



# COURT NEWS

Vol. XIII Issue No. 4

October - December, 2018



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Hon'ble Mr. Justice Ashok Bhushan, Judge, Supreme Court of India  
Hon'ble Mr. Justice Sanjay Kishan Kaul, Judge, Supreme Court of India  
Hon'ble Mr. Justice K.M. Joseph, Judge, Supreme Court of India

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# LIST OF SUPREME COURT JUDGES

## (As on 31-12-2018)

S.No.	Name of the Hon'ble Judge	Date of Appointment	Date of Retirement
01.	Hon'ble Shri Ranjan Gogoi, Chief Justice of India	23-04-2012 As CJI: 03-10-2018	18-11-2019
02.	Hon'ble Mr. Justice A.K. Sikri	12-04-2013	07-03-2019
03.	Hon'ble Mr. Justice Sharad Arvind Bobde	12-04-2013	24-04-2021
04.	Hon'ble Mr. Justice N.V. Ramana	17-02-2014	27-08-2022
05.	Hon'ble Mr. Justice Arun Mishra	07-07-2014	03-09-2020
06.	Hon'ble Mr. Justice R.F. Nariman	07-07-2014	13-08-2021
07.	Hon'ble Mr. Justice Abhay Manohar Sapre	13-08-2014	28-08-2019
08.	Hon'ble Mrs. Justice R. Banumathi	13-08-2014	20-07-2020
09.	Hon'ble Mr. Justice Uday Umesh Lalit	13-08-2014	09-11-2022
10.	Hon'ble Mr. Justice A.M. Khanwilkar	13-05-2016	30-07-2022
11.	Hon'ble Dr. Justice D.Y. Chandrachud	13-05-2016	11-11-2024
12.	Hon'ble Mr. Justice Ashok Bhushan	13-05-2016	05-07-2021
13.	Hon'ble Mr. Justice L. Nageswara Rao	13-05-2016	08-06-2022
14.	Hon'ble Mr. Justice Sanjay Kishan Kaul	17-02-2017	26-12-2023
15.	Hon'ble Mr. Justice Mohan M. Shantanagoudar	17-02-2017	05-05-2023
16.	Hon'ble Mr. Justice S. Abdul Nazeer	17-02-2017	05-01-2023
17.	Hon'ble Mr. Justice Navin Sinha	17-02-2017	19-08-2021
18.	Hon'ble Mr. Justice Deepak Gupta	17-02-2017	07-05-2020
19.	Hon'ble Ms. Justice Indu Malhotra	27-04-2018	14-03-2021
20.	Hon'ble Ms. Justice Indira Banerjee	07-08-2018	24-09-2022
21.	Hon'ble Mr. Justice Vineet Saran	07-08-2018	11-05-2022
22.	Hon'ble Mr. Justice K.M. Joseph	07-08-2018	17-06-2023
23.	Hon'ble Mr. Justice Hemant Gupta	02-11-2018	17-10-2022
24.	Hon'ble Mr. Justice R. Subhash Reddy	02-11-2018	05-01-2022
25.	Hon'ble Mr. Justice M.R. Shah	02-11-2018	16-05-2023
26.	Hon'ble Mr. Justice Ajay Rastogi	02-11-2018	18-06-2023

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*This newsletter is intended to provide public access to information on the activities and achievements of the Indian Judiciary in general. While every care has been taken to ensure accuracy and to avoid errors/omissions, information given in the newsletter is merely for reference and must not be taken as having the authority of, or being binding in any way on, the Editorial Board of the newsletter and the officials involved in compilation thereof, who do not owe any responsibility whatsoever for any loss, damage, or distress to any person, whether or not a user of this publication, on account of any action taken or not taken on the basis of the information given in this newsletter.*

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**APPOINTMENTS AND RETIREMENTS IN THE  
SUPREME COURT OF INDIA  
(FROM 01-10-2018 TO 31-12-2018)**

**APPOINTMENTS**

<b>S.No.</b>	<b>Name of the Hon'ble Judge</b>	<b>Date of Appointment</b>
1	Hon'ble Mr. Justice Hemant Gupta	02-11-2018
2	Hon'ble Mr. Justice R. Subhash Reddy	02-11-2018
3	Hon'ble Mr. Justice M.R. Shah	02-11-2018
4	Hon'ble Mr. Justice Ajay Rastogi	02-11-2018

**RETIREMENTS**

<b>S.No.</b>	<b>Name of the Hon'ble Judge</b>	<b>Date of Retirement</b>
1	Hon'ble Shri Dipak Misra, Chief Justice of India	03-10-2018
2	Hon'ble Mr. Justice Kurian Joseph	30-11-2018
3	Hon'ble Mr. Justice Madan B. Lokur	31-12-2018

## APPOINTMENTS IN THE HIGH COURTS (FROM 01-10-2018 TO 31-12-2018)

S.No.	Name of High Court	Name of Hon'ble Judge	Date of Appointment
1	Himachal Pradesh	Surya Kant (As Chief Justice)	05-10-18
2	Bombay	S.M. Modak	11-10-18
		Jamadar N. Jahiroddin	11-10-18
		Vinay G. Joshi	11-10-18
		Avachat R.Govind	11-10-18
3	Calcutta	Bibek Chaudhuri	12-10-18
		Madhumati Mitra	12-10-18
		Subhasis Dasgupta	12-10-18
4	Delhi	Jyoti Singh	22-10-18
		Prateek Jalan	22-10-18
		Anup Jairam Bhambhani	22-10-18
		Sanjeev Narula	22-10-18
5	Gujarat	Umesh Amritlal Trivedi	22-10-18
		Ajaykumar Chandulal Rao	22-10-18
		V.B. Mayani	22-10-18
		Dr. Ashutosh P.Thaker	22-10-18
6	Bombay	N.H. Patil (As Chief Justice)	29-10-18
7	Gauhati	A.S. Bopanna (As Chief Justice)	29-10-18
8	Punjab & Haryana	Manjari Nehru Kaul	29-10-18
		Harsimran Singh Sethi	29-10-18
		Arun Kumar Monga	29-10-18
		Manoj Bajaj	29-10-18
9	Calcutta	D.K. Gupta (As Chief Justice)	30-10-18
10	Sikkim	V.K. Bist (As Chief Justice)	30-10-18
11	Uttarakhand	Ramesh Ranganathan (As Chief Justice)	02-11-18
12	Karnataka	Ashok G. Nijagannavar	03-11-18
		H.P. Sandesh	03-11-18
		Krishnan Natarajan	03-11-18
		P.G. Mutalik Patil	03-11-18
		A.S. Bellunke	03-11-18
13	Kerala	V.G. Arun	05-11-18
		N.Nagaresh	05-11-18
		T.V. Anilkumar	05-11-18
		N.Anil Kumar	05-11-18
14	Madhya Pradesh	S.K. Seth (As Chief Justice)	14-11-18
15	Allahabad	Govind Mathur (As Chief Justice)	14-11-18
16	Tripura	Sanjay Karol (As Chief Justice)	14-11-18
17	Punjab & Haryana	Lalit Batra	16-11-18
		Arun Kumar Tyagi	16-11-18
18	Patna	A.P. Sahi (As Chief Justice)	17-11-18

19	Calcutta	Suvra Ghosh	19-11-18
20	Madhya Pradesh	Vishnu Pratap Singh Chauhan	19-11-18
		Rajeev Kumar Shrivastava	19-11-18
		Shailendra Shukla	19-11-18
21	Gauhati	Sanjay Kumar Medhi	19-11-18
		Nani Tagia	19-11-18
22	Orissa	Dr. Akshaya Kumar Mishra	19-11-18
23	Meghalaya	Hamarsan Singh Thagkhiew	19-11-18
24	Delhi	Manoj Kumar Ohri	20-11-18
25	Madras	B. Pugalendhi	20-11-18
26	Allahabad	Prakash Padia	22-11-18
		Alok Mathur	22-11-18
		Pankaj Bhatia	22-11-18
		Saurabh Lavania	22-11-18
		Vivek Varma	22-11-18
		Sanjay Kumar Singh	22-11-18
		Piyush Agrawal	22-11-18
		Saurabh Shyam Shamsbery	22-11-18
		Jaspreet Singh	22-11-18
		Rajeev Singh	22-11-18
		Manju Rani Chauhan	22-11-18
		Karunesh Singh Pawar	22-11-18
		Dr. Yogendra Kumar Srivastava	22-11-18
		Manish Mathur	22-11-18
		Rohit Ranjan Agarwal	22-11-18
		Ram Krishna Gautam	22-11-18
		Umesh Kumar	22-11-18
		Pradeep Kumar Srivastava	22-11-18
		Anil Kumar-IX	22-11-18
		Rajendra Kumar-IV	22-11-18
		Mohd. Faiz Alam Khan	22-11-18
Vikas Kunvar Srivastav	22-11-18		
Virendra Kumar Srivastava	22-11-18		
Suresh Kumar Gupta	22-11-18		
Sushri Ghandikota Sri Devi	22-11-18		
Narendra Kumar Johari	22-11-18		
Raj Beer Singh	22-11-18		
Ajit Singh	22-11-18		
27	Punjab & Haryana	Harnaresh Singh Gill	03-12-18
28	Uttarakhand	N.S. Dhanik	03-12-18
		R.C. Khulbe	03-12-18
		Ravindra Maithani	03-12-18

## TRANSFERS BETWEEN THE HIGH COURTS (FROM 01-10-2018 TO 31-12-2018)

S. No.	From (Name of concerned High Court)	To (Name of concerned High Court)	Name of the Hon'ble Judge	Date of Transfer
1	Chhattisgarh	Allahabad	Pritinker Diwaker	03-10-18
2	Gauhati	Manipur	L.Jamir	09-10-18
3	Manipur	Gauhati	N.Kotiswar Singh	11-10-18
4	Telangana & Andhra Pradesh	Delhi	Suresh Kumar Kait	12-10-18
5	Uttarakhand	Punjab & Haryana	Rajeev Sharma	13-11-18
6	Gujarat	Bombay	A.A. Kureshi	14-11-18
7	Orissa	Bombay	Indrajit Mahanty	14-11-18
8	Madras	Madhya Pradesh	Huluvadi G. Ramesh	15-11-18
9	Punjab & Haryana	Karnataka	Pavankumar B. Bajanthri	17-11-18
10	Jammu & Kashmir	Karnataka	Alok Aradhe	17-11-18
11	Madras	Orissa	Satrugana Pujahari	19-11-18
12	Punjab & Haryana	Jammu & Kashmir	Rajesh Bindal	19-11-18
13	Rajasthan	Punjab & Haryana	Nirmaljit Kaur	20-11-18
14	Patna	Punjab & Haryana	Dr. Ravi Ranjan	20-11-18
15	Karnataka	Telangana & Andhra Pradesh	R.S. Chauhan	22-11-18
16	Orissa	Jharkhand	Sujit Narayan Prasad	22-11-18
17	Karnataka	Madras	Vineet Kothari	23-11-18

## VACANCIES IN THE COURTS

### A) SUPREME COURT OF INDIA (As on 31-12-2018)

Sanctioned Strength	Working strength	Vacancies
31	26	05

### B) HIGH COURTS (As on 31-12-2018)

S.No.	Name of the High Court	Sanctioned Strength	Working Strength	Vacancies
1	Allahabad	160	109	51
2	Hyderabad (Andhra Pradesh & Telangana)	61	27	34
3	Bombay	94	71	23
4	Calcutta	72	37	35
5	Chhattisgarh	22	15	7
6	Delhi	60	39	21
7	Gujarat	52	27	25
8	Gauhati	24	19	5
9	Himachal Pradesh	13	8	5
10	Jammu & Kashmir	17	10	7
11	Jharkhand	25	19	6
12	Karnataka	62	33	29
13	Kerala	47	38	9
14	Madhya Pradesh	53	35	18
15	Madras	75	61	14
16	Manipur	5	3	2
17	Meghalaya	4	3	1
18	Orissa	27	14	13
19	Patna	53	28	25
20	Punjab & Haryana	85	54	31
21	Rajasthan	50	25	25
22	Sikkim	3	3	0
23	Tripura	4	3	1
24	Uttarakhand	11	9	2
<b>Total</b>		<b>1079</b>	<b>690</b>	<b>389</b>

\* Above statement is compiled on the basis of figures received from the High Courts.



**C) DISTRICT & SUBORDINATE COURTS (As on 31-12-2018)**

S.No.	State/ Union Territory	Sanctioned Strength	Working Strength	Vacancies
1	Uttar Pradesh	3225	2017	1208
2	Andhra Pradesh & Telangana	987	902	85
3(a)	Maharashtra	2298	2228	70
3(b)	Goa	57	49	8
3(c)	Diu and Daman	4	3	1
3(d)	Silvasa	3	3	0
4	West Bengal and Andaman & Nicobar	1013	955	58
5	Chhattisgarh	452	394	58
6	Delhi	799	541	258
7	Gujarat	1506	1146	360
8(a)	Assam	430	346	84
8(b)	Nagaland	33	26	7
8(c)	Mizoram	64	46	18
8(d)	Arunachal Pradesh	32	26	6
9	Himachal Pradesh	164	149	15
10	Jammu & Kashmir	310	235	75
11	Jharkhand	676	458	218
12	Karnataka	1307	1105	202
13(a)	Kerala	535	466	69
13(b)	Lakshadweep	3	3	0
14	Madhya Pradesh	1872	1430	442
15	Manipur	55	40	15
16	Meghalaya	97	39	58
17(a)	Tamil Nadu	1159	896	263
17(b)	Puducherry	26	12	14
18	Odisha	912	748	164
19	Bihar	1845	1214	631
20(a)	Punjab	675	527	148
20(b)	Haryana	658	485	173
20(c)	Chandigarh	30	30	0
21	Rajasthan	1337	1101	236
22	Sikkim	23	19	4
23	Tripura	119	85	34
24	Uttarakhand	293	230	63
<b>TOTAL</b>		<b>22999</b>	<b>17954</b>	<b>5045</b>

\* Above statement is compiled on the basis of figures received from the High Courts.

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES IN THE SUPREME COURT [01-10-2018 to 31-12-2018]

i) Table I

						Pendency (At the end of 30-09-2018)		
						Admission matters	Regular matters	Total matters
						35,382	20,564	55,946
Institution (01-10-2018 to 31-12-2018)			Disposal (01-10-2018 to 31-12-2018)			Pendency (At the end of 31-12-2018)		
Admission matters	Regular matters	Total matters	Admission matters	Regular matters	Total matters	Admission matters	Regular matters	Total matters
7,994	1,390	9,384	6,929	1,055	7,984	36,447	20,899	57,346

ii) Table II

	OPENING BALANCE AS ON 01-10-18	INSTITUTION FROM 01-10-18 TO 31-12-18	DISPOSAL FROM 01-10-18 TO 31-12-18	PENDENCY AT THE END OF 31-12-18
<b>CIVIL CASES</b>	46,353	5,932	5,595	46,690
<b>CRIMINAL CASES</b>	9,593	3,452	2,389	10,656
<b>ALL CASES (TOTAL)</b>	55,946	9,384	7,984	57,346

**Note:**

*Out of the 57,346 pending matters as on 31-12-2018, 13,021 matters are upto one year old and thus arrears (i.e. cases pending more than a year) are only of 44,325 matters as on 31-12-2018.*

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES IN THE HIGH COURTS (FROM 01-10-2018 TO 31-12-2018)

Srl. No.	Name of the High Court	Cases brought forward from the previous Quarter (Civil/Crl.) (Nos.) As on 1/10/2018			Freshly instituted Cases during the Fourth Quarter (Oct-Dec 2018) Nos. (Civil/Crl.)			Disposed of Cases during the Fourth quarter (Civil/Crl.) (Oct-Dec 2018) Nos. (Civil/Crl.)			Pending Cases at the end of the Fourth Quarter (Oct-Dec 2018) Nos. (Civil/Crl.) (As on 31/12/2018)			% of Institution of Cases w.r.t Opening Balance as on 1/10/18	% of Disposal of Cases w.r.t Opening Balance as on 1/10/18	% Increase or Decrease in Pendency w.r.t Opening Balance as on 1/10/18
		CIVIL	CRL.	Civ + Crl.	CIVIL	CRL.	Civ + Crl.	CIVIL	CRL.	Civ + Crl.	CIVIL	CRL.	Civ + Crl.			
1	Allahabad	534654	393280	927934	37002	45957	82959	33005	38413	71418	538651	400824	939475	8.94	7.70	1.24
2	Hyderabad (A.P & Telangana)	300777	49798	350575	19342	5439	24781	16854	3669	20523	303265	51568	354833	7.07	5.85	1.21
3	Bombay	228251	57095	285346	18266	7450	25716	17307	5891	23198	229210	58654	287864	9.01	8.13	0.88
4	Calcutta	187025	41666	228691	12260	4054	16314	8507	4922	13429	190778	40798	231576	7.13	5.87	1.26
5	Chhattisgarh	38348	25278	63626	5100	4415	9515	5018	4549	9567	38430	25144	63574	14.95	15.04	-0.08
6	Delhi	53499	20219	73718	7634	4270	11904	6843	4243	11086	54290	20246	74536	16.15	15.04	1.11
7	Gujarat*	75537	36481	112018	8465	10399	18864	7107	8840	15947	76895	38040	114935	16.84	14.24	2.60
8	Gauhati*	26570	6017	32587	3164	672	3836	2508	470	2978	27226	6219	33445	11.77	9.14	2.63
9	Himachal Pradesh	29798	6450	36248	5717	1468	7185	5695	1561	7256	29820	6357	36177	19.82	20.02	-0.20
10	Jammu & Kashmir	56472	6101	62573	4064	738	4802	2615	718	3333	57921	6121	64042	7.67	5.33	2.35
11	Jharkhand	43942	44182	88124	3089	6641	9730	3224	5698	8922	43807	45125	88932	11.04	10.12	0.92
12	Karnataka	318124	33368	351492	28704	4576	33280	23365	3803	27168	323463	34141	357604	9.47	7.73	1.74
13	Kerala	149168	43313	192481	17441	6676	24117	16750	7094	23844	149859	42895	192754	12.53	12.39	0.14
14	Madhya Pradesh	203341	123255	326596	14393	17117	31510	11537	15181	26718	206197	125191	331388	9.65	8.18	1.47
15	Madras	261704	33796	295500	21321	15036	36357	21728	17125	38853	261297	31707	293004	12.30	13.15	-0.84
16	Manipur	3429	176	3605	479	29	508	1016	35	1051	2892	170	3062	14.09	29.15	-15.06
17	Meghalaya	741	22	763	278	41	319	276	24	300	743	39	782	41.81	39.32	2.49
18	Orissa*	124534	47111	171645	6293	5866	12159	6723	9172	15895	124104	43805	167909	7.08	9.26	-2.18
19	Patna*	85519	63044	148563	8288	22801	31089	7138	19028	26166	86669	66817	153486	20.93	17.61	3.31
20	Punjab & Haryana	231426	104134	335560	17907	17575	35482	17544	16267	33811	231789	105442	337231	10.57	10.08	0.50
21	Rajasthan	206040	70684	276724	15404	14024	29428	8501	12639	21140	212943	72069	285012	10.63	7.64	3.00
22	Sikkim	163	72	235	34	16	50	22	11	33	175	77	252	21.28	14.04	7.23
23	Tripura	2509	443	2952	484	176	660	463	172	635	2530	447	2977	22.36	21.51	0.85
24	Uttarakhand	21407	11878	33285	3411	2109	5520	3474	1282	4756	21344	12705	34049	16.58	14.29	2.30
	<b>TOTAL</b>	<b>3182978</b>	<b>1217863</b>	<b>4400841</b>	<b>258540</b>	<b>197545</b>	<b>456085</b>	<b>227220</b>	<b>180807</b>	<b>408027</b>	<b>3214298</b>	<b>1234601</b>	<b>4448899</b>	<b>10.36</b>	<b>9.27</b>	<b>1.09</b>

Above statement is compiled on the basis of figures received from the High Courts

\*Opening balance figures modified by the High Court concerned.

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES IN THE DISTRICT & SUBORDINATE COURTS (FROM 01-10-2018 TO 31-12-2018)

Srl. No	Name of the State/UT	Cases brought forward from the previous Quarter (Civil/Crl.) (Nos.) As on 1/10/2018			Freshly instituted Cases during the Fourth Quarter (Oct-Dec 2018) Nos. (Civil/Crl.)			Disposed of Cases during the Fourth quarter (Civil/Crl.) (Oct-Dec 2018) Nos. (Civil/Crl.)			Pending Cases at the end of the Fourth Quarter (Oct-Dec 2018) Nos. (Civil/Crl.) (As on 31/12/2018)			% of Institution of Cases w.r.t Opening Balance as on 01/10/2018	% of Disposal of Cases w.r.t Opening Balance as on 01/10/2018	% Increase or Decrease in Pendency w.r.t Opening Balance as on 01/10/2018
		CIVIL	CRL.	(Civ+Crl.)	CIVIL	CRL.	(Civ+Crl.)	CIVIL	CRL.	(Civ+Crl.)	CIVIL	CRL.	(Civ+Crl.)			
1	Uttar Pradesh	1638369	5182298	6820667	135585	704294	839879	117010	556119	673129	1656944	5330473	6987417	12.31	9.87	2.44
2	Andhra Pradesh & Telangana	524725	535181	1059906	73452	120937	194389	68750	117145	185895	529427	538973	1068400	18.34	17.54	0.80
3(a)	Maharashtra	1176410	2305059	3481469	108472	514676	623148	99296	473896	573192	1185586	2345839	3531425	17.90	16.46	1.43
3(b)	Goa	21554	20201	41755	2408	7355	9763	2463	6272	8735	21499	21284	42783	23.38	20.92	2.46
3(c)	Diu and Daman	1091	924	2015	172	583	755	166	465	631	1097	1042	2139	37.47	31.32	6.15
3(d)	Silvassa	1391	1930	3321	252	407	659	169	482	651	1474	1855	3329	19.84	19.60	0.24
4(a)	West Bengal	487928	1436997	1924925	30336	139500	169836	25243	119026	144269	493021	1457471	1950492	8.82	7.49	1.33
4(b)	Andaman & Nicobar	3770	6580	10350	237	1292	1529	238	1412	1650	3769	6460	10229	14.77	15.94	-1.17
5	Chhattisgarh	56725	206437	263162	7557	55793	63350	8358	50725	59083	55924	211505	267429	24.07	22.45	1.62
6	Delhi*	188607	639942	828549	33220	180972	214192	34048	173903	207951	187733	647080	834813	25.85	25.10	0.76
7	Gujarat	422099	988967	1411066	45011	253656	298667	55364	275691	331055	411746	966932	1378678	21.17	23.46	-2.30
8(a)	Assam*	68546	227648	296194	9268	59608	68876	9821	63289	73110	67993	223967	291960	23.25	24.68	-1.43
8(b)	Nagaland*	2296	2556	4852	260	654	914	177	595	772	2379	2615	4994	18.84	15.91	2.93
8(c)	Mizoram	3292	3400	6692	1092	1704	2796	1363	1971	3334	3021	3133	6154	41.78	49.82	-8.04
8(d)	Arunachal Pradesh*	1978	7906	9884	360	1118	1478	417	1293	1710	1921	7731	9652	14.95	17.30	-2.35
9	Himachal Pradesh	113909	133211	247120	19709	75364	95073	17349	68204	85553	116269	140371	256640	38.47	34.62	3.85
10	Jammu & Kashmir	54581	110347	164928	8719	25992	34711	7335	28784	36119	55965	107555	163520	21.05	21.90	-0.85
11	Jharkhand	61168	264801	325969	4756	36205	40961	3933	32390	36323	61991	268616	330607	12.57	11.14	1.42
12	Karnataka	723800	765642	1489442	78829	212046	290875	76116	209593	285709	726513	768095	1494608	19.53	19.18	0.35
13(a)	Kerala	417102	1230903	1648005	65842	206788	272630	61586	206540	268126	421358	1231151	1652509	16.54	16.27	0.27
13(b)	Lakshadweep	136	217	353	3	28	31	6	14	20	133	231	364	8.78	5.67	3.12
14	Madhya Pradesh	309115	1004800	1313915	63174	324393	387567	63142	283738	346880	309147	1045455	1354602	29.50	26.40	3.10
15	Manipur	3723	2837	6560	488	421	909	794	459	1253	3417	2799	6216	13.86	19.10	-5.24
16	Meghalaya	3186	10454	13640	295	1155	1450	324	1182	1506	3157	10427	13584	10.63	11.04	-0.41
17(a)	Tamil Nadu	613029	461113	1074142	84474	159740	244214	81324	152746	234070	616179	468107	1084286	22.74	21.79	0.94
17(b)	Puducherry	12684	14490	27174	2171	1208	3379	2222	1170	3392	12633	14528	27161	12.43	12.48	-0.05
18	Odisha*	303208	979376	1282584	16265	75416	91681	11738	41635	53373	305652	1011465	1317117	7.15	4.16	2.69
19	Bihar*	360334	1940894	2301228	18842	119503	138345	14341	68578	82919	366915	2135289	2502204	6.01	3.60	8.73
20(a)	Punjab	257317	341836	599153	54528	126551	181079	55066	123152	178218	256779	345235	602014	30.22	29.74	0.48
20(b)	Haryana	275558	420030	695588	41406	136135	177541	38991	106041	145032	277973	450124	728097	25.52	20.85	4.67
20(c)	Chandigarh	16846	33179	50025	2885	42393	45278	2528	36418	38946	17203	39154	56357	90.51	77.85	12.66
21	Rajasthan	464193	1200664	1664857	55316	320761	376077	49767	258859	308626	469742	1262566	1732308	22.59	18.54	4.05
22	Sikkim	439	868	1307	128	360	488	180	407	587	387	821	1208	37.34	44.91	-7.57
23	Tripura*	9061	67938	76999	1333	14919	16252	1423	33567	34990	8971	49290	58261	21.11	45.44	-24.34
24	Uttarakhand	34305	206812	241117	6355	58415	64770	6622	66927	73549	34038	198300	232338	26.86	30.50	-3.64
	TOTAL	8632475	20756438	29388913	973200	3980342	4953542	917670	3562688	4480358	8687956	21315939	30003895	16.86	15.25	2.09

Above statement is compiled on the basis of figures received from the High Courts

\*Opening balance figures modified by the High Court concerned.

## **SOME SUPREME COURT JUDGMENTS / ORDERS OF PUBLIC IMPORTANCE (01-10-2018 TO 31-12-2018)**

1. On 1<sup>st</sup> October, 2018, in the case of *Kodungallur Film Society & Anr. v. Union of India & Ors.* [Writ Petition (Civil) No.330 of 2018], the issue pertaining to “rise in the protests and demonstrations by private entities targeting, amongst others, exhibition of films and social functions and including sections of people, on moral grounds, in particular, using threats and actual violence”, came up for consideration. A three Judge Bench observed that “in addition to being patently illegal and unlawful, such acts of violence highlight a deeper malaise, one of intolerance towards others’ views which then results in attempts to suppress alternate view points, artistic integrity and the freedom of speech and expression guaranteed by the Constitution of India.”

It was held that “in such situations, the State must step in and perform its duty by taking measures to prevent such actions from occurring in the first place, ensuring that law-enforcement agencies exercise their power to bring the guilty parties to book and imposing time-bound and adequate punishment for any lapses.” The Bench held that “nobody has the right to become a self-appointed guardian of the law and forcibly administer his or her own interpretation of the law on others, especially not with violent means. Mob violence runs against the very core of our established legal principles since it signals chaos and lawlessness and the State has a duty to protect its citizens against the illegal and reprehensible acts of such groups.”

The Bench observed that “a comprehensive structure will have to be evolved in the respective States so that the issues of accountability and efficiency in curbing incidents of peaceful protests turning into mob violence, causing damage to property including investigation, remedial and punitive measures, are duly addressed.” It was further observed that “while doing so, the directions given by this Court” in *In Re: Destruction of Public and Private Properties, Shakti Vahini* and *Tehseen Poonawalla* cases, “must be borne in mind.”

Further, the Bench elucidated/laid out recommendations/directions under various sub-headings, namely, (i) structural and preventive measures; (ii) remedies to minimize, if not extirpate, the impending mob violence; (iii) liability of person causing violence, (iv) responsibility of police officials and (v) compensation. It was however clarified that the said recommendations / directions were “not exhaustive but only to set out broad contour of the measures required to be taken” and were “in addition to the recommendations / directions given” in *In Re: Destruction of Public and Private Properties* case. The Bench directed that the recommendations “be implemented by the Central and State governments as expeditiously as possible.”

2. On 4<sup>th</sup> October, 2018, in the case of *Arcelormittal India Private Limited v. Satish Kumar Gupta & Ors.* [Civil Appeal Nos.9402-9405 of 2018], the primary issues for consideration were: (1) whether the stage of ineligibility of the resolution applicant under

Section 29A(c) of the Insolvency and Bankruptcy Code, 2016, attaches at the time when the resolution plan is submitted by the resolution applicant or at the date of commencement of the Corporate Insolvency Resolution Process (CIRP); and (2) if a resolution plan is turned down at the threshold by a Resolution Professional under Section 30(2) of the Code, at this stage is it open to the concerned resolution applicant to challenge the Resolution Professional's rejection.

With regard to the first issue, the Supreme Court observed that the opening words of Section 29A of the Code "furnish a clue as to the time at which sub-clause (c) is to operate." It was held that "the opening words of Section 29A state: "a person shall not be eligible to submit a resolution plan..." and "it is clear therefore that the stage of ineligibility attaches when the resolution plan is submitted by a resolution applicant."

However, it was also held that "despite the fact that the relevant time for the ineligibility under sub-clause (c) to attach is the time of submission of the resolution plan, antecedent facts reasonably proximate to this point of time can always be seen, to determine whether the persons referred to in Section 29A are, in substance, seeking to avoid the consequences of the proviso to sub-clause (c) before submitting a resolution plan. If it is shown, on facts, that, at a reasonably proximate point of time before the submission of the resolution plan, the affairs of the persons referred to in Section 29A are so arranged, as to avoid paying off the debts of the non-performing asset concerned, such persons must be held to be ineligible to submit a resolution plan, or otherwise both the purpose of the first proviso to sub-section (c) of Section 29A, as well as the larger objective sought to be achieved by the said sub-clause in public interest, will be defeated."

On the second issue, the Supreme Court observed that "given the timeline" within which the insolvency process is to be completed, "and given the fact that a resolution applicant has no vested right that his resolution plan be considered, it is clear that no challenge can be preferred to the Adjudicating Authority at this stage. A writ petition under Article 226 filed before a High Court would also be turned down on the ground that no right, much less a fundamental right, is affected at this stage."

However, the Supreme Court also observed that "a Resolution Professional is only to "examine" and "confirm" that each resolution plan conforms to what is provided by Section 30(2)." It was held that "the Resolution Professional is not required to take any decision, but merely to ensure that the resolution plans submitted are complete in all respects before they are placed before the Committee of Creditors, who may or may not approve it." The Supreme Court held that "even though it is not necessary for the Resolution Professional to give reasons while submitting a resolution plan to the Committee of Creditors, it would be in the fitness of things if he appends the due diligence report carried out by him with respect to each of the resolution plans under consideration, and to state briefly as to why it does or does not conform to the law."

**3.** On 8<sup>th</sup> October, 2018, in the case of *Suzuki Parasrampuriah Suitings Private Limited v. The Official Liquidator of Mahendra Petrochemicals Limited (in Liquidation) and Others*

[Civil Appeal No.10322 of 2018], a three Judge Bench held that “a litigant can take different stands at different times but cannot take contradictory stands in the same case.” It was held that “a party cannot be permitted to approbate and reprobate on the same facts and take inconsistent shifting stands.”

4. On 9<sup>th</sup> October, 2018, in the case of *Sushil Kumar Agarwal v. Meenakshi Sadhu and Ors.* [Civil Appeal No.1129 of 2012], the issue raised was whether Section 14(3)(c) of the Specific Relief Act, 1963 is a bar to a suit by a developer for specific performance of a development agreement between itself and the owner of the property. While dealing with this issue, the crux of the matter which came up for consideration was whether the word “defendant” in Section 14(3)(c)(iii) of the Specific Relief Act, 1963 has the effect of confining the scope of the suit for specific performance only to a particular class (consisting of owners) or whether a purposive interpretation to the legislation would be required, so as to provide a broader set of remedies to both owners and developers.

It was held that “if the rule of literal interpretation is adopted to interpret Section 14(3)(c)(iii), it would lead to a situation where a suit for specific performance can only be instituted at the behest of the owner against a developer, denying the benefit of the provision to the developer despite an interest in the property having been created.”

The Supreme Court observed that “this anomaly is created by the use of the words “the defendant has, by virtue of the agreement, obtained possession of the whole or any part of the land” in Section 14(3)(c)(iii). Under a development agreement, an interest in the property may have been created in favour of the developer. If the developer is the plaintiff and the suit is against the owner, strictly applied, clause (iii) would require that the defendant should have obtained possession under the agreement. In such a case if the developer files a suit for specific performance against the owner, and the owner is in possession of the land by virtue of a lawful title, the defendant (i.e. the owner) cannot be said to have obtained possession of the land by way of the agreement. This would lead to an anomalous situation where the condition in Section 14(3)(c)(iii) would not be fulfilled in the case of a suit by a developer. Application of the literal rule of interpretation to Section 14(3)(c)(iii), would lead to an absurdity and would be inconsistent with the intent of the Act.”

“By giving a purposive interpretation to Section 14(3)(c)(iii)”, it was held that “the anomaly and absurdity created by the third condition [in sub clause (iii) of Section 14(3)(c)] “will have no applicability in a situation where the developer who has an interest in the property, brings a suit for specific performance against the owner.”” The Supreme Court held that “the developer will have to satisfy the two conditions laid out in sub clause (i) and (ii) of Section 14(3)(c), for the suit for specific performance to be maintainable against the owner. This will ensure that both owners and developers can avail of the remedy of specific performance under the Act. A suit for specific performance filed by the developer would then be maintainable.” However, it was also held “whether specific performance should in the facts of a case be granted is a separate matter, bearing on the discretion of the court.”

5. On 11<sup>th</sup> October, 2018, in the case of *Vedanta Ltd. v. Shenzhen Shandong Nuclear Power Construction Co. Ltd.* [Civil Appeal No.10394 of 2018], wherein the rate of interest awarded by the arbitral tribunal was under challenge, the Supreme Court observed that “the discretion of the arbitrator to award interest must be exercised reasonably.” It was held that “an arbitral tribunal while making an award for Interest must take into consideration a host of factors, such as: (i) the ‘loss of use’ of the principal sum; (ii) the types of sums to which the Interest must apply; (iii) the time period over which interest should be awarded; (iv) the internationally prevailing rates of interest; (v) whether simple or compound rate of interest is to be applied; (vi) whether the rate of interest awarded is commercially prudent from an economic stand-point; (vii) the rates of inflation, (viii) proportionality of the count awarded as Interest to the principal sums awarded.” It was held that “on the one hand, the rate of Interest must be compensatory as it is a form of reparation granted to the award-holder; while on the other it must not be punitive, unconscionable or usurious in nature.”

The Supreme Court held that “in an international commercial arbitration, in the absence of an agreement between the parties on Interest, the rate of Interest awarded would be governed by the law of the Seat of arbitration” and “the rate of interest awarded must correspond to the currency in which the award is given, and must be in conformity with the laws in force in the lex fori.” In the present case, it was held that “the international commercial arbitration having its seat in India, the rate of interest to be awarded must be in accordance with the Arbitration and Conciliation Act, 1996.”

It was further held that in the present case, the arbitral tribunal was unjustified in adopting a dual rate of interest i.e. payment of interest @ 9% for 120 days post award; and @ 15% if the amount awarded was not paid within 120 days’. It was held that “the award of a much higher rate of Interest after 120 days’ is arbitrary”, since the Award-debtor is entitled to challenge the award within a maximum period of 120 days’ as provided by Section 34(3) of the Arbitration and Conciliation Act, 1996. The imposition of a high rate of interest @ 15% post-120 days was also held to be “exorbitant, from an economic standpoint”, and having “no co-relation with the prevailing contemporary international rates of Interest.” It was held that the “Award-debtor cannot be subjected to a penal rate of interest, either during the period when he is entitled to exercise the statutory right to challenge the Award, before a Court of law, or later.”

Noticing that the arbitral tribunal had granted a part of the claim in INR, while the other component was awarded in EUR, but granted a uniform rate of 9% SI on both the INR and the EUR component, the Supreme Court observed that “interest rates differ depending upon the currency” and “a uniform rate of interest for INR and EUR would therefore not be justified.” “The rate of 9% Interest on the INR component awarded by the arbitral tribunal” was directed to “remain undisturbed.” However, with respect to the EUR component, it was directed that “the award-debtor will be liable to pay Interest at the LIBOR rate + 3 percentage points, prevailing on the date of the Award.”

6. On 11<sup>th</sup> October, 2018, in the case of *B.K. Educational Services Private Limited v. Parag Gupta and Associates* [Civil Appeal No.23988 of 2017], Section 238A of the



Insolvency and Bankruptcy Code, 2016, which was inserted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 with effect from 06.06.2018, came up for examination. Section 238A provides that “the provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.”

The question for consideration was whether the Limitation Act, 1963 will apply to applications that are made under Section 7 and/or Section 9 of the Code on and from its commencement on 01.12.2016 till 06.06.2018. The Supreme Court held that the Limitation Act, 1963 “is applicable to applications filed under Sections 7 and 9” of the Insolvency and Bankruptcy Code, 2016 “from the inception of the Code” that is from 01.12.2016. It was held that “Article 137 of the Limitation Act gets attracted” and “if the default has occurred over three years prior to the date of filing of the application, the application would be barred under Article 137 of the Limitation Act, save and except in those cases where, in the facts of the case, Section 5 of the Limitation Act may be applied to condone the delay in filing such application.”

7. On 26<sup>th</sup> October, 2018, in the case of *National Insurance Special Voluntary Retired /Retired Employees Association & Anr. v. United India Insurance Co. Ltd. & Anr.* [Civil Appeal No. 10775 of 2018], the appellants, who were ex-employees of the respondent Insurance Companies, and had gone out of service taking advantage of the General Insurance Employees’ Special Voluntary Retirement Scheme, 2004 (SVRS-2004 Scheme), raised plea that they were also entitled to certain benefits arising under an earlier scheme, namely, The General Insurance (Employees) Pension Scheme, 1995.

The Supreme Court came to the conclusion “that statutory or contractual, such voluntary retirement schemes as the SVRS-2004 Scheme have to be strictly adhered to, and the very objective of having such Schemes would be defeated, if parts of other Schemes are sought to be imported into such voluntary retirement schemes.” It was held that “what is offered by the employer is a package as contained in the Schemes of voluntary retirement, and that alone would be admissible.”

Dismissing the appeals, the Court held it was “abundantly clear that nothing more would be given than what is stated in the Scheme, and for that matter, nothing less. If the employees avail of the benefit of such a Scheme with their eyes open, they cannot look here and there, under different schemes, to see what other benefits can be achieved by them, by seeking to take advantage of the more beneficial schemes, while simultaneously enjoying the more beneficial aspects of the SVRS-2004 Scheme.”

8. On 30<sup>th</sup> October, 2018, in the case of *State of Mizoram v. Dr. C. Sangnghina* [Criminal Appeal No. 1322 of 2018], it was held that on facts, the High Court and the Special Court had erred in declining to take on file fresh / second charge sheet filed under Section 13(1)(c)(d)(e) read with Section 13(2) of Prevention of Corruption Act, 1988 on the ground that it was barred under the principles of “double jeopardy”.

Considering that in the present case, after the first charge sheet was filed, the respondent / accused was discharged due to lack of proper sanction even before commencement of trial, it was held that “there was no impediment for filing the fresh/ supplementary charge sheet after obtaining valid sanction.”

The Supreme Court observed that “the whole basis of Section 300(1) Cr.P.C. is that the person who was tried by a competent court, once acquitted or convicted, cannot be tried for the same offence” but “in the case in hand, the respondent/accused has not been tried nor was there a full-fledged trial. On the other hand, the order of discharge dated 12.09.2013 passed by the Special Court was only due to invalidity attached to the prosecution.”

It was held that “when the respondent/accused was so discharged due to lack of proper sanction, the principles of “*double jeopardy*” will not apply. There was no bar for filing fresh / supplementary charge sheet after obtaining a valid sanction for prosecution.” The Supreme Court held that “the Special Court and the High Court were not right in holding that the filing of the fresh charge sheet with proper sanction order for prosecution was barred under the principles of “*double jeopardy*”.”

**9.** On 30<sup>th</sup> October, 2018, in the case of *State of Kerala v. Rasheed* [Criminal Appeal No. 1321 of 2018], it was held that while deciding an application under Section 231(2) Cr.P.C. [which *inter alia* confers discretion on the Judge to defer cross-examination of any witness], “a balance must be struck between the rights of the accused, and the prerogative of the prosecution to lead evidence.”

The Supreme Court observed that “there cannot be a straitjacket formula providing for the grounds on which judicial discretion under Section 231(2) of the Cr.P.C. can be exercised. The exercise of discretion has to take place on a case-to-case basis. The guiding principle for a Judge under Section 231(2) of the Cr.P.C. is to ascertain whether prejudice would be caused to the party seeking deferral, if the application is dismissed.”

Illustrative factors were listed out by the Supreme Court “for guiding the exercise of discretion by a Judge under Section 231(2) Cr.P.C.” The Court also listed out “practice guidelines” to be “followed by trial courts in the conduct of a criminal trial, as far as possible”.

**10.** On 1<sup>st</sup> November, 2018, in the case of *M/s Hindon Forge Pvt. Ltd. & Anr. v. The State of Uttar Pradesh through District Magistrate Ghaziabad & Anr.* [Civil Appeal No. 10873 of 2018], the question for consideration was whether an application under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, at the instance of a borrower, is maintainable even before physical or actual possession of secured assets is taken by banks/financial institutions in exercise of their powers under section 13(4) of the Act read with rule 8 of the Security Interest (Enforcement) Rules, 2002.

The Supreme Court held that the borrower/debtor can approach the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, at the stage of the possession notice referred to in rule 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002.

**11.** On 14<sup>th</sup> November, 2018, in the case of *P.E.C. Limited v. Austbulk Shipping SDN BHD* [Civil Appeal No.4834 of 2007], enforcement and execution of a foreign award was in issue. The question for consideration was whether an application for enforcement under Section 47 of the Arbitration and Conciliation Act, 1996 is liable to be dismissed if it is not accompanied by the arbitration agreement. Section 47 postulates that the party applying for the enforcement of a foreign award “shall” produce before the Court at the time of application certain documents including the original agreement for arbitration.

It was held that, at the initial stage of filing of an application for enforcement of a foreign award, “non-compliance of the production of the documents mentioned in Section 47” of the Arbitration and Conciliation Act “should not entail in dismissal of the application for enforcement of an award.” The Supreme Court held that “the party seeking enforcement can be asked to cure the defect of non-filing of the arbitration agreement. The validity of the agreement is decided only at a later stage of the enforcement proceedings.”

Keeping in view the object and purpose of the Convention on the Recognition & Enforcement of Foreign Arbitration Awards, 1958 (New York Convention) set forth in the First Schedule of the Arbitration and Conciliation Act, 1996, the Supreme Court was of the view that the word “shall” in Section 47 of the Arbitration and Conciliation Act has to be read as “may”. It was observed that “the opposite view that it is obligatory for a party to file the arbitration agreement or the original award or the evidence to prove that the award is a foreign award at the time of filing the application would have the effect of stultifying the enforcement proceedings. The object of the New York Convention will be defeated if the filing of the arbitration agreement at the time of filing the application is made compulsory.”

However, it was also clarified that reading the word “shall” in Section 47 of the Act as “may” would “only mean that a party applying for enforcement of the award need not necessarily produce before the Court” a document mentioned therein “at the time of the application”. The Court made it clear that the said interpretation of the word “shall” as “may” is “restricted only to the initial stage of the filing of the application and not thereafter”.

**12.** On 28<sup>th</sup> November, 2018, in the case of *Chhannu Lal Verma v. The State of Chhattisgarh* [Criminal Appeal No.1482–1483 of 2018], while commuting the death sentence of a multiple murder convict to life imprisonment on consideration of the facts and circumstances of the case, it was observed by a three Judge Bench that without the assistance of a psychological/psychiatric assessment and evaluation “it would not be proper to hold that there is no possibility or probability of reform” of a criminal. The

Bench observed that “the State has to bear in mind this important aspect while proving by evidence that the convict cannot be reformed or rehabilitated.”

**13.** On 5<sup>th</sup> December, 2018, in the case of *Mahender Chawla & Ors. v. Union of India & Ors.* [Writ Petition (Criminal) No. 156 of 2016], the Supreme Court observed that “there is a paramount need to have witness protection regime, in a statutory form, which all the stakeholders and all the players in the criminal justice system concede” but “no such legislation has been brought about.”

Accordingly, the Supreme Court approved the Witness Protection Scheme, 2018 (as prepared by respondent no.1) and directed it to come “into effect forthwith.” It was directed that the “Union of India as well as States and Union Territories shall enforce the Witness Protection Scheme, 2018 in letter and spirit” and that “it shall be the ‘law’ under Article 141/142 of the Constitution, till the enactment of suitable Parliamentary and/or State Legislations on the subject.” In line with the provisions contained in the Scheme, it was directed that “in all the district courts in India, vulnerable witness deposition complexes shall be set up by the States and Union Territories” “within a period of one year.” The Central Government was asked to “support this endeavour of the States/Union Territories by helping them financially and otherwise.”

**14.** On 5<sup>th</sup> December, 2018, in the case of *Competition Commission of India v. Bharti Airtel Limited and Others* [Civil Appeal No. 11843 of 2018], wherein information /application was filed under Section 19(1) of the Competition Act, 2002 before the Competition Commission of India (CCI) alleging formation of an anti-competitive agreement/cartel by three major telecom operators (Incumbent Dominant Operators-IDOs), the question for consideration was whether it was premature for the CCI to entertain the information for want of determination of such issues that fell within the domain of the Telecom Regulatory Authority of India Act, 1997 (TRAI Act).

The Supreme Court did “not agree with the appellants that CCI could have dealt with this matter at this stage itself without availing the inquiry by TRAI.” It also did “not agree with the respondents that insofar as the telecom sector is concerned, jurisdiction of the CCI under the Competition Act is totally ousted.”

It was held that till the jurisdictional issues were “straightened and answered by the TRAI which would bring on record findings” on the various aspects concerned, the CCI was “ill-equipped to proceed in the matter.” It was further held that “only when the jurisdictional facts in the present matter were “determined by the TRAI against the IDOs, the next question would arise as to whether it was a result of any concerted agreement between the IDOs” and the Cellular Operators Association of India (COAI) “supported the IDOs in that endeavour.” The Court said that “it would be at that stage the CCI can go into the question as to whether violation of the provisions of TRAI Act amounts” to ‘abuse of dominance’ or ‘anti-competitive agreements’, which “also follows from the reading of Sections 21 and 21A of the Competition Act.”

Rejecting the contention of the IDOs that the jurisdiction of the CCI stands totally ousted, the Supreme Court observed that “CCI is the experienced body in conducting competition analysis” and “more likely to opt for structural remedies which would lead the sector to evolve a point where sufficient new entry is induced thereby promoting genuine competition.” It was held that “this specific and important role assigned to the CCI cannot be completely wished away and the ‘comity’ between the sectoral regulator (i.e. TRAI) and the market regulator (i.e. the CCI) is to be maintained.”

The Supreme Court held that balance is to be “maintained by permitting TRAI in the first instance to deal with and decide the jurisdictional aspects which can be more competently handled by it. Once that exercise is done and there are findings returned by the TRAI which lead to the *prima facie* conclusion that the IDOs have indulged in anti-competitive practices, the CCI can be activated to investigate the matter going by the criteria laid down in the relevant provisions of the Competition Act and take it to its logical conclusion.” It was held that “this balanced approach in construing the two Acts would take care of Section 60 of the Competition Act as well”. The Supreme Court observed that its’ analysis “does not bar the jurisdiction of CCI altogether but only pushes it to a later stage, after the TRAI has undertaken necessary exercise in the first place, which it is more suitable to carry out.”

**15.** On 10<sup>th</sup> December, 2018, in the case of *Commissioner of Central Excise and Service Tax, Noida v. M/s Sanjivani Non-Ferrous Trading Pvt. Ltd.* [Civil Appeal Nos. 18300-18305 of 2017], the issue pertaining to transaction value / assessable value in respect of imported goods for purpose of customs duty, came up for consideration. It was held that as per Sections 14(1) and 14(1-A) of the Customs Act, 1962, “the value of any goods chargeable to ad valorem duty is deemed to be the price as referred to in that provision.”

The Supreme Court observed that “Section 14(1) is a deeming provision as it talks of ‘deemed value’ of such goods. Therefore, normally, the Assessing Officer is supposed to act on the basis of price which is actually paid and treat the same as assessable value/transaction value of the goods. This, ordinarily, is the course of action which needs to be followed by the Assessing Officer. This principle of arriving at transaction value to be the assessable value applies. That is also the effect of Rule 3(1) and Rule 4 (1) of the Customs Valuation Rules, namely, the adjudicating authority is bound to accept price actually paid or payable for goods as the transaction value.”

The Court, however, also observed that there are certain exceptions which “are carved out and enumerated in Rule 4(2).” It was held that “as per that provision, the transaction value mentioned in the Bills of Entry can be discarded in case it is found that there are any imports of identical goods or similar goods at a higher price at around the same time or if the buyers and sellers are related to each other.” The Court said that “in order to invoke such a provision it is incumbent upon the Assessing Officer to give reasons as to why the transaction value declared in the Bills of Entry was being rejected; to establish that the price is not the sole consideration; and to give the

reasons supported by material on the basis of which the Assessing Officer arrives at his own assessable value.”

**16.** On 11<sup>th</sup> December, 2018, in the case of *Nipun Saxena & Anr. v. Union of India & Ors.* [[Writ Petition (Civil) No. 565 of 2012 etc.], amongst others, the issue for consideration, was how and in what manner the identity of victims of rape and children who are victims of sexual abuse should be protected so that they are not subjected to unnecessary ridicule, social ostracisation and harassment.

In context to victims of rape, the Supreme Court held that their cross-examination “should be done with a certain level of decency and respect to women at large.” It was held that the phrase “matter which may make known the identity of the person” in Section 228A IPC “does not solely mean that only the name of the victim should not be disclosed but it also means that the identity of the victim should not be discernible from any matter published in the media.” The Court observed that “there may be cases where the identity of the victim, if not her name, may have to be disclosed” but “while this may be done, the fact that such victim has been subjected to a sexual offence need not be disclosed.”

Further, it was held that “there may be other situations where the next of kin may be justified in disclosing the identify of the victim” and in such a case, “an application to authorise disclosure of identity should be made only to the Sessions Judge/magistrate concerned and the said Sessions Judge/magistrate shall decide the application on the basis of the law” laid down by this Court. The Court said that it was “exercising power under Article 142 of the Constitution in this regard because the Government has not identified any social or welfare institution/organisation and the law as laid down cannot be administered” and that the said “directions shall prevail” till a clear cut criteria and procedure in this regard is laid down by the Government.

Another issue examined by the Supreme Court was “what happens if the accused is acquitted and the victim of the offence wants to file an appeal under Section 372 CrPC? Is she bound to disclose her name in the memo of appeal?” It was held that where a victim files an appeal “such victim can file such an appeal by showing her name as ‘X’ or ‘Y’ along with an application for non-disclosure of the name of the victim. In a sealed envelope to be filed with the appeal she can enclose the document(s), in which she can reveal her identity as required by the Rules of the appellate court. The Court can verify the details but in the material which is placed in the public domain the name of the victim shall not be disclosed. Such an application should be heard by the Court in Chambers and the name should not be reflected even in the cause-list till such matter is decided. Any documents disclosing the name and identity of the victim should not be in the public domain.”

With regard to victims subjected to offences under the Protection of Children from Sexual Offences Act, 2012 (POCSO) and their identity, the Supreme Court was of the view that “the entire purpose of the POCSO is to ensure that the identity of the child is not disclosed unless the Special Court for reasons to be recorded in writing permits

such disclosure. This disclosure can only be made if it is in the interest of the child and not otherwise." The Court was of the considered view, that "the media is not only bound not to disclose the identity of the child but by law is mandated not to disclose any material which can lead to the disclosure of the identity of the child." It was observed that there is a "need to have courts which are specially designed to be child friendly and meet the needs of child victims and the law" and that "these courts need not only be used for trying cases under the POCSO but can also be used as trial courts for trying cases of rape against women". It was observed that "in fact, it would be in the interest of children and women, and in the interest of justice if one stop centres are also set up in all the districts of the country as early as possible." It was further observed that "these one stop centres can be used as a central police station where all crimes against women and children in the town/city are registered."

In the end, the Supreme Court issued various directions, as under:-

1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.
3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under the Protection of Children from Sexual Offences Act, 2012 (POCSO) shall not be put in the public domain.
4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.
5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinised in the public domain.
6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.
7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(1)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organisations.
8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.
9. All the States/Union Territories are requested to set up at least one 'one stop centre' in every district within one year from today."

**17.** On 12<sup>th</sup> December, 2018, in the case of *Rajendra Pralhadrao Wasnik v. State of Maharashtra* [Review Petition (Criminal) Nos. 306-307 of 2013 in Criminal Appeal Nos. 145-146 of 2011], wherein the appellant had been convicted and sentenced to death by the Courts below for the rape and murder of a 3 year old girl, the effect of DNA evidence being not placed before the trial court nor being taken into consideration was one of the prominent issues that came to be examined by the Supreme Court.

In the case at hand, samples had been taken from the body of the accused-appellant and sent for DNA profiling, however, the results was not produced before the trial court. On consideration of the matter, a three Judge Bench of the Supreme Court held that there was “absolutely no explanation for this and in the absence of any justification for not producing the DNA evidence”, “it would be dangerous, on the facts of this case, to uphold the sentence of death on the appellant.”

The Bench observed that “for the prosecution to decline to produce DNA evidence would be a little unfortunate particularly when the facility of DNA profiling is available in the country” and “the prosecution would be well advised to take advantage of this, particularly in view of the provisions of Section 53-A and Section 164-A of the Cr.P.C.” The Bench did not go “to the extent of suggesting that if there is no DNA profiling, the prosecution case cannot be proved but” it was “certainly of the view that where DNA profiling has not been done or it is held back from the Trial Court, an adverse consequence would follow for the prosecution.”

However, the Bench also observed that it “cannot overlook subsequent developments with regard to the two (actually three) similar cases against the appellant.” On facts, the Bench was of opinion “that it would be more appropriate looking to the crimes committed by the appellant and the material on record including his overall personality and subsequent events, to commute the sentence of death awarded to the appellant but” it was further directed that “he should not be released from custody for the rest of his normal life.”

**18.** On 13<sup>th</sup> December, 2018, in the case of *Dr. Ashwani Kumar v. Union of India & Ors.* [Writ Petition (C) No. 193 of 2016], issues relating to the recognition and enforcement of the fundamental rights of the elderly came up for consideration. The relief prayed was primarily limited to pension, shelter, geriatric care and medical facilities for the elderly, and for effective implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWP Act).

On consideration of the matter, the Supreme Court deemed it appropriate to issue the following initial directions for the time being so that effective contributions are made to recognise and enforce the rights of elderly persons:-

“1. The Union of India will obtain necessary information from all the State Governments and the Union Territories about the number of old age homes in each district of the country and file a Status Report in this regard.



2. The Union of India will also obtain from all the State Governments the medical facilities and geriatric care facilities that are available to senior citizens in each district and file a Status Report in this regard.
3. On the basis of the information gathered by the Union of India as detailed in the Status Reports, a plan of action should be prepared for giving publicity to the provisions of the MWP Act and making senior citizens aware of the provisions of the said Act and the constitutional and statutory rights of senior citizens.
4. Section 30 of the MWP Act enables the Government of India to issue appropriate directions to the State Governments to carry out and execute the provisions of the MWP Act. The Central Government must exercise its power in this regard and issue appropriate directions to the State Governments for the effective implementation of the provisions of the MWP Act. Alongside this, the Central Government must, in terms of Section 31 of the MWP Act, conduct a review for the purposes of monitoring the progress in implementation of the MWP Act by the State Governments.
5. It is high time that the Government of India has a relook” at some schemes “and perhaps overhaul them with a view to bring about convergence and avoid multiplicity. In particular, the Government of India and the State Governments must revisit the grant of pension to the elderly so that it is more realistic.”

**19.** On 14<sup>th</sup> December, 2018, in the case of *Manohar Lal Sharma v. Narendra Damodardas Modi & Ors.* [Writ Petition [Criminal] No.225 of 2018], procurement of 36 Rafale Fighter Jets for the Indian Airforce was challenged, broadly on three aspects, namely, (i) the decision making process; (ii) difference in pricing; and (iii) the choice of Indian Offset Partner (IOP). On consideration of the matter, a three Judge Bench found “no reason for any intervention”.

The Bench observed “that the process was concluded for 36 Rafale fighter jet aircrafts on 23<sup>rd</sup> September, 2016” but “nothing was called into question, then” and that “it is only taking advantage of the statement by the ex-President of France, Francois Hollande that these set of petitions have been filed”. The Bench was of the opinion that “it will not be correct for the Court to sit as an appellate authority to scrutinize each aspect of the process of acquisition” and that “it is certainly not the job of this Court to carry out a comparison of the pricing details in matters like the present”. With respect to IOP, the Bench said that the Defence Procurement Procedure (DPP) 2013 envisaged that the vendor/ Original Equipment Manufacturer (OEM) will choose its own IOPs; and “in this process, the role of the Government” was “not envisaged.” Also, the Bench did “not find any substantial material on record to show” that this was “a case of commercial favouritism to any party by the Indian Government, as the option to choose the IOP” did “not rest with the Indian Government.”

All the writ petitions were dismissed with the observation that “perception of individuals cannot be the basis of a fishing and roving enquiry by this Court, especially in such matters.” The Supreme Court, however, made it clear that its’ views were “primarily from the standpoint of the exercise of the jurisdiction under Article 32 of the Constitution of India” which had “been invoked in the present group of cases.”

**20.** On 14<sup>th</sup> December, 2018, in the case of *Prakash Chand Daga v. Saveta Sharma & Ors.* [Civil Appeal No.11369 of 2018], the issue for consideration was whether the registered owner of an offending vehicle stands absolved of his liability to a third person merely because the vehicle was sold.

In the case at hand, the appellant had sold his vehicle to first respondent, whereafter the vehicle got involved in an accident, in which the second respondent got injured. On a compensation claim being lodged by second respondent, the trial court fastened the liability on the driver and the first respondent. However, in appeal, the High Court found that despite the sale of the vehicle, no transfer of ownership, in accordance with Section 50 of the Motor Vehicles Act, 1988 had been effected and as such the appellant continued to be the registered owner of the offending vehicle in terms of definition as incorporated in Section 2(30) of the Act, and accordingly fastened the liability on the appellant.

In appeal to this Court, the appellant submitted that the accident had occurred within thirty days of the transfer when the statutory period as prescribed under Section 50(1)(b) of the Act had not expired and as such the liability could not be fastened on the present appellant. The Supreme Court held that though “it is true that in terms of Section 50 of the Act, the transfer of a vehicle ought to be registered within 30 days of the sale” and Section 50 “prescribes timelines within which the transferor and the transferee are required to report the factum of transfer”, “these timelines and obligations are only to facilitate the reporting of the transfer. The Court held that “it is not as if that if an accident occurs within the period prescribed for reporting said transfer, the transferor is absolved of the liability.”

The Supreme Court observed that “Chapter XII of the Act deals with Claims Tribunals and as to how applications for compensation are to be preferred and dealt with” and “while considering such claims, the Claims Tribunal, in case of an accident is required to specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or whether such amount be paid by all or any of them, as the case may be.” It was held that “for the purposes of fixing such liability the concept of ownership has to be understood in terms of specific definition of ‘owner’ as defined in Section 2(30) of the Act” and thus “the challenge raised by the appellant must fail.”

**21.** On 14<sup>th</sup> December, 2018, in the case of *Hukum Chandra (D) Thr. Lrs. v. Nemi Chand Jain & Ors.* [Civil Appeal No.3827 of 2014], the judgment and decree passed by the first appellate court for eviction of appellant-tenant, as affirmed by High Court, came up for challenge before the Supreme Court. In the case herein, respondent No.1-landlord had filed a civil suit under Section 12(1)(f) of the Madhya Pradesh Accommodation Control Act, 1961 seeking eviction of the appellant-tenant from the suit shop on the ground of bona fide requirement to settle his son.

The Supreme Court held that the mere fact that the son of respondent no.1 was involved in the business of utensils, “a bona fide need of the premises cannot be

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doubted.” The Court observed that “it would be inappropriate to expect the son of the respondent—landlord to sit idle without doing any work till the eviction petition is decided on the basis of the bona fide requirement.” It was held that if there is categorical averment by the respondent that the premises is required for his son; “engaging in the business of utensils in the meanwhile, cannot be a ground to deny a decree for eviction.”

On facts, upon consideration of oral and documentary evidence, the first appellate court and the High Court recorded concurrent findings of fact that the suit shop is required bona fide for the son of the landlord for the purpose of doing business and that the respondent – landlord has no other reasonably suitable non-residential accommodation for the business of his son. The Supreme Court did “not find any good ground warranting interference with the impugned judgment” and granted appellant-tenant three months’ time “to vacate and handover the possession of the suit property.”

## **SOME MAJOR EVENTS (01-10-2018 to 31-12-2018)**

**A) CONSTITUTION DAY – 2018:** The Supreme Court of India organized a function on 26<sup>th</sup> November, 2018 at Vigyan Bhawan, New Delhi to celebrate the Constitution Day. Hon'ble Shri Ram Nath Kovind, President of India inaugurated the function in the august presence of Hon'ble the Chief Justice of India, Hon'ble Judges of Supreme Court of India, former Chief Justices/Judges of Supreme Court of India, Chief Justices/Judges of High Courts, Hon'ble Union Minister for Law & Justice and Electronics and Information Technology, Attorney General for India, Presidents of Bar Associations, Judicial Officers and other luminaries.

Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court of India delivered the welcome address. There were addresses by Hon'ble the President of India, Hon'ble the Chief Justice of India, Hon'ble Union Minister for Law and Justice, Attorney General for India and President, Supreme Court Bar Association.

Three Sessions were held during the day long Celebrations. The topics of discussion during first, second and third sessions were "The Constitution and the Supreme Court: The Role of the Supreme Court in Safeguarding and Strengthening the Constitution", "Critical Analysis of the Achievements of the Country in the Light of Constitutional Expectations" and "Roadmap for Truly Affordable and Timely Justice in India" respectively.

The Sessions were chaired/attended by many dignitaries such as Hon'ble Shri R.M. Lodha, former Chief Justice of India, Smt. Sumitra Mahajan, Hon'ble Speaker of the Lok Sabha, Hon'ble Mr. Justice A.K. Patnaik, former Judge, Supreme Court of India, Shri K.K. Venugopal, Attorney General for India, Shri O.P. Rawat, Chief Election Commissioner of India, Shri Fali S. Nariman, Senior Advocate, Supreme Court of India, Prof. (Dr.) G. Mohan Gopal, Chairperson, NCMS Committee, Prof. Upendra Baxi, Professor Emeritus, University of Warwick, UK, Dr. Pratap Bhanu Mehta, Vice-Chancellor, Ashoka University, Sonapat, Haryana, etc.

During the Valedictory Session, there were addresses by Hon'ble Union Minister for Law & Justice and Electronics and Information Technology, Hon'ble Mr. Justice S.A. Bobde, Judge, Supreme Court of India, Hon'ble Mr. Justice A.K. Sikri, Judge, Supreme Court of India and Attorney General for India. There was valedictory address by Hon'ble the Chief Justice of India

Hon'ble Shri N.V. Ramana, Judge, Supreme Court of India presented vote of thanks to conclude the function.

**B) FIRST ROUND TABLE MEET OF THE HEADS OF JUDICIARY OF BIMSTEC COUNTRIES:** On the eve of the Constitution Day Celebrations – 2018, the first Round

Table Meet (hereinafter the Meet) of the Heads of Judiciary of BIMSTEC Countries (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) was held on Sunday, the 25<sup>th</sup> November, 2018 in the Supreme Court Premises. The Delegates from Indian side included Shri Justice Ranjan Gogoi, Chief Justice of India, Shri Justice Madan B. Lokur, Judge, Supreme Court of India, Shri Justice Kurian Joseph, Judge, Supreme Court of India, Shri Justice A.K. Sikri, Judge, Supreme Court of India and Shri Justice S.A. Bobde, Judge, Supreme Court of India.

While the Delegates from BIMSTEC Countries, except Sri Lanka, were Shri Justice Syed Mahmud Hossain, Chief Justice of Bangladesh, Shri Justice Htun Htun Oo, Chief Justice, Supreme Court of the Union of Myanmar, Shri Justice Wichai Eua-Angkanakul, Vice President, Supreme Court of Thailand, Shri Justice Anil Kumar Sinha, Judge, Supreme Court of Nepal, Shri Justice Lyonpo Tshering Wangchuk, Chief Justice of Bhutan, and Smt. Justice Tashi Chhozom, Judge, Supreme Court of Bhutan.

Following topics were discussed during the Meet, namely, (a) Technology and Access to Justice, and (b) Adjudication of Terrorism, Transnational Organized Crime and Illicit Drug Trafficking/Human Trafficking cases.

The Meet was followed by a grand dinner at the Supreme Court Lawns hosted by Hon'ble the Chief Justice of India and Hon'ble Judges of Supreme Court of India which was attended by Hon'ble the Vice-President of India, Hon'ble the Prime Minister of India, Hon'ble Union Finance Minister, Hon'ble Union Minister for Law & Justice, Attorney General for India and many other dignitaries.

## **FOREIGN DELEGATIONS IN THE SUPREME COURT (01-10-2018 to 31-12-2018)**

1. Hon'ble Mr. Justice Sharad Arvind Bobde and Hon'ble Mr. Justice L. Nageswara Rao had meeting with Turkish delegation comprising of Hon'ble Mr. Justice Celal Mumtaz Akinci, Judge of the Constitutional Court of the Republic of Turkey and Hon'ble Mr. Justice Murat Sen, Chief Rapporteur Judge on 15<sup>th</sup> November, 2018 in Supreme Court Premises.
2. Hon'ble Mr. Justice A.K. Sikri, Hon'ble Mr. Justice Uday U. Lalit, Hon'ble Mr. Justice Ashok Bhushan and Hon'ble Mr. Justice Sanjay Kishan Kaul had meeting with Chinese delegation led by Hon'ble Mr. Justice Guo Weiqing, Senior Judge, President of Shanghai No.2 Intermediate People's Court, Shanghai on 20<sup>th</sup> November, 2018 in the Chamber of Hon'ble Mr. Justice A.K. Sikri.
3. Hon'ble Mrs. Justice R. Banumathi and Hon'ble Ms. Justice Indira Banerjee had meeting with Ukrainian delegation comprising of Hon'ble Mrs. Justice Oleksandra Yanovska and Hon'ble Mrs. Justice Ganna Vronska, Hon'ble Judges of the Supreme Court of Ukraine on 22<sup>nd</sup> November, 2018 in Supreme Court Premises.
4. Hon'ble Shri Ranjan Gogoi, Chief Justice of India, Hon'ble Mr. Justice Madan B. Lokur, Hon'ble Mr. Justice Kurian Joseph, Hon'ble Mr. Justice A.K. Sikri and Hon'ble Mr. Justice S.A. Bobde had meeting with the Head of Judiciary of BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral, Technical and Economic Cooperation) Countries comprising of Hon'ble Shri Syed Mahmud Hossain, Chief Justice of Bangladesh, Hon'ble Shri Lyonpo Tshering Wangchuk, Chief Justice of Bhutan, Hon'ble Shri Htun Htun Oo, Chief Justice, Supreme Court of the Union of Myanmar, Hon'ble Mr. Justice Anil Kumar Sinha, Judge, Supreme Court of Nepal, Hon'ble Shri Justice Wichai Eua-Angkanakul, Vice-President, Supreme Court of Thailand, and Hon'ble Smt. Justice Tashi Chhozom, Judge, Supreme Court of Bhutan on 25<sup>th</sup> November, 2018 in Judges' Lounge, Supreme Court Premises.

## **MAJOR ACTIVITIES OF NATIONAL JUDICIAL ACADEMY(NJA) (01-10-2018 to 31-12-2018)**

**Conference for High Court Justices:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized 4 conferences for High Court Justices. The first conference on the '*Regime of Goods and Services Tax*' provided insights into the GST Act, 2017. It provided a forum for deliberating normative issues relevant to the evolution of indirect taxes, from a regime of distinct and multiple taxation to one of substantial uniformity across diverse tax domains and jurisdictions i.e., Federal and State; to explore and comprehend potential areas of conflict and litigation consequent to this legislative shift, the constitutional evolution in the area and the adjudicative and socio-judicial inferences that may arise. The second conference was structured to facilitate discussions on issues related to social context adjudication as a controlling element in statutory interpretation & exercise of discretion. The conference engaged the participant justices in discussion on precedents and navigating through precedential conflicts, managing judicial review within democratic framework, adjudicating electoral disputes: free and fair elections and adjudicating economic crimes like corporate frauds and money laundering. The third conference, for newly elevated High Court Justices facilitated deliberations among participant justices on contemporary topics such as Information and Communications Technology in courts and court management techniques to improve efficiency and strengthen justice administration, core constitutional principles such as the concept of Judicial Review, federal architecture, separation of powers, Doctrine of Basic Structure and Fundamental Rights under the constitutional arrangement in India. The fourth conference on '*Arbitration including International Arbitration*' facilitated discussions on issues related to the Arbitration and Conciliation Act and changing trends in legislative scheme. The issues of balancing conflicting interests of public policy in domestic arbitration, enforcement of foreign arbitral award, emergence of third party funding in International Commercial Arbitration and Emergency Arbitration in India were discussed in the conference.

**Regional Conferences of the Academy:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized three Regional Conferences to facilitate judicial officers in understanding challenges faced by subordinate judicial officers in a particular region and to develop consensus at regional level on how to address those challenges, and to provide wider access to judicial education and training.

The theme of the conferences was '*Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities*'. The Regional Conference provide a forum for exchange of experiences, knowledge and dissemination of best practices from across the cluster of High Court Jurisdictions in the region; and amongst the hierarchy and to accentuate the experience of familial community between High Court and Subordinate Court judicial officers. The agenda of the conference included re-visiting established and imperative norms of the constitutional vision of justice, re-visiting norms for

appellate review and assessment of the consequences of frequent and excessive appellate interference.

The West Zone Regional Conference was held at Jodhpur in collaboration with the Rajasthan High Court and the Rajasthan State Judicial Academy. The North Zone Regional Conference was held at Jammu in collaboration with the High Court of Jammu & Kashmir and the Jammu & Kashmir State Judicial Academy. The East Zone Regional Conference was held at Ranchi in collaboration with the Jharkhand High Court and the Jharkhand Judicial Academy.

**National Seminar for Principal District and Sessions Judges:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized a seminar for Principal District and Sessions Judges on 'Access to Justice and Legal Aid' for capacity building for the participant judges. The objective of the seminar was to address challenges which impede access to justice and to formulate strategies to ensure access to justice, despite adverse economic and social conditions. The seminar also provided a platform to study current legal aid dispensation protocols with a view to streamline procedure of aid to the victims of crime in course of administration of compensation and rehabilitation. Dedicated discourse to explore avenues to enhance user friendliness of trial courts, ICT as a tool in enhancing access to justice and areas such as access to justice at the grass root level via gram panchayats and Lok Adalats formed part of the seminar.

**Workshop for Additional District Judges:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized a workshop for Additional District Judges to discuss critical areas concerning adjudication at the district level. The workshop engaged the participant judges in discussion on issues related to challenges in implementation of the ADR system, sentencing, role of judges in court and case management, electronic evidence, cybercrime and fair sessions trial. The workshop also focused on appellate and revision jurisdiction of District Judges in criminal and civil justice administration.

**Refresher Courses for Special Courts:** NJA organized 3 refresher courses of three days duration for special courts. The *Refresher Course for CBI Courts* facilitated deliberations on investigation procedures adopted by the CBI, prosecution of civil servants, economic offences and sentencing practices. Contemporary themes such as appreciation of electronic evidence, forensic evidence and the modus operandi of cybercrimes were discussed. The *Refresher Course for Judges Presiding over Family Courts* intended to acquaint participants with the constitutional and legislative mandate of Family Courts and to engage the judges in discussion on tools to develop judicial persona relevant to Family Courts. The course also familiarized participants with communication skills and techniques for effective resolution of family matters. The course focused on psychological approaches to understand the family disputes, and facilitated discussions on issues related to maintenance and divorce proceedings, child custody and guardianship and the property disputes arising out of family matters. The *Refresher Course for Labour Courts* engaged the participant judges in discussion on



impediments to speedy and efficacious dispensation of cases and the optimal solutions to contentious issues which retard efficacious and speedy disposal of cases. The course also facilitated discussions on evolving norms and jurisprudence in respect of labour disputes. The course involved discussions on jurisprudence relating to contract labour, unfair labour practices, reinstatement, back wages, dismissal, retrenchment, lay off, strikes and lockouts as well.

**Orientation Programme for Junior Division Judges:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized an orientation programme for Junior Division judges with the objective of capacity building of judicial officers at the primary tier. The sessions facilitated discussions and sharing of experiences and views between judges from across India to evolve a uniform vision of justice and better appreciation of the judicial role. The programme laid emphasis on the responsibility of judicial officers in a constitutional democracy and acquainted the participants with recent developments in juridical thinking, technological advances relevant to accreting performance standards and aspects of law and practice relevant to enhancing the quality of performance.

**Court Excellence Enhancement Programme:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organized a three day Court Excellence Enhancement Programme to bring together the several stakeholders in the justice delivery system, enable comprehensive deliberations and discussions for identifying challenges and constraints to efficiency in justice delivery by courts and to work towards evolving standard working models for delivery of quality justice. This was the first of two cluster programmes scheduled this academic year. The programme engaged the participants in discussion to develop a comprehensive Court Excellence Plan for enhancing qualitative and timely justice through harnessing synergies of various stake and duty holders in the system. An action plan was developed court-wise identifying areas calling for systemic improvement in the court processes.

**Seminar for Bangladesh Judicial Officers:** During the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> December, 2018, NJA organised 2 seminars for Bangladesh judicial officers pursuant to a Memorandum of Understanding (MoU) entered between NJA and the Supreme Court of Bangladesh for organising Training and Capacity Building programmes for Bangladesh Judicial Officers.

In pursuance of the said MoU, a seven day programme for Senior Assistant Judges, Assistant Judges and Magistrates nominated by Bangladesh was held from 5<sup>th</sup> to 11<sup>th</sup> October, 2018 at Bhopal. A seven day programme for District Judges/Sessions Judges, Additional & Joint Sessions Judges and Additional District Judges nominated by Bangladesh, was also organised from 7<sup>th</sup> to 13<sup>th</sup> December, 2018 by NJA at Bhopal. The programme at the Academy acquainted participants with constitutional, civil, criminal and human rights laws, and correlative jurisprudence. The conference engaged the participants in discussion on elements of judicial behaviour- ethics, neutrality and professionalism, skills of judging and judgment writing. The programme also facilitated discussions on court & case management and use of ICT in administration of justice.

## **MAJOR ACTIVITIES OF NATIONAL LEGAL SERVICES AUTHORITY (NALSA) (01-10-2018 to 31-12-2018)**

**Pan India Campaign for women prisoners:** In 2018, a Pan India Campaign was conducted for women prisoners and their children accompanying them in prisons. The teams had one to one interaction with 91% of the women prisoners i.e. 14,788 women prisoners. The campaign also saw the selection of 450 women inmates to be trained as Para Legal Volunteers (“PLV’s”). 5,089 women inmates were connected to vocational trainings/educational courses. 987 medical camps were organised. 145 women inmates were found to be pregnant, and accordingly made aware about their legal rights. In certain cases bail applications were also filed on their behalf. In total, 2,088 legal awareness camps were held and 2,942 inmates were provided legal aid during the campaign.

**Commendation Ceremony of Best PLVs, Panel Lawyers, DLSAs & SLSAs held on 15.12.2018 at New Delhi:** NALSA organised a ‘Commendation Ceremony’ at Vigyan Bhawan, Delhi on 15<sup>th</sup> December, 2018. The event was aimed at felicitating the best SLSA, DLSA, Panel Lawyer and Para Legal Volunteer (PLV) in the country. Awards were presented to the best PLV, Panel Lawyer, SLSA and DLSA of different States in both zonal as well as, at the National Level.

## **SOME IMPORTANT VISITS AND CONFERENCES (From 01-10-2018 to 31-12-2018)**

### **ABROAD**

1. Hon'ble Shri Ranjan Gogoi, Chief Justice of India participated in an International Conference on the theme "The Role of Higher Judiciary in Protecting the Rule of Law and Fundamental Rights" held at Istanbul, Turkey from 14<sup>th</sup> to 16<sup>th</sup> December, 2018.
2. Hon'ble Mr. Justice Madan Bhimarao Lokur participated in the CJEI Biennial Meeting of Commonwealth Judicial Educators held at Port of Spain, Trinidad and Tobago from 15<sup>th</sup> to 18<sup>th</sup> November, 2018.
3. Hon'ble Mr. Justice Sharad Arvind Bobde (i) attended "J20: The Judicial Conference of the Highest Courts of the G20" held in Buenos Aires (Argentina) from 8<sup>th</sup> to 10<sup>th</sup> October, 2018; and (ii) participated in the International Conference under the theme of "The Role of Higher Judiciary in Protecting the Rule of Law and Fundamental Rights" held at Istanbul, Turkey from 14<sup>th</sup> to 16<sup>th</sup> December, 2018.
4. Hon'ble Mr. Justice Arun Mishra participated in the 4<sup>th</sup> International Summit of High Courts - Transparency in Judicial Process held at Istanbul, Turkey from 11<sup>th</sup> to 12<sup>th</sup> October, 2018.
5. Hon'ble Mr. Justice Deepak Gupta participated in 31<sup>st</sup> LAWASIA Conference held at Siem Reap, Cambodia from 2<sup>nd</sup> to 5<sup>th</sup> November, 2018.

### **INLAND**

1. Hon'ble Mr. Justice Kurian Joseph visited (i) Najibabad (Uttar Pradesh) to attend a function on 15<sup>th</sup> October, 2018; (ii) Konjikode (Kerala) to attend a function on 3<sup>rd</sup> November, 2018; (iii) Chennai to attend a function on 9<sup>th</sup> November, 2018; (iv) Ranchi to attend Inaugural Session of the First National Meet for Sensitization of family Court Matters and Presentation of Rich Art, Culture & Heritage of Jharkhand at Judicial Academy, Jharkhand on 17<sup>th</sup> November, 2018; and (v) Calicut, Kerala (a) to inaugurate the function of Thanal's Mission Towards Equality for Disability followed by Book Launch on 23<sup>rd</sup> November, 2018; and (b) to inaugurate the Workshop of the First Principal-Legal Workshop for Young Lawyers of Malabar by the Bar Council of India on 23<sup>rd</sup> November, 2018.
2. Hon'ble Mr. Justice Madan Bhimarao Lokur visited Jodhpur to attend the West Zone-I, "Regional Conference on Enhancing Excellence of the Judicial Institution: Challenges & Opportunities" organized by the National Judicial Academy in collaboration with the Rajasthan High Court and the Rajasthan State Judicial Academy on 27<sup>th</sup> and 28<sup>th</sup> October, 2018.

**3.** Hon'ble Mr. Justice Arjan Kumar Sikri visited (i) Shimla to deliver Seventh Lala Amar Chand Sood Memorial Lecture organized by the Bar Association of India on 6<sup>th</sup> October, 2018; (ii) Jodhpur to attend Book Release Function organized by the Rajasthan High Court Lawyers Association on 17<sup>th</sup> November, 2018; and (iii) Bengaluru to attend the 86<sup>th</sup> Executive Council Meeting of the National Law School of India University on 23<sup>rd</sup> November, 2018.

**4.** Hon'ble Mr. Justice Sharad Arvind Bobde visited Dimapur to inaugurate Mediation Centre at the Gauhati High Court, Kohima Bench on 1<sup>st</sup> December, 2018.

**5.** Hon'ble Mr. Justice Arun Mishra visited (i) Ramgarh (Jharkhand) to inaugurate the Solar Power Plant at District Court on 23<sup>rd</sup> November, 2018; (ii) Bokaro (Jharkhand) to inaugurate ADR Centre on 24<sup>th</sup> November, 2018; (iii) Raipur for inaugurating a Legal Education Seminar organized by Bar Council of India & The State Bar Council of Chhattisgarh on 2<sup>nd</sup> December, 2018; and (iv) Kolkata to attend meeting of the Executive Council and the Search Committee, W.B. National University of Juridical Sciences on 22<sup>nd</sup> December, 2018.

**6.** Hon'ble Mr. Justice Abhay Manohar Sapre visited (i) Hyderabad to attend Meeting of Selection Committee for selection of Judicial & Technical Members of National Company Law Tribunal on 21<sup>st</sup> November, 2018; and (ii) Kolkata to attend Meeting of Selection Committee for selection of Judicial & Technical Members of National Company Law Tribunal on 8<sup>th</sup> December, 2018.

**7.** Hon'ble Mr. Justice Uday Umesh Lalit visited (i) Jodhpur to address the Regional Conference on Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities on 28<sup>th</sup> October, 2018; (ii) Bengaluru to attend the 86<sup>th</sup> Executive Council Meeting of National Law School of India University, Bengaluru on 23<sup>rd</sup> November, 2018; and (iii) Bhopal to attend a Training Programme for Bangladesh Judicial Officers organized by National Judicial Academy, Bhopal on 9<sup>th</sup> December, 2018.

**8.** Hon'ble Dr. Justice D.Y. Chandrachud (i) delivered the keynote lecture on "Law and Storytelling" at the IDIA (Increasing Diversity Increasing Access) Annual Conference organized by IDIA at ILI, New Delhi on 8<sup>th</sup> December 2018; and (ii) delivered the Justice K T Desai Lecture on 'Why the Constitution matters' organized by the Justice K T Desai Centenary Committee on 17<sup>th</sup> December 2018 at the Bombay High Court.

**9.** Hon'ble Mr. Justice Ashok Bhushan (i) visited Allahabad (a) to attend the inaugural function of 'High Court Annexe' of the Allahabad High Court on 13<sup>th</sup> October, 2018; (b) to deliver Speech as Chief Guest at the Prayagraj Tax Conference 2018 organized by the North Zone of All India Federation of Tax Practitioners on 24<sup>th</sup> November, 2018; and (c) to deliver Speech on initiation of Five Year Integrated Law Course in the C.M.P. Degree College on 24<sup>th</sup> November, 2018; (ii) visited Ghaziabad (U.P.) to inaugurate Seminar on the theme 'GST: Successes, failures, and what next.' organized by Mahanagar Tax Bar Association on 1<sup>st</sup> December, 2018; and (iii) delivered Speech as Chief Guest at the Ninth Annual Prakash Mehrotra Memorial Lecture on the subject

“Empowering the Mind-Key to Performantial Excellence” held at Teen Murti House, New Delhi on 16<sup>th</sup> November, 2018.

**10.** Hon'ble Mr. Justice L. Nageswara Rao visited (i) Sonipat to deliver Inaugural Lecture: Jindal Law Lectures & Debate Series at the Jindal Global Law School, Sonipat on 26<sup>th</sup> October, 2018; and (ii) Chennai to participate as Chief Guest of the Graduates Day at the Tamil Nadu Dr. Ambedkar Law University on 17<sup>th</sup> November, 2018.

**11.** Hon'ble Mr. Justice Mohan M. Shantanagoudar visited Bengaluru to attend the meeting of the 86<sup>th</sup> Executive Council of National Law University and deliver speech on the occasion of 12<sup>th</sup> P.G.C. Chengappa Lecture on 23<sup>rd</sup> November, 2018.

**12.** Hon'ble Mr. Justice Navin Sinha visited (i) Jaipur to inaugurate “8<sup>th</sup> FYLC - Ranka National Moot Court Competition, 2018” organized by Ranka Public Charitable Trust on 14<sup>th</sup> October, 2018; (ii) Jodhpur to participate in the “West Zone-I Regional Conference on Enhancing Excellence of the Judicial Institution: Challenges & Opportunity” organized by the National Judicial Academy at Rajasthan State Judicial Academy on 27<sup>th</sup> October, 2018; (iii) Patna to address and advice newly recruited Judicial Officers in the cadre of District Judge (Entry Level) on 5<sup>th</sup> November, 2018 at Bihar Judicial Academy; (iv) Bhopal to participate in the National Judicial Conference for Newly Elevated High Court Justices organized by National Judicial Academy on 17<sup>th</sup> November, 2018; (v) Jammu to participate in the North Zone-I “Regional Conference on Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities” on 1<sup>st</sup> December, 2018; and (vi) Ranchi to address the gathering and guide deliberations in East Zone-I “Regional Conference on Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities” on 22<sup>nd</sup> December, 2018.

**13.** Hon'ble Mr. Justice Deepak Gupta (i) visited Tirupati to inaugurate 51<sup>st</sup> Annual Conference of Indian Psychiatric Society, South Zone Branch on 27<sup>th</sup> October, 2018; (ii) visited Guwahati to attend 21<sup>st</sup> National Convention of All India Federation of Tax Practitioners on 22<sup>nd</sup> December, 2018; and (iii) at New Delhi (a) attended the State Level Consultative Meet on Juvenile Justice Issues at Saket Court Complex, on 17<sup>th</sup> November, 2018; (b) attended ‘HAUSLA 2018’ organized by Ministry of Women & Child Development, on 29<sup>th</sup> November, 2018; and (c) attended the 4<sup>th</sup> Annual Round Table on Juvenile Justice (Care & Protection of Children), on 1<sup>st</sup> December, 2018.

**14.** Hon'ble Ms. Justice Indira Banerjee (i) was Guest of Honour at the “1<sup>st</sup> National Meet for Sensitization of Family Court Matters” organised by High Court of Jharkhand & Jharkhand State Legal Services Authority at Judicial Academy, Jharkhand, Ranchi on 17<sup>th</sup> November, 2018; (ii) was Chief Guest at the “Colloquium on Human Trafficking and POCSO Cases” organised by West Bengal State Legal Services Authority, Kolkata on 24<sup>th</sup> November, 2018; (iii) was Resource Person at the “National Seminar for Principal District and Sessions Judges on Access to Justice and Legal Aid” organised by National Judicial Academy, Bhopal on 8<sup>th</sup> December, 2018 at Bhopal; and (iv) addressed “East Zone-I Regional Conference on Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities” organised by National Judicial Academy, Bhopal in

collaboration with the Jharkhand High Court and the Judicial Academy, Jharkhand at Ranchi on 22<sup>nd</sup> December, 2018.

**15.** Hon'ble Mr. Justice K. M. Joseph visited Ernakulam (Kerala) to delivered 4<sup>th</sup> Krishna Iyer Memorial Lecture on 9<sup>th</sup> November, 2018.

**16.** Hon'ble Mr. Justice M. R. Shah visited (i) Patna to attend the Interaction Session with the Newly recruited Judicial Officers organized by the Bihar Judicial Academy on 5<sup>th</sup> November, 2018; and (ii) Chennai to attend a Conference from 8<sup>th</sup> to 9<sup>th</sup> December, 2018.





The

# Supreme Court Reports

(WEEKLY)

Official Journal  
of Reportable Supreme Court Decisions

**[2018] 6 S.C.R. (Part-I)**

## *Highlights of the issue*

Distinction between Active and Passive Euthanasia.

Passive Euthanasia in the context of Article 21 of the Constitution.

Advance Directive / Advance Care Directive / Advance Medical Directive – Who can execute and how – What should it contain – How should it be recorded and preserved.

*Common Cause (A Regd. Society) v.  
Union of India*

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