

MONTHLY LITIGATION NEWSLETTER

MAY 2024

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates on latest verdicts from the Supreme Court of India and various High Courts.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

OUR LITIGATION TEAM

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PART A: COURT RULINGS

Issue 1: Whether mother-in-law objecting to certain household works of her daughter-in-law, would fall within the category of "Cruelty" as defined under Section 498-A of IPC or not?

Ruling: The Madhya Pradesh High Court, after considering the totality of the facts and circumstances of the case, held that even if the entire allegations made in the FIR are accepted on face value, no offence of "cruelty" under Sections 498-A, 506/34 of IPC read with Section 3/ 4 of Dowry Prohibition Act would be established. Consequently, FIR was quashed.

Alka Sharma Vs. State of Madhya Pradesh and Another, Misc. Criminal Case No. 30092 of 2022

Lexport Comment: The ruling is correct and is first judgment on the issue. This will bring relief to many families facing dispute of cruelty on frivolous domestic differences and matters.

Issue 2: Whether the State can take benefit from its own wrong. Allowing an employee to serve continuously for 30 years and then claiming he/she is ineligible for pension is reasonable or not.

Ruling: The Supreme Court affirmed the judgement of the Uttarakhand High Court holding that the State cannot take benefit from its own wrong. The High Court held that an employee having been allowed to serve continuously for 30 years cannot be denied pension. The State Government's appeal was held to be complete abuse of the legal process and a cost of Rs, 50,000/- was imposed on it.

State of Uttarakhand and Ors. Vs. Prakash Chandra Harbola and Ors., Special Appeal No.153 of 2022

***Lexport Comment:** The ruling is correct and reaffirms earlier precedents on the issue that the State cannot take benefit from its own wrong.*

Issue 3: The extent of the court's power under Section 11 to decide on the arbitrability of the dispute.

Ruling: The ruling reaffirmed the principle that the primary authority to decide on arbitrability lies with the arbitrator, and the court's intervention at the pre-reference stage is limited. The case underscores the supportive role of courts in arbitration, emphasizing minimal interference in favor of upholding arbitration agreements when they are prima facie valid.

Prince Chadha Vs. Amardeep Singh, ARB. P. 1361 of 2022

***Lexport Comment:** The ruling confirms the proposition that there is very limited scope for court intervention under Section 11 and affirms the arbitrator's authority to determine arbitrability.*

Issue 4: Whether the Public Authority can refuse to provide information under the RTI Act or not.

Ruling: The High Court held that the object of the RTI Act is to ensure transparency in the functioning of the Departments, and this objective cannot be thwarted by the State Government on the ground that voluminous information is being sought and therefore cannot be provided. The Government also cannot deny information on the basis that it will take time to collect the information.

Govt. Of NCT OF Delhi and Anr. v. MR Prabhjot Singh Dhillon, W.P.(C) 6034 of 2024

***Lexport Comment:** The judgment reaffirms the principle that the government departments are duty bound to share information under RTI Act and they cannot make excuses for avoiding the same.*

ISSUE 5: Whether a advocates are covered under Consumer Protection Act, 2019.

Ruling: The Supreme Court held that the primary purpose and objective of the Consumer Protection Act is to protect consumers from unfair trade practices and unethical business practices.

The Legislature never intended to include either professions or the services rendered by professionals within the purview of the said Act. The legal profession is sui generis, i.e., unique in nature and cannot be compared with any other profession.

A service hired or availed from an advocate is considered a service under "a contract of personal service," and therefore falls within the exclusionary part of the definition of "service" contained in Section 2(42) of the Consumer Protection Act. Consequently, a complaint alleging "deficiency in service" against advocates practicing the legal profession would not be maintainable.

Bar of Indian Lawyers Through Its President Jasbir Singh Malik Vs. D.K. Gandhi PS National Institute of Communicable Diseases and Anr., Civil Appeal No. 2646 Of 2009

***Lexport Comment:** In every contested legal case, one party wins and the other loses. This ruling will save a number of lawyers from unnecessary consumer cases when the judgments go against their clients.*

Issue 6: Whether the misrepresentation or attempt to mislead the court was a central issue directly impacting the administration of justice?

Ruling: The Supreme Court dismissed Kusha Duruka's appeal for bail, citing his failure to fully disclose material facts and his attempt to mislead the court. The court underscored the importance of honesty and integrity in legal proceedings and penalized the appellant with costs of ₹1,00,000.

The judgment also reinforced the principle that any action aimed at deceiving the court or interfering with the judicial process is considered contempt of court. The court referenced previous cases where similar actions had been penalized to uphold the sanctity of the judicial process.

This ruling reiterates the judiciary's stance on maintaining the purity of the judicial process and emphasizes the critical role of advocates in upholding justice by providing truthful and complete information..

Kusha Duruka vs State of Odisha on 19 January, 2024

Lexport Comment: This ruling underscores the fact that it is necessary to fully disclose facts before the court. That honesty from litigants and advocates is required to maintain the sanctity of judicial process.

PART B: Article

1. Legality of “The Fugitive Economic Offenders Act, 2018” in light of the already existing “Extradition Act, 1962”

In this Article our **Partner, Mr. Rohan Garg** examines the Fugitive Economic Offenders Act, 2018 (the FEO Act) in light of the national and international jurisprudence. The FEO Act was promulgated with the main objective of ensuring that offenders return to India to face prosecution.

Click on the below link to read the article:

<https://rb.gy/q3mejz>

END OF THE NEWSLETTER
