Justice Sanjeev Kumar and Justice Sanjay Parihar** held that show cause notices issued by the Joint Commissioner, CGST Commissionerate, Jammu, pursuant to intelligence inputs indicating large-scale fraudulent availment and utilisation of bogus Input Tax Credit (ITC) were legally sustainable.

Intelligence-Based Enforcement Action Is Valid

Rejecting the petitioners' arguments, the Court emphasised the Supreme Court's ruling in *M/s Armour Security India Pvt. Ltd.*, which clarified that intelligence-based enforcement actions — based on information about tax evasion from the value chain — can be initiated by either Central or State authorities.

The Bench quoted extensively from paragraphs 47–51 and 96 of the *Armour Security* judgment, which held that cross-empowerment under Section 6 of the CGST Act allows either authority to act on intelligence-based tax evasion cases.

“Intelligence-based enforcement action” refers to proceedings initiated based on actionable intelligence, not arising from routine audits or scrutiny, it said. The initiation of proceedings refers to the issuance of a show cause notice and not preliminary steps like search, seizure, or summons.

Findings and Conclusion

The Bench held that the challenge to jurisdiction was untenable as the power to initiate intelligence-based action is not restricted by taxpayer assignment. It also clarified that the bunching of multiple assessment years in a single notice was not inherently illegal when based on common intelligence inputs.

“For all these reasons, we find no merit in these petitions and the same are, accordingly, dismissed,” the Court concluded, while clarifying that observations beyond the interpretation of Section 6 were *prima facie* and would not prejudice the petitioners before the adjudicating authority.

'PROLONGED PRE-TRIAL DETENTION ANATHEMA TO LIBERTY': MP HIGH COURT GRANTS BAIL TO RAPE ACCUSED WHERE VICTIM TURNED HOSTILE

X V STATE (MCRC-42422-2025)

While granting bail to a man accused of rape, the Madhya Pradesh High Court remarked that prolonged pre-trial detention is an anathema to liberty after noting that the trial was not likely to conclude in the near future and that the prosecutrix had turned hostile. **Justice Milind Ramesh Phadke** observed:

"Considering the overall facts and circumstances of the case, nature of allegations and looking to the Court statement of the prosecutrix as she turned hostile and not supported the case of the prosecution, coupled with the fact that the trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant".

The applicant had approached the High Court seeking bail for the offences punishable under kidnapping (Section 363), Kidnapping, abducting or inducing a woman to compel her marriage (Section 366), and rape (Section 376) of the IPC and Sections 3 and 4 of the POCSO Act.

The counsel for applicant contended that he was falsely accused in the case and that the prosecutrix had left her house with her own will. It was further submitted that she had turned hostile and did not

support the case. It was argued that the applicant was a first offender with no prior criminal antecedents.

Noting that trial will take time the court directed, "*that the applicant be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the concerned Court*".

This order will remain operative subject to compliance of the following conditions by the applicant: -

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case maybe;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit any other offence during pendency of the trial, failing which this bail order shall stand cancelled automatically, without further reference to the Bench;
5. The applicant will not seek unnecessary adjournments during the trial and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be. Certified copy as per rules.

BANK'S FAILURE TO DISCLOSE ENCUMBRANCES OF PROPERTY IN AUCTION NOTICE INVALIDATES SALE: SUPREME COURT ORDERS REFUND TO AUCTION PURCHASER

DELHI DEVELOPMENT AUTHORITY Versus CORPORATION BANK & ORS

This appeal before the Supreme Court arose from an order of the Delhi High Court dated 11 August 2014, which dismissed the Delhi Development Authority's (DDA) writ petition challenging the auction sale of a leasehold property mortgaged without its permission.

The case involved the DDA, Corporation Bank, Sarita Vihar Club, and an innocent auction purchaser. At the heart of the matter was whether the mortgage and subsequent auction were valid when the lease deed expressly required the DDA's prior written consent.

In 2001, DDA allotted a plot in Jasola to Sarita Vihar Club for construction of a sports and recreational facility on leasehold basis. The allotment terms and subsequent lease deed (executed in 2005) required the prior written consent of the Lieutenant Governor of Delhi before any mortgage could be created.

Despite this, the Club mortgaged the plot to Corporation Bank to secure a loan. The Bank disbursed the loan and deposited the lease deed with it. DDA alleged that this was done without its written permission.

The Club defaulted on repayment. Corporation Bank approached the Debt Recovery Tribunal (DRT) under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Recovery proceedings culminated in an e-auction in November 2012, where M/s Jay Bharat Commercial Enterprises Pvt. Ltd. emerged as the highest bidder.

A sale certificate was issued in its favour, and possession was delivered. DDA objected, claiming that the mortgage was void and that its statutory rights—including recovery of “unearned increase” and pre-emptive rights—were ignored. However, its objections before the Recovery Officer and appeals before DRT were dismissed. The High Court, treating the matter as barred by principles of res judicata, dismissed DDA’s writ petition.

Submissions

- DDA: Argued that no valid mortgage could exist without prior written consent of the Lieutenant Governor. The Bank acted illegally in advancing money and auctioning property it never lawfully possessed. DDA’s statutory right to unearned increase and its pre-emptive purchase rights were overlooked. The e-auction was void ab initio.
- Bank: Contended that DDA had knowledge of the mortgage and remained silent for nearly six years. The Bank argued estoppel, asserting that DDA could have exercised its pre-emptive rights at auction. It emphasized that the mortgage and auction were done transparently.
- Auction Purchaser: Submitted that the auction violated mandatory provisions of the Income Tax Act’s Second Schedule and

Rules of 1962, applicable through Section 29 of the 1993 Act. Crucially, the sale proclamation failed to disclose DDA's encumbrances. As an innocent purchaser, it should not be saddled with DDA's claims. If the auction was illegal, it was entitled to restitution of its deposit with interest.

The Court examined statutory provisions, especially Rule 53 of the Second Schedule to the Income Tax Act, which requires the proclamation of sale to fairly disclose all encumbrances. It held that the Recovery Officer violated this mandate by issuing the auction notice without recording DDA's claims for unearned increase. Moreover, the Bank suppressed lease conditions despite undertaking before the High Court that auction would conform to them. Hence, the auction notice (27 September 2012), confirmation of sale (8 July 2013), and sale certificate (12 July 2013) were all invalid.

On res judicata, the Court clarified that DDA's earlier writ petition in 2012 was withdrawn based on the Bank's undertaking. Since the auction was conducted in breach of that undertaking, DDA had a fresh cause of action. Thus, the High Court erred in applying principles analogous to Section 11 CPC.

The Court strongly invoked the doctrine of restitution. Among all actors, the auction purchaser alone was innocent, having acted in good faith. Since the Bank attempted to auction property it never lawfully held, it must bear consequences. Restitution required refunding the purchaser's money with interest.

Allowing the appeal, the Supreme Court:

1. Quashed the Delhi High Court order dated 11.08.2014.
2. Set aside the e-auction notice (27.09.2012), the auction sale (09.11.2012), the confirmation of sale (08.07.2013), and the sale certificate (12.07.2013).
3. Directed Corporation Bank to refund the auction purchaser's deposit with 9% interest per annum from the date of deposit until repayment.

The judgment reinforces that leasehold conditions must be strictly respected, statutory authorities' rights cannot be bypassed, and innocent auction purchasers must be protected through restitution

Read full guidelines:

https://www.livelaw.in/pdf_upload/3481620142025-09-25-622743.pdf

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