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1

## SC Reserves Verdict on Aligarh Muslim University's Minority Status

*The case deals with the parameters for granting minority status to an educational institution and whether a centrally-funded university established by parliament can be so designated*

### Why in News?

The Supreme Court on Thursday reserved its judgement in a batch of petitions concerning whether the Aligarh Muslim University (AMU) is entitled to minority status under Article 30 of the Constitution of India. **[Aligarh Muslim University Through its Registrar Faizan Mustafa v Naresh Agarwal and ors]**

### Historical & Legal Overview

#### AMU's Establishment

- **Origins:** Aligarh Muslim University (AMU) traces its origins back to the Muhammadan Anglo-Oriental (MOA) College, which was established by Sir Syed Ahmad Khan in 1875 with the aim of addressing the educational backwardness among Muslims.
- **University Status in 1920:** In 1920, the institution was granted university status, transitioning from the MOA College to AMU. This transition marked a focus on providing both Western education and Islamic theology.

#### Dispute over Minority Status

- **Article 30(1) of the Constitution:** Article 30(1) grants minorities, based on religion or language, the right to

establish and administer educational institutions of their choice.

- **Initial Legal Challenges:** The legal dispute over AMU's minority status began with the Supreme Court's 1967 ruling in *S. Azeez Basha vs. Union of India*. This ruling questioned the amendments made to the AMU Act and raised concerns about the university's administration.
- **Supreme Court's 1967 Verdict:** The Supreme Court, in its 1967 verdict, determined that AMU was not established nor administered by the Muslim minority. It emphasized that the university was created by a central act, thereby warranting government recognition of its degrees.

#### Nationwide Protests and Political Response

- **1981 Amendment Affirming Minority Status:** In response to protests by Muslims, the government amended the AMU Act in 1981 to explicitly recognize the university's minority status.
- **Allahabad High Court's 2005 Ruling:** The Allahabad High Court, in 2005, overturned AMU's reservation policy and nullified the 1981 amendment, aligning with the Supreme Court's 1967 decision.



## Recent Developments and Government Stance

- **Withdrawal of Appeal by NDA Government:** In 2016, the NDA government withdrew its appeal in the Supreme Court, citing an inability to endorse the establishment of a minority institution in a secular state.
- **Referral to a Larger Bench:** In 2019, a three-judge Bench led by then Chief Justice Ranjan Gogoi referred the matter to a seven-judge Bench for a comprehensive review. This referral aimed to address the complexities surrounding AMU's minority status and the legal disputes surrounding it.

## Key Legal issues Argued before SC

The effect of a statute on the minority status of educational institutions, particularly in the case of Aligarh Muslim University (AMU), has been a subject of legal contention and debate. Here's a breakdown of the arguments presented by both petitioners and respondents regarding various aspects of this issue:

### Recognition by Statute and Minority Status

- Petitioners argue that the Supreme Court's 1967 decision in *S Azeez Basha v Union of India* created a contradiction. While the court ruled that recognition by a statute was necessary for the validity of degrees from AMU, it also held that such recognition would strip AMU of its minority status. This, they contend, undermines the effectiveness of Article 30 of the Constitution, which grants minorities the right to establish and administer educational institutions of their choice.
- Respondents, however, argue that AMU surrendered its minority status to the British government and opted for a "loyalist" stance, as opposed to "nationalist" institutions like Jamia Millia Islamia University. They assert that this surrender of rights was recognized in the *Azeez Basha* case.

### Administration and Minority Status

- Petitioners, represented by Senior Advocate Kapil Sibal, contend that the administration of a minority institution does not affect its minority status. They argue that Article 30(1) allows minorities to choose the administration without impacting the institution's minority character.
- Respondents counter this argument by stating that the British government had ultimate control over AMU's administration through the Lord Rector when the university was first established. They highlight that decisions of the university's Court were subject to the approval of the Lord Rector, who represented the British government.

### Consideration of the 1981 Amendment

- The 1981 amendment to the AMU Act, which aimed to assert AMU's minority status, has been a contentious

issue. Petitioners argue that if the *Azeez Basha* decision is overturned, rendering AMU a minority institution, then the 1981 amendment becomes redundant. However, if *Azeez Basha* is upheld, the amendment should be considered alongside the Allahabad High Court's decision, which struck it down.

- Respondents advocate for the consideration of the 1981 amendment, stating that it should be addressed by the seven-judge bench to avoid multiple hearings on the same matter. They assert that the amendment was enacted by Parliament and should be defended accordingly.

## Current Supreme Court's Verdict

- The Supreme Court, grappling with the persistent issue surrounding Aligarh Muslim University's minority status, remarked that the 1981 amendment to the AMU Act, which aimed to confer minority status, fell short of fully restoring the institution to its pre-1951 position.
- Despite the AMU Act of 1920 outlining the establishment of a teaching and residential Muslim university in Aligarh, the 1951 amendment removed compulsory religious instructions for Muslim students.
- Headed by Chief Justice D Y Chandrachud, a seven-judge constitution bench reserved its verdict on the matter. Justice Chandrachud expressed concern over the 1981 amendment's inadequacy in restoring the institution's original status.
- The BJP-led NDA government rejected the 1981 amendment and urged the court to adhere to the 1967 verdict in the *S Azeez Basha versus Union of India* case, which deemed AMU a central university, not a minority institution.
- Arguments from both sides were presented before the bench, with some advocating for AMU's minority status, while others contested it based on funding and administration.
- Notably, the Allahabad High Court invalidated the provision of the 1981 law granting minority status to the university, leading to appeals filed in the Supreme Court.
- The controversy over AMU's minority status has persisted for decades, with the matter being referred to a seven-judge bench in 2019. The Congress-led UPA government appealed against the Allahabad High Court's 2006 verdict, while the NDA government stated its intent to withdraw the appeal in 2016.
- The government cited the apex court's 1967 judgment in the *Basha* case to argue against AMU's minority status, emphasizing its status as a central university funded by the government.



2

## Breaking Marriage Promise due to Disapproval from Parents is not Rape: Bombay HC

### Why in News?

- The Nagpur branch of the Bombay High Court acquitted a 31-year-old man who was charged with raping a woman by falsely promising marriage. The court emphasized that renegeing on a marriage promise due to familial objections does not constitute rape.
- Justice MW Chandwani's ruling on January 30 clarified that the man had only failed to fulfill his commitment to marry the woman and had not engaged in sexual relations with her under false pretenses.

### Background of the Case

- A 33-year-old woman filed a complaint with the Nagpur police, claiming that her boyfriend, whom she had been in a relationship with since 2016, engaged in intimate relations with her under the promise of marriage.
- She lodged the complaint after discovering that he had become engaged to someone else.
- The accused explained that his family's disapproval of their relationship led him to end things with his girlfriend and become engaged to a woman chosen by his parents.
- It's worth mentioning that according to a counter complaint filed by her boyfriend, the woman had also married another man in 2021.

### Bombay High Court's Verdict

- In its ruling, the court emphasized the woman's maturity and concluded that the accusations against her boyfriend did not inherently suggest that his promise of marriage was insincere. The court acknowledged that the situation could be construed as a case of unfulfilled promises due to unforeseen circumstances beyond the accused's control, preventing him from marrying the victim despite his genuine intentions.
- Furthermore, the court noted the absence of concrete evidence indicating that the accused had never intended to marry the woman and had only made false promises to engage in physical relations with her under the guise of marriage. The verdict clarified that the accused's decision to retract his promise of marriage due to parental objections did not amount to the commission of rape.

### Difference Between False Promise to Marry and Breach of Promise to Marry in the Context of Rape Laws

- Rape is universally recognized as one of the most heinous crimes, inflicting profound physical and psychological trauma on the victim. The impact extends far beyond the immediate physical violation, affecting the survivor's mental and emotional well-being. It is imperative for the criminal justice system to respond

to such crimes with utmost seriousness, ensuring swift and effective prosecution of perpetrators.

- The administration of justice must prioritize the needs and rights of the survivor, providing them with support and ensuring their access to justice. Perpetrators of rape must face stringent legal consequences commensurate with the severity of their actions and the circumstances of the case. This includes expeditious trials and imposing severe punishments as prescribed by law.
- Efforts to combat rape must also encompass preventive measures, education, and societal awareness to challenge and change attitudes that perpetuate violence against women and vulnerable populations. Building a culture of respect, equality, and accountability is essential in creating safer communities and preventing future instances of sexual violence.

## Section 375 of the Penal Code, 1860 defines rape

### 375. Rape.—

A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:

- (Firstly.)— Against her will.
- (Secondly.)— Without her consent.
- (Thirdly.)— With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.
- (Fourthly.)— With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
- (Fifthly.)— With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- (Sixthly.)— With or without her consent, when she is under sixteen years of age.
- **Explanation.**— Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

## Section 90 of the Penal Code, 1860 defines consent known to be given under fear or misconception

### 90. Consent known to be given under fear or misconception.—

- A consent is not such a consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact,

and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

- Consent of an insane person.— if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or
- Consent of child.—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

The legal principle outlined here highlights the significance of genuine consent in sexual relations. When a woman consents to a sexual act based on a false promise of marriage, her consent is deemed to be given under a misconception, rendering the act non-consensual according to Section 90 of the Indian Penal Code (IPC). Consequently, such an act falls under the purview of sexual intercourse without consent as defined in Section 375 of the IPC.

In contemporary legal scenarios, courts frequently encounter cases where women initiate prosecutions under Sections 375/376 of the IPC against individuals with whom they were previously in a relationship, especially when the relationship sours. While the gravity of the offense of rape warrants prompt registration of FIRs and thorough investigations, it is crucial to ensure that the legal process is not manipulated to serve personal vendettas or vengeance. Misusing the law in such a manner can have severe repercussions on the life and liberty of the accused.

Balancing the imperative of addressing sexual violence with safeguarding against false accusations requires careful consideration by the criminal justice system. Upholding the principles of fairness, impartiality, and due process is essential to prevent misuse of legal provisions while ensuring justice for survivors of sexual assault.

### False Promise and Breach of Promise

- When courts handle rape cases stemming from past relationships, they must approach them with great care and sensitivity. The determination of whether the accused’s actions constitute a breach of promise or a false promise is crucial. A breach of promise occurs when the accused, due to changed circumstances, cannot fulfill their promise of marriage. Conversely, a false promise entails the accused deceiving the victim with no intention of marrying them, solely to obtain consent for sexual activity.
- The Supreme Court’s ruling in **Deepak Gulati v. State of Haryana** highlights this distinction. The court emphasizes the need to discern whether the accused genuinely intended to marry the victim or made a false promise out of deceit. Failure to fulfill a false promise differs significantly from a mere breach of promise. Therefore, the court must scrutinize whether the accused initially made a false promise of marriage and whether the victim consented fully aware of the



implications. To prosecute under Sections 375/376 of the IPC, the circumstances must demonstrate that the accused never intended to marry the victim, and the victim consented based on the false promise.

- For instance, if the accused is already engaged to someone else but still promises marriage to the victim and engages in sexual activity, it indicates deceit from the start and constitutes rape under Sections 375/376 of the IPC. Conversely, if the accused's inability to marry the victim arises from unforeseen life changes, it does not constitute rape.

### Consensual Act and Act under Misconception of Fact

- The court must carefully examine whether the sexual act was initiated with the prosecutrix's free will and consent or if it was influenced by a false promise of marriage. The Supreme Court's decision in **Uday v. State of Karnataka** illustrates this distinction. In this case, the prosecutrix, a college student, was aware that their marriage was unlikely due to caste differences and familial opposition. Despite this knowledge, she did not resist the advances of the appellant and chose to engage in sexual intercourse with him.
- The court concluded that she freely, voluntarily, and consciously consented to the sexual act, understanding

its significance and potential consequences. Her consent was not based on any misconception of fact. Therefore, it is crucial to assess whether the facts and circumstances indicate voluntary consent or if a false promise of marriage was used to overcome the prosecutrix's resistance to the sexual act.

- In cases where the sexual act is consensual and initiated with voluntary consent, it does not constitute rape. However, if a false promise of marriage was employed to manipulate the prosecutrix into consenting to the sexual act, it squarely falls under the offense of rape.

### Conclusion

While there's no one-size-fits-all approach to determine whether the accused's actions constitute rape, each case must be carefully examined based on its unique circumstances. It's essential for the court to recognize the subtle yet significant distinction between a false promise of marriage and a breach of promise of marriage. If the accused never intended to marry the prosecutrix or made a false promise of marriage to coerce her into consenting to sexual activity, it falls under Section 375 of the IPC. Conversely, if the accused's inability to fulfil the promise of marriage arises from genuine life circumstances, it amounts to a breach of promise and does not invoke the provisions of Section 375 of the IPC.



3

## Uttarakhand's UCC Bill-Mandatory Registration of Live-in-Relationships within one Month of Entering into Relationship

### Why in News?

On February 6th, the Uttarakhand government presented the 'Uniform Civil Code Uttarakhand 2024 Bill' (draft UCC Bill) in the state legislative assembly. The Bill addresses various aspects of personal law including marriage, divorce, inheritance, and cohabitation. One notable provision of this law is that individuals in live-in relationships within Uttarakhand are required to officially register with local authorities. Failure to do so could lead to imprisonment under the state's Uniform Civil Code. This marks a departure from the previous lack of explicit legal regulation for live-in relationships in India. While the recognition of live-in relationships by a state is a positive step towards legal clarity, the implementation of the UCC act raises potential concerns and warrants careful consideration.

### What Does the Proposed Law on live-in-Relationship Mean for Couples?

- The legislation mandates individuals in live-in relationships in Uttarakhand, including temporary residents, to submit a 'live-in relationship' statement to a government-appointed registrar. The act defines a live-in relationship as cohabitation between a man and a woman, with specific rights outlined for women, in a shared household resembling marriage.
- Upon receiving the statement, the registrar has 30 days to verify the relationship's compliance with Clause

380 of the bill. This clause prohibits the registration of live-in relationships involving a married partner, a minor, or relations by blood or marriage. It also prohibits coercion or misrepresentation in obtaining consent. If the registrar confirms the relationship's validity, they can register it and issue a certificate to the couple. Failure to register within a month may result in criminal penalties, including imprisonment for up to three months or a fine of up to ₹10,000, or both. However, the act does not specify how the commencement date of the live-in relationship should be determined, leaving this aspect ambiguous.

- If the registrar deems a live-in relationship ineligible based on prohibited grounds in clause 380 or if the registration application contains 'incorrect or suspicious' details, they will alert the local police for 'appropriate action'.

### Who can enter into Live-in-Relationship?

Individuals contemplating a live-in relationship in Uttarakhand should be aware of the eligibility criteria outlined in the legislation.

- **Heterosexual Requirement:** The law explicitly states that live-in relationships are only recognized between a man and a woman. Regrettably, there is no provision for same-sex couples in this legislation.
- **Age Requirement:** Both partners must be at least 21 years old to independently register their relationship.

If either or both partners are below this age, parents or guardians will be notified about their child's decision to enter a live-in relationship.

### How to register?

The registration process for a live-in relationship entails the following steps:

1. **Submission of Statement:** Partners must submit a statement declaring their live-in relationship to the local Registrar. This statement serves as a formal acknowledgment of their arrangement.
2. **Registrar's Inquiry:** The Registrar will then conduct an inquiry into the relationship. This inquiry may involve summoning either or both partners and seeking additional information to verify the authenticity of their relationship.
3. **Outcome:** Based on the findings of the inquiry, the Registrar may either approve or deny the registration within 30 days. If denied, reasons for refusal will be provided in writing.

### Non-Compliance to Registration

Failure to register a live-in relationship may result in the following consequences:

- **Issuance of Notice:** Authorities may issue a notice to couples who have not registered their live-in relationship, serving as a formal warning to comply. This notice may be issued independently by the authorities or in response to a complaint.
- **Penalties:** If the couple fails to register within 30 days of receiving the notice, they may face penalties, including fines or imprisonment. The severity of penalties increases for prolonged non-registration or providing false information. The maximum jail term can extend up to 6 months, and a fine of ₹25,000 can be imposed for non-compliance with the rules.

### Ending a Live-in-Relationship

Ending a live-in relationship involves giving notice to the other party and the Registrar to formalize and recognize the termination.

Either party may give notice of termination of the relationship.

### Rights of Women and Children

- **Financial Support for Women:** If a woman is abandoned by her partner, she has the right to receive maintenance, ensuring she receives financial support to sustain herself following the end of the relationship.
- **Status of Children:** Children born from live-in relationships will be considered legitimate, providing them with legal recognition and rights.

### Proposed law-UCC in a nutshell

#### What is UCC( Uniform Civil Code)?

A Uniform Civil Code is envisioned as a comprehensive set of laws regulating personal matters such as marriage,

divorce, adoption, inheritance, and succession for all citizens, irrespective of their religious beliefs. It seeks to replace the current disparate personal laws that differ according to religious affiliations.

#### One example of a difference in personal laws in India pertains to inheritance rights for women based on their religion:

- **Hindu Succession Act (1956):** Under this law, which governs Hindus, Buddhists, Jains, and Sikhs, Hindu women have equal rights to inherit property from their parents, enjoying the same entitlement as Hindu men. Both married and unmarried daughters have equal rights, and women are recognized as joint legal heirs for ancestral property partition.
- **Muslim Personal Law:** Muslim women are governed by this law, which entitles them to a share of their husband's property, typically either 1/8th or 1/4th, depending on the presence of children. However, daughters' share is generally half of that of sons.
- **Indian Succession Act (1925):** This law applies to Christians, Parsis, and Jews. Christian women receive a predetermined share based on the presence of children or other relatives. Parsi widows receive an equal share as their children, with half of the child's share going to the deceased's parents if they are alive.

#### Provision Related to UCC Under Indian Constitution

- The Indian Constitution includes a provision for a Uniform Civil Code in **Article 44** as a Directive Principle of State Policy, which states that "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India".
- Following its liberation in 1961, Goa retained the Portuguese Civil Code, making it the only state in India to have a Uniform Civil Code applicable to all religions.
- In 2024, the Uttarakhand assembly passed the Uniform Civil Code bill, making it the first state in the country after independence to adopt a Uniform Civil Code.

**Constitutional Mandate:** Article 44 of the Indian Constitution stipulates that the State shall strive to establish a uniform civil code for all citizens across the nation.

**Objective:** The proposed Uniform Civil Code (UCC) Bill aims to implement a standardised legal framework governing marriage, divorce, land ownership, property rights, and inheritance for all residents of Uttarakhand, regardless of their religious affiliation.

- **Exclusion of Tribal Communities:** The provisions of the UCC Bill do not extend to tribal communities.
- **Regulation of Live-in Relationships:** The bill intends to regulate live-in relationships within Uttarakhand.
- **Prohibition of Bigamy:** The bill explicitly prohibits bigamy, or the practice of entering into marriage with more than one person simultaneously.



4

## Electoral Bonds Scheme: SC strikes down the scheme and calls it 'Unconstitutional'- *Allowing unlimited donations violates free & fair elections*

### Why in News?

- Just months before the Lok Sabha elections, the Supreme Court made a landmark decision by invalidating the government's electoral bonds scheme for anonymous political funding. The court ruled it unconstitutional and mandated the disclosure of donors, amounts, and recipients by March 13.
- Chief Justice D Y Chandrachud led a five-judge bench, asserting that the 2018 scheme violated constitutional rights to freedom of speech, expression, and information under Art 19(1)(a). Contrary to the government's claims of transparency and black money reduction, the verdict was a setback for the Modi administration.
- The court immediately ordered the scheme's closure and instructed the State Bank of India (SBI), the scheme's financial institution, to provide details of electoral bonds purchased since April 12, 2019, to the Election Commission of India (ECI) by March 6. The ECI will then publish this information on its official website by March 13. Additionally, the court mandated the return of uncashed electoral bonds within 15 days' validity to the issuing bank for a refund to the purchaser's account.

### Background of the Case

- The electoral bonds scheme, initiated in 2018, aimed to enhance transparency in political contributions. However, critics contended that the anonymity it afforded facilitated corruption and disrupted the fair competition among political entities.
- Three petitioners approached the Supreme Court to challenge the amendments introduced by the Finance Act 2017, which established the electoral bonds scheme. They asserted that the secrecy surrounding these bonds diminished transparency in political financing and infringed upon voters' right to information. Additionally, they argued that the scheme permitted contributions from shell companies.
- The central government defended the scheme, asserting that it ensured only lawful funds were utilised for political financing through proper banking channels. They maintained that maintaining the anonymity of donors shielded them from reprisals by political parties.

### Highlights of the Judgement

- The Supreme Court has declared the electoral bonds scheme unconstitutional, citing violations of citizens' right to information, which impacts freedom of



speech and expression under Article 19(1)(a) of the Constitution.

- The court emphasised that absolute exemptions cannot achieve transparency in political funding.
- The issuing bank, State Bank of India (SBI), has been directed to cease the issuance of electoral bonds immediately. SBI must provide details of donations through electoral bonds and the recipient political parties to the Election Commission by March 6, 2024.
- Electoral bonds not yet encashed by political parties must be returned to the purchaser.
- The court nullified amendments to the Income Tax Act and the Representation of People Act that had enabled anonymous donations.
- It observed that the electoral bond scheme would disproportionately benefit the ruling party and rejected claims that it would curb the inflow of black money into politics.
- Economic inequality contributes to varying levels of political engagement, and access to information can influence policy making, leading to potential quid pro quo arrangements.
- The court deemed the amendment to the Companies Act, allowing blanket corporate political funding, unconstitutional. It violated citizens' right to information regarding possible quid pro quo arrangements.
- Before the 2017 amendment to the Companies Act, loss-making Indian firms were prohibited from making contributions.
- It holds that the electoral bonds scheme was not fool-proof and that information about funds received by a political party is essential for voters to exercise their freedom to vote effectively.
- SC says democracy does not begin and end with elections and the integrity of the election process is pivotal for sustaining the democratic form of government.

### What are Electoral Bonds and How do they Work?

Electoral bonds are financial instruments introduced in India in 2018 as part of efforts to reform political funding. These bonds are essentially bearer instruments that resemble promissory notes and are used to make donations to registered political parties.

- **Purchase:** Electoral bonds are instruments introduced in India in 2018, allowing individuals and companies to

purchase bonds from specified branches of authorised banks, such as the State Bank of India, in denominations ranging from 1,000 rupees to 10 million rupees.

- **Donation:** These bonds can then be donated to political parties of the donor's choice without revealing the donor's identity.
- **Redemption:** Upon receiving the bonds, political parties can exchange them for cash. Electoral bonds were exempt from tax and did not carry the name of the donor, providing anonymity to the contributors.

### Amendments to Various Laws

The electoral bonds scheme was introduced through several amendments to various laws. Here are the key amendments related to electoral bonds:

1. **Finance Act, 2017:** This act introduced the concept of electoral bonds. It amended several laws, including the Reserve Bank of India Act, 1934, the Representation of the People Act, 1951, and the Income Tax Act, 1961, to incorporate provisions related to electoral bonds.
2. **Amendments to the Income Tax Act, 1961:** The Finance Act, 2017, made amendments to the Income Tax Act to provide tax exemptions for donations made through electoral bonds. These amendments ensured that political parties receiving donations through electoral bonds would not be required to disclose the identity of the donor to the income tax authorities.
3. **Amendments to the Representation of the People Act, 1951:** The Finance Act, 2017, also made amendments to the Representation of the People Act to accommodate the provisions related to electoral bonds. These amendments facilitated the legal framework for the issuance, transfer, and encashment of electoral bonds.
4. **Amendments to the Companies Act, 2013:** The Finance Act, 2017, amended the Companies Act to allow companies to make donations to political parties through electoral bonds. This amendment provided a legal mechanism for corporate entities to contribute funds to political parties while maintaining anonymity.

These amendments collectively established the legal framework for the electoral bonds scheme in India, governing their issuance, transfer, taxation, and reporting requirements. However, with the recent Supreme Court ruling declaring the scheme unconstitutional, these amendments are likely to be revisited or nullified to comply with the court's decision.



5

## Right to Adopt not a Fundamental Right, Parents can't choose Adoptees-Says Delhi HC

### Why in News?

The Delhi High Court has ruled that the right to adopt cannot be raised to the status of a fundamental right within Article 21 of the Constitution of India, nor can it be raised to a level granting Prospective Adoptive Parents (PAPs) the right to demand their choice of who to adopt.

### Background of the Case

- Several prospective adoptive parents (PAPs), each with two biological children, filed petitions seeking to adopt a third child under the Juvenile Justice (Care and Protection of Children) Act, 2015. However, during the pendency of their applications, the Adoption Rules of 2022 replaced the previous Adoption Regulations of 2017. This new set of rules stipulated that couples with two or more children could only adopt children with special needs or those classified as hard-to-place, unless the children were relatives or step-children.
- Hard-to-place children are those who face challenges in finding adoptive families due to factors such as physical or mental disabilities, emotional disturbances, high risks of disease, age, or racial and ethnic considerations.
- The petitioners argued that the retrospective application of the Adoption Regulations of 2022 was arbitrary and violated Article 14 of the Constitution, which guarantees equality before the law. They contended that this new regulation unfairly restricted

their ability to adopt a third child, as they were now limited to adopting children with special needs or those considered hard-to-place.

### Delhi HC Ruling

- Justice Subramonium Prasad upheld the retrospective application of a regulation limiting couples with two or more children to adopting children with special needs or those hard to place. The court emphasised that the adoption process primarily focuses on the welfare of children, rather than the preferences of prospective adoptive parents (PAPs). It stated that the right to adopt cannot be elevated to the status of a fundamental right, nor does it grant PAPs the right to demand their choice of whom to adopt.
- The judge acknowledged the long waiting period for adoption and the disparity between the number of normal children available for adoption and the number of PAPs seeking to adopt them. The regulation aims to ensure that more children with special needs find suitable adoptive families, considering the challenges they face in being adopted.
- The court dismissed the petitions, stating that there is no inherent right to insist on adopting a particular child. It emphasised that the change in eligibility criteria does not invalidate the registration of the petitioners as PAPs, who remain eligible to adopt special needs children, hard-to-place children, or children who are

relatives or stepchildren. The court noted that the legislature's policy aims to address the rush of couples seeking to adopt children and ensure the welfare of the children involved.

### **Adoption Rules, 2022 under the Juvenile Justice (Care and Protection of Children) Act, 2015**

The Adoption Rules of 2022 are a set of regulations governing the process of adoption in India. These rules outline the procedures, eligibility criteria, and requirements for individuals or couples seeking to adopt a child. Some key provisions of the Adoption Rules, 2022 include:

- 1. Eligibility Criteria:** The rules specify the eligibility criteria for prospective adoptive parents (PAPs), including age, marital status, financial stability, and the number of biological children. In particular, the rules may restrict couples with two or more biological children to adopting only children with special needs or those considered hard-to-place.
- 2. Adoption Process:** The rules outline the procedures for adoption, including registration with authorised adoption agencies, home studies, and matching of

children with prospective parents. They may also detail the documentation required for the adoption process, such as birth certificates, marriage certificates, and income proofs.

- 3. Special Needs Children:** The rules provide special provisions for the adoption of children with special needs, including medical assessments, counselling, and support services for both the child and the adoptive family.
- 4. Retrospective Application:** The Adoption Rules of 2022 addresses the retrospective application of regulations, particularly in cases where changes in eligibility criteria affect pending adoption applications.
- 5. Compliance and Oversight:** The rules establish mechanisms for monitoring and oversight of the adoption process, including inspections of adoption agencies, compliance with legal requirements, and protection of the rights of the adopted child.

Overall, the Adoption Rules of 2022 aim to ensure the welfare and best interests of children in need of adoption while providing a transparent and legally sound framework for the adoption process.



6

## SC reserves Judgement on DMRC's Curative Petition against DAMEPL

### Why in News?

On Tuesday (20 Feb, 2024), the Delhi Airport Metro Express Private Limited, a subsidiary of Reliance Infrastructure, informed the Supreme Court that it wasn't pursuing damages from DMRC. Instead, it sought reimbursement for the trains it had procured to operate on the airport metro line, as per the 2017 arbitral award. A special bench headed by Chief Justice D Y Chandrachud, along with justices B R Gavai and Surya Kant, reserved its judgement on DMRC's curative petition challenging the dismissal of its review plea against the arbitral award of Rs 8,000 crore in favour of Delhi Airport Metro Express Private Limited (DAMEPL). The Anil Ambani-owned Reliance Infrastructure Limited, the flagship firm of DAMEPL, represented by senior advocates Harish Salve and Kapil Sibal, labelled DMRC's curative plea against the Supreme Court's decisions as a "wholesale trial by ambush."

### Background of the Case

A disagreement over the management and operations of Delhi's Airport Metro Express line, a vital infrastructure project intended to improve connectivity between the city and its airport, is the source of the legal dispute between DMRC and DAMEPL. Prior to this, the arbitral tribunal had found in DAMEPL's favour and granted it hefty compensation for problems pertaining to revenue sharing and operational difficulties. The action taken by DMRC to

contest this award through a curative petition highlights the intricate relationships that exist between corporate partners and public utility services, particularly when it comes to public-private partnership (PPP) initiatives.

The arguments were carefully considered by the Supreme Court throughout the proceedings, with particular attention paid to the legal ramifications of arbitral verdicts, the reach of curative petitions, and the decision's wider effects on India's arbitration system. This case is significant not only because of the high financial stakes but also because of its possible influence on the nation's arbitration laws and the arbitration process itself.

### Arguments and Supreme Court's Findings

- The Supreme Court has dismissed both the appeal and review petitions filed by the Delhi Metro Rail Corporation (DMRC), challenging the arbitral award requiring it to pay ₹8,000 crore to DAMEPL. The court, which heard the curative petition and reserved its verdict, found the termination notice issued by DAMEPL on October 8, 2012, terminating the concessionaire agreement regarding the airport metro line in Delhi, to be legal.
- Representing DMRC, Attorney General R Venkataramani and senior advocate K K Venugopal argued that the curative plea was justified, claiming the award was erroneous and upholding it would lead to a miscarriage



of justice. Venugopal highlighted certain structural deficiencies in the airport metro line but noted that trains were currently operating at speeds of 120 km/hour.

- On behalf of the Reliance firm, senior advocates Harish Salve and Kapil Sibal clarified that they weren't seeking damages from DMRC but rather reimbursement for the cost of trains. They emphasised that the arbitral award pertained to the trains and any increase in the amount was due to the application of arbitration law. Salve pointed out the clear termination of the concessionaire agreement and criticised DMRC for introducing new arguments during the curative petition, labelling it as a "wholesale trial by ambush".
- Sibal argued that DMRC's curative plea was not maintainable according to judicial principles and the law governing curative petitions. The court had previously suggested that a five-judge bench might hear DMRC's curative plea against the arbitral award. DMRC had filed the curative petition in August 2022 after its review plea was dismissed by the Supreme Court in 2021.
- Following the dismissal of DMRC's plea, the Reliance firm moved the Delhi High Court seeking execution of the arbitral award. The High Court, on March 29 last year, ruled that its earlier direction to attach DMRC funds would not obstruct payment of salaries or operation and maintenance expenses. The court directed the government to assist DMRC in fulfilling its obligations regarding the arbitral award, emphasising that sovereign governments must comply with binding judgments. The High Court modified its order on DMRC's review plea, specifying that if parties failed to comply with its directives, DMRC's funds would be attached. As of February 14, 2022, DMRC has paid ₹1,678.42 crore of the awarded amount, with Rs 6,330.96 crore still outstanding.

### Verdict Awaited

- The pending verdict from the Supreme Court in this significant case is generating considerable anticipation within both the legal and commercial sectors. This case has the potential to profoundly influence the landscape of arbitration and the sanctity of arbitral awards in

India. It underscores the delicate equilibrium that the judiciary must maintain between upholding the conclusive nature of arbitration decisions and ensuring that justice prevails despite any potential flaws or injustices.

- The outcome of this case is expected to have far-reaching implications on various fronts, including public-private partnership (PPP) frameworks, the arbitration process itself, and the broader investment climate in India. Regardless of the court's ruling, it is poised to leave a lasting impact, shaping the trajectory of future disputes resolution and investment practices in the country. As stakeholders eagerly await the Supreme Court's decision, the ramifications of this case are poised to reverberate throughout the legal and commercial landscape in India.

### Relevant Terms

#### Arbitral Award

An arbitral award is a final and binding decision issued by an arbitrator or arbitral tribunal at the conclusion of an arbitration proceeding. It serves as the resolution of a dispute between parties who have chosen arbitration as the method for resolving their legal disagreements, rather than going through traditional court litigation. Arbitral awards can cover various issues, including contractual disputes, commercial disagreements, and other legal matters agreed upon by the parties involved.

#### Curative Petition

A curative petition is a legal remedy available in certain jurisdictions, including India, for addressing perceived errors or miscarriages of justice that may have occurred in a final judgement or order of the Supreme Court. It is typically considered as a last resort after all other legal remedies, such as review petitions, have been exhausted. A curative petition is usually heard by a larger bench of judges and requires a compelling argument demonstrating a substantial violation of principles of natural justice or other exceptional circumstances that warrant reconsideration of the final judgement or order. Curative petitions are relatively rare and are reserved for cases where there is a genuine concern about the fairness or correctness of the court's decision.



7

## 'She Has Right To Choose' : Supreme Court Says Reserving Judgement On Divorced Muslim Woman's Right To Seek Maintenance Under S.125 CrPC

### Why in News?

The Supreme Court of India has issued a verdict regarding the eligibility of divorced Muslim women to seek maintenance under CrPC Section 125. The court emphasised that it is within the rights of a divorced Muslim woman to opt for maintenance under Section 125 if she chooses to do so. Notably, the Muslim Women (Protection of Rights on Divorce) Act does not explicitly preclude the applicability of Section 125.

### Background of the Case

- Mohd Abdul Samad appealed a family court's order to pay Rs 20,000 monthly maintenance to his ex-wife in Telangana.
- His ex-wife had sought maintenance under Section 125 of the CrPC, citing triple talaq by Samad.
- The High Court, while disposing of the appeal on December 13, 2023, acknowledged several unresolved questions but directed Samad to pay Rs 10,000 as interim maintenance.
- Samad contested this decision in the Supreme Court, arguing that the provisions of the 1986 Act, a Special Act, should supersede those of Section 125 Cr.P.C, a general Act.

- He asserted that the 1986 Act, specifically Sections 3 and 4, with a non-obstante clause, take precedence over Section 125 Cr.P.C, which lacks such a clause.
- Samad argued that since the Special Act grants jurisdiction to First Class Magistrates to decide matters of Maher and other subsistence allowances, applications for maintenance under Section 125 Cr.P.C should not be permissible before a Family Court.

### Arguments Presented

- The Supreme Court, on February 12, appointed senior advocate Gaurav Agarwal as amicus curiae for the case and sought his opinion.
- Agarwal informed the bench, including Justice Augustine George Masih, that Section 125 proceedings remain valid post the Shah Bano case.
- He noted that the 1986 ruling in Danial Latifi v. Union of India did not explicitly address whether the 1986 Act overrides Section 125 Cr.P.C.
- Agarwal highlighted that the 1986 Act aims to ensure Muslim divorced women receive maintenance rights akin to other divorced women to uphold constitutional principles.
- Senior Advocate S Wasim A Qadri, representing the ex-husband, argued that if Parliament intended Muslim

women to claim maintenance under Section 125, the 1986 Act wouldn't be necessary.

- Qadri cited Section 7 of the 1986 Act, which indicates that petitions under Section 3 of the Act are to be handled by the Magistrate.
- Justice Nagarathna clarified that Section 7 pertains to pending cases.
- Agarwal referenced a Kerala High Court decision suggesting that both Section 125 and Section 3 petitions are maintainable, raising the need for Supreme Court clarification.
- Justice Nagarathna questioned whether a divorced woman has the right to choose between the two options or pursue both simultaneously, rejecting the notion of it being optional according to the Kerala HC view.

### Supreme Court's Ruling

After hearing both advocates, Justice Masih said, "This Act does not bar...it is the choice of the person who had applied or moved an application under 125...there is no statutory provision provided under the Act of 1986 which says that 125 is not maintainable".

Both the judges were of the view that there was nothing in the 1986 Act that barred one remedy in favour of the other.

Opposing the view that the parliament on the enactment of the 1986 Act intended to extinguish the rights of Muslim divorced women to file petitions under Section 125 CrPc, the court said that the parliament is supposed to make a clarification about it in proper language. The court added, "Parliament must have been aware that when the 1986 Act was enacted, a number of orders must have passed in favour of divorced Muslim women under Section 125. A message appears to us to be loud and clear...Both rights, under Section 125 of the Code and Section 3 were conferred on the divorced women. She has the right to choose."

### Relevant Provisions

#### Muslim Women (Protection of Rights on Divorce) Act:

- **Sec 3:** This section deals with the provision for a reasonable and fair provision and maintenance to be made and paid to a divorced woman within the iddat period by her former husband. It mandates that such provision and maintenance are to be determined by the Magistrate if the parties cannot come to an agreement.
- **Sec 4:** It addresses the provision for the payment of maintenance by relatives of the husband. Specifically, it states that if a husband fails to provide maintenance to his divorced wife within the iddat period, then the responsibility for providing maintenance shifts to the relatives of the husband who are liable to maintain the wife in proportion to their respective means. This section ensures that the divorced wife is not left

without financial support if the husband fails to fulfill his obligation of maintenance.

- **Sec 7:** Section 7 deals with the powers of the Magistrate to make orders for the payment of maintenance, among other provisions. It stipulates that any order passed under Section 3 or Section 4 of the Act may be enforced in the same manner as if it were a decree passed by a civil court.

### Sec 125 of CrPC

- Section 125 of the Code of Criminal Procedure (CrPC) in India deals with the provision for maintenance of wives, children, and parents. It is a crucial legal provision aimed at ensuring the financial support of individuals who are unable to maintain themselves. Here's a summary of the key points covered under Section 125 CrPC:

- ◆ **Maintenance of Wives:** A husband is obligated to provide maintenance to his wife if he neglects or refuses to maintain her without reasonable cause. This includes providing her with food, clothing, residence, and other necessities.
- ◆ **Maintenance of Children:** Parents, including both fathers and mothers, are liable to maintain their legitimate or illegitimate minor children who are unable to maintain themselves.
- ◆ **Maintenance of Parents:** A person with sufficient means is obligated to maintain his/her parents who are unable to maintain themselves.
- ◆ **Jurisdiction:** Magistrates have the jurisdiction to order payment of maintenance under this section. Maintenance orders can be enforced as if they were orders passed by a civil court.
- ◆ **Amount of Maintenance:** The amount of maintenance to be paid is determined based on the needs of the person seeking maintenance and the means of the person liable to pay.

### Relevant Case Laws

#### Shah Bano Case (1985)

- In the Shah Bano case, the issue of maintenance for Muslim women after divorce was brought to the forefront. Shah Bano, an elderly Muslim woman, sought maintenance from her husband after he divorced her.
- The Supreme Court of India ruled in favour of Shah Bano, affirming her right to maintenance under Section 125 of the Criminal Procedure Code, which applies to women of all religions.
- This decision was a significant victory for Muslim women's rights to maintenance, as it recognized their entitlement to financial support from their husbands even after divorce.

- However, the subsequent enactment of the Muslim Women (Protection of Rights on Divorce) Act in 1986 by the Indian government diluted the Supreme Court's ruling, limiting the duration and amount of maintenance that Muslim women could claim.

#### **Daniel Latifi Case (2001)**

- The Daniel Latifi case also addressed the issue of maintenance for Muslim women, particularly in the context of unilateral divorce (talaq) by husbands.
- In this case, the Supreme Court of India held that unilateral divorce by the husband without following

legal procedures was invalid and did not absolve the husband of his obligation to provide maintenance to his wife.

- The decision in the Daniel Latifi case reaffirmed the rights of Muslim women to maintenance even in cases of unilateral divorce, ensuring that husbands could not evade their financial responsibilities by arbitrarily divorcing their wives.
- This case further strengthened the legal protections for Muslim women's right to maintenance, emphasising the principles of justice and equality enshrined in the Indian Constitution.





8

## Right to Protest Subject to reasonable restrictions- Punjab & Haryana HC on Farmers Protest

### Why in News?

As farmers assembled at the Punjab-Haryana border preparing to recommence their protest march towards Delhi, the Punjab and Haryana High Court advised the Punjab government against permitting large gatherings. The court noted that tractor-trolleys are prohibited from operating on highways under the Motor Vehicles Act, suggesting that farmers utilize buses or public transportation to travel to Delhi instead.

### Background of the Case

- Two petitions were under consideration by the high court. One petition sought orders to halt any “obstructive” measures taken by the governments of Haryana, Punjab, and the Central government against the farmers’ protest. The other petition aimed to ensure that no highways were blocked by protesters, with requests for action against those who obstructed roads. The hearing has been adjourned until next week.
- During the previous hearing on February 15, Haryana had expressed concerns, stating that farmers’ unions were determined to disrupt the essential services of northern states, causing fear among the state’s citizens.
- Following their fourth round of discussions with three Union ministers on Sunday, farmer leaders rejected the Centre’s proposal to procure pulses, maize, and cotton

crops at the minimum support price (MSP) for five years, deeming it unfavourable for farmers.

- The ‘Delhi Chalo’ march, initiated on February 13, is being led by the Samyukta Kisan Morcha (Non-Political) and the Kisan Mazdoor Morcha.
- In addition to a **legal guarantee of MSP**, the farmers are demanding the implementation of the Swaminathan Commission’s recommendations, pension for farmers and farm labourers, farm debt relief, no increase in electricity rates, withdrawal of police charges, justice for the victims of the 2021 Lakhimpur Kheri violence, reinstatement of the Land Acquisition Act, 2013, and compensation for the families of farmers who died during a previous agitation in 2020-21.

### Observations made by P & H High Court

- The ongoing protest by farmers at the Shambhu and Khanauri points on Punjab’s border with Haryana has encountered legal scrutiny. A bench comprising Acting Chief Justice GS Sandhawalia and Justice Lapita Banerji has directed the Punjab government to prevent large gatherings of farmers. Additionally, the court has noted restrictions on the use of tractors and trolleys on highways under the Motor Vehicles Act. Instead, farmers are suggested to utilize buses or public transport to travel to Delhi.

- Haryana's Additional Advocate General, Deepak Sabharwal, relayed the court's instructions, emphasizing the need for dispersal of farmers to prevent large congregations. The court has also requested the central government to submit a status report, detailing the outcomes of meetings between farmer representatives and a panel of Union ministers. This legal intervention underscores the complex dynamics surrounding the farmers' demands and the regulatory framework governing their protests.
- It also reminded the farmers to follow "constitutional duties" regardless of everyone knowing their fundamental rights.

"You are travelling from Amritsar to Delhi on trolleys. Everyone knows their fundamental rights, but there are also some constitutional duties that need to be followed," the court said in its remarks during a farmers' protest hearing.

## Relevant Points

### Why are Farmers Protesting?

- The farmers' union leaders' demand for guarantees, backed by law, of more state support or a minimum purchase price for crops reflects their desire for greater income security and protection from market uncertainties. While the government currently announces support prices for more than 20 crops each year, state agencies primarily purchase only rice and wheat at these support levels, leaving many farmers without the benefit of guaranteed prices.
- The practice of buying rice and wheat at government-fixed minimum support prices is primarily aimed at building reserves to sustain India's extensive food welfare program, which provides free rice and wheat to millions of citizens. However, this system only benefits a small percentage of farmers who cultivate these two staple crops.
- In response to the farmers' protests and demands, the Indian government had announced the repeal of the controversial farm laws in 2021, following extensive protests. As part of this decision, the government committed to setting up a panel comprising growers and government officials to explore ways to ensure support prices for all agricultural produce. However, farmers accuse the government of delaying the implementation of this promise.
- Farm policy experts caution that buying all farm produce at state-set minimum support prices could be economically unviable.

### Other Demands

- The farmers' demands for the government to honour its promise to double their incomes reflect their frustration with the widening gap between rising costs

of cultivation and stagnating incomes in the agricultural sector. Prime Minister Modi's government had pledged to double farmer incomes by 2022 through increased investment in rural development initiatives. However, farmers argue that this promise has not been fulfilled, and instead, they are facing financial challenges due to escalating costs and stagnant revenues, making farming a loss-making venture for many.

- In addition to seeking income doubling, farmers are demanding that the government ensure a minimum of 50% profit over their overall cost of production. This demand underscores their need for financial viability and fair compensation for their labour and investments in farming activities.
- Furthermore, the farmers are seeking justice and accountability in the case involving a federal minister whose son was arrested during the 2021 protest. The arrest was made in connection with allegations that the minister's son was involved in a fatal incident where he allegedly ran over and killed four protesting farmers. The farmers are calling for appropriate legal action to be taken against the individuals responsible for the incident, highlighting their concerns about safety and accountability during protests.

### What is MSP?

- MSP stands for Minimum Support Price. It is a form of agricultural price support policy implemented by the government of India to ensure that farmers receive a minimum price for their produce, thereby safeguarding their interests and providing them with some level of income security.
- Under the MSP system, the government announces fixed minimum prices for certain crops at the beginning of each agricultural season. These prices are typically set based on recommendations from the Commission for Agricultural Costs and Prices (CACP) and are intended to cover the cost of production and provide farmers with a reasonable profit margin.
- Farmers have the option to sell their produce to the government at the MSP, known as procurement, or in the open market where prices may fluctuate based on supply and demand dynamics. The MSP system primarily applies to crops such as wheat, rice, pulses, oilseeds, and certain other food grains.
- MSP has been a contentious issue in India, with farmers often demanding MSP guarantees for more crops and revisions to ensure fair prices that keep pace with rising input costs and inflation.

### The case and Motor Vehicles Act

In the context of the Motor Vehicles Act, the specific provision related to the use of tractors and trolleys on highways is likely covered under Section 138 of the Act.

Section 138 states that no person shall drive a transport vehicle, other than a motor cab or motorcycle, on any road for which the width of the carriageway does not exceed the minimum width of a carriageway prescribed by the central government under this Act. It also mentions exceptions where such vehicles can be driven with special permits or in specific circumstances as specified by the government.

While Section 138 doesn't explicitly mention tractors and trolleys, the prohibition on driving certain types of vehicles on certain roads falls within the purview of this section. The court's directive regarding the use of tractors and trolleys on highways likely aligns with the restrictions outlined in this provision of the Motor Vehicles Act.



9

## Delhi HC Asserts Doctrine of Absolute Privilege: Bars Claims Against Judges, Counsel, Witnesses, or Parties in Judicial Proceedings

### Why in News?

The Delhi High Court while deciding an appeal observed that the principle of absolute privilege prevents the examination of accusations aimed at judges, attorneys, witnesses, or litigants regarding their participation in legal proceedings within courtrooms or tribunals.

### Background of the Case

- The present appeal is initiated by a businessman who contested a single judge's ruling to dismiss his complaint filed against a senior counsel. The complaint contended that a statement made by the senior counsel during the proceedings in open court was defamatory.
- The single judge had affirmed that statements uttered by a lawyer during legal proceedings enjoy "absolute privilege," indicating that no legal recourse for defamation, slander, or libel can be sought against them for presenting their arguments.

### Delhi HC Observations

- A division bench, comprising Justice Rajiv Shakdher and Justice Amit Bansal, underscored that absolute privilege extends to statements from witnesses, testimonies, and documents appropriately used and routinely prepared for use in legal proceedings.

- The bench clarified that the only exception to this privilege is for statements not made explicitly for the purposes of legal proceedings by individuals obliged to provide statements or statements irrelevant to the subject matter under consideration.
- "The doctrine of privilege applies to Court and Parliamentary proceedings based on public interest. In exceptional cases where absolute privilege is unavailable, public policy may also prevent the Court from considering a claim," the bench explained. Affirming the challenged order, the bench stated that the alleged defamatory statement, orally made by the senior counsel during the Sessions Court proceedings, would be protected by absolute privilege unless unrelated to the subject matter under consideration.
- The court emphasized that the senior counsel's remarks must be assessed within the context of the courtroom in the presence of the Sessions Judge.
- The bench concluded that the senior counsel acted within his rights and in accordance with absolute privilege when responding to the Sessions Judge's suggestion regarding mediation.
- "While individuals must refrain from making reckless utterances amounting to defamation, there are exceptions, particularly concerning statements made



during Parliamentary or Judicial proceedings,” the court emphasized.

- This rationale, the court added, serves the public interest by alleviating defendants’ anxiety about making statements during legal proceedings, which might otherwise subject them to defamation actions.

## Privilege as a defence for Defamation

### Absolute Privilege

Absolute privilege grants individuals the absolute right to make defamatory statements without facing liability in defamation lawsuits. It typically exempts defamatory statements made in various contexts, including:

- Judicial proceedings
- Statements by government officials
- Legislators’ remarks during parliamentary debates
- Political speeches within parliamentary proceedings
- Communications between spouses

**For instance**, if a Member of Parliament (MP) delivers a speech in parliamentary proceedings defaming someone, the MP is protected by absolute privilege. In the case of **T.J. Ponnen v. M.C. Verghese**, the court ruled that a defamatory letter sent by a husband to his wife about his father-in-law is not defamation but a privileged communication between spouses under Section 122 of the Indian Evidence Act, 1872. Similarly, in **Chatterton v. Secretary of State for India**, letters from the Secretary of State of India to his Parliamentary Under-Secretary providing materials for a parliamentary question were held to be absolutely privileged.

### Parliamentary Privilege in the Indian Constitution

Article 105 and 194 of the Indian Constitution grant certain rights and immunity to members of Parliament (MPs). MPs enjoy freedom of speech within parliamentary proceedings, which is distinct from the freedom of speech and expression guaranteed under Article 19(1)(a). This parliamentary freedom is subject to rules regulating parliamentary proceedings. Article 105 states that MPs are not liable to any court proceedings for statements made during parliamentary debates. This freedom extends to all statements made in Parliament, ensuring uninhibited participation in debates. Even non-members like the Attorney General of India benefit from this privilege. In **P.V. Narsimha Rao v. State (JMM Bribery Case)**, the Supreme Court ruled that the privilege in Article 105(2) extends to MPs even in cases of bribery for voting in Parliament.

### Imp Points

- **Complete Immunity:** Absolute privilege provides individuals with complete immunity from civil or criminal liability for certain statements made within specific contexts, primarily during judicial or legislative proceedings.

- **Applies to Certain Contexts:** This privilege typically applies to statements made by participants in judicial proceedings such as judges, attorneys, witnesses, and parties, as well as statements made by legislators during legislative sessions.
- **Protection from Defamation Lawsuits:** Absolute privilege protects individuals from being sued for defamation, slander, or libel based on the statements they make during these protected proceedings. Even if the statements are false, defamatory, or made with malicious intent, the individual is shielded from legal repercussions.
- **Essential for Effective Functioning:** Absolute privilege is considered essential for the effective functioning of the justice system and legislative bodies. It allows participants in these proceedings to speak freely, without fear of facing legal action as a result of their statements.
- **Promotes Free Exchange of Ideas:** By providing immunity for statements made during protected proceedings, absolute privilege promotes the free exchange of ideas, arguments, and information within the legal and legislative contexts. Participants can express their views openly and vigorously without worrying about potential legal consequences.
- **Scope of Protection:** Absolute privilege typically applies only to statements made within the scope of the protected proceedings. Statements made outside of these contexts, such as interviews with the media or public speeches unrelated to ongoing proceedings, are generally not covered by absolute privilege and may be subject to defamation laws.
- **Exceptions:** While absolute privilege is broad, there are some exceptions. For example, statements made outside the scope of the protected proceedings or statements made with malice or intent to harm outside the protected context may not be protected by absolute privilege.
- **Public Interest and Fair Administration of Justice:** Absolute privilege is rooted in principles of public interest and the fair administration of justice. It ensures that participants in legal and legislative proceedings can perform their roles effectively without being hindered by the threat of defamation lawsuits.
- **Balance of Rights:** Absolute privilege represents a balance between the rights of individuals to protect their reputation and the need for participants in legal and legislative processes to speak freely in the pursuit of justice and effective governance.
- **Legal Precedent and Statutory Provisions:** The scope and application of absolute privilege may vary based on legal precedent established by courts and statutory provisions enacted by legislatures. Different jurisdictions may have specific rules governing absolute privilege in their respective legal systems.

## Qualified Privilege

Qualified privilege allows individuals to make statements when they have a legal, social, or moral duty to do so, and the listener has an interest in the statement. Instances where this defence applies include job references, answering police inquiries, fair criticism in reviews, communications between parents and teachers, employers and employees, and traders and credit agencies. However, privileged communications must relate to the relevant business, and the person making the statement must believe it to be true. If it is proven that a defamatory statement was made with malicious intent, this defence can fail. Discussions on government and political matters, suitable for public debates, are also covered by this defence.

**For example,** if a teacher informs parents about a child's habit of stealing, the teacher can claim qualified privilege as the statement was made in good faith and in the interest of the child.

## Importance of Privilege

- Privilege, whether absolute or qualified, serves to balance the rights of individuals to protect their reputation with the need for open discourse in legal, governmental, and social contexts.
- It promotes free speech and ensures that individuals can fulfil their duties without fear of legal consequences, fostering an environment conducive to transparent and open communication.
- In summary, absolute privilege grants individuals immunity from defamation lawsuits for statements made within specific contexts, while qualified privilege applies when there is a legal, social, or moral duty to make a statement and the listener has an interest in it. Both concepts are crucial for facilitating open dialogue and protecting individuals' ability to perform their duties without fear of legal repercussions.



10

## 'Taken for a Ride': SC Issues Contempt Notice to Patanjali Ayurved, Its MD Over Misleading Ads

### Why in News?

On Tuesday (27th Feb), the Supreme Court issued a contempt notice to Patanjali Ayurved and its managing director Acharya Balakrishna for persisting with misleading advertisements promising permanent cures for various illnesses. Criticizing the situation, the court temporarily prohibited Patanjali from airing medical ads, emphasizing that the nation had been deceived. Additionally, the court reprimanded the government for failing to take action despite being aware of the misleading advertisements.

### Background of the Case

- The Supreme Court is currently considering a plea from the Indian Medical Association (IMA) regarding an alleged smear campaign by Ramdev against the vaccination drive and modern medicines.
- On November 21 of the previous year, the company's counsel assured the court that there would be no further violations of any laws, particularly regarding advertising or branding of their products. They also pledged that no casual statements claiming medicinal efficacy or criticizing any system of medicine would be released to the media.
- At that time, the apex court had cautioned the company against making false or misleading claims in advertisements about the effectiveness of its medicines in curing various diseases.

### 'Country taken for Granted': SC Serves Patanjali Contempt Notice

- The Supreme Court, consisting of Justices Hima Kohli and Ahsanuddin Amanullah, issued a contempt notice against Patanjali Ayurved and its Managing Director Acharya Balkrishna for running advertisements that violated the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, despite an earlier commitment to the court in November.
- The Bench noted that Patanjali and Mr. Balkrishna had breached their assurance to refrain from advertising their products as providing "permanent relief" for ailments such as obesity, blood pressure, and asthma, in contravention of the 1954 Act. Justice Amanullah emphasized the misleading nature of claiming "permanent relief," stating there are only two possibilities: death or cure.
- The court also questioned the government's inaction on the issue of Patanjali's misleading advertisements. Despite an earlier directive, a press conference was held by Baba Ramdev, associated with Patanjali, the day after the Supreme Court's order.
- When asked about Ramdev's association with Patanjali, the company's lawyer vaguely mentioned his roles as a yoga guru and sanyasi. However, the court focused on the violation of its order rather than the specifics of Ramdev's involvement.

- The court expressed disappointment at the lack of action over two years and emphasized the seriousness of the situation. The Additional Solicitor General promised a better affidavit and stated that it was the responsibility of the states to enforce the Act.
- The bench expressed strong disapproval of a Patanjali advertisement that was published after the Supreme Court's order in November of last year.
- "You (Patanjali) have flouted this order (of November 2023)," the bench stated. "You have the audacity to publish this advertisement even after the Supreme Court's order... We are inclined to issue a very strict order. You are challenging the authority of the court."
- The counsel representing the Indian Medical Association (IMA) referred to the advertisement and a transcript of a press conference by Patanjali, alleging that certain statements were made about the medicinal effectiveness of their products after the November order.
- The counsel argued that this clearly shows that Patanjali Ayurved continued to make "false claims and misrepresentations" regarding its various products in the market by promoting them as permanent solutions for ailments specifically listed in the schedule appended to the 1954 Act.
- In the November order, the court had directed Patanjali not to make casual statements to the media about the efficacy of their products or disparage other medical

disciplines like allopathy. Despite this, Patanjali continued to advertise its products as providing "permanent relief", leading to the issuance of a contempt notice.

- The Bench instructed Patanjali and its Managing Director to respond to the contempt notice within two weeks and temporarily restrained Patanjali from advertising its products as cures for diseases specified under the 1954 Act. The court also cautioned against making adverse statements about any medical system in the media.
- The case is scheduled for further hearing on March 19.

### **Drugs and Magic Remedies (Objectionable Advertisements) Act**

The Drugs and Magic Remedies (Objectionable Advertisements) Act is a legislative measure in India aimed at regulating advertisements that promote drugs and magical remedies claiming to provide certain benefits or cures for ailments. The Act prohibits advertisements that are misleading or likely to deceive the public about the nature, substance, or quality of the drugs or remedies being advertised. Its purpose is to protect consumers from false or exaggerated claims made in advertisements related to pharmaceutical products and magical remedies. The Act also provides for the establishment of a Central Council to oversee the enforcement of its provisions.





## PRACTICE QUESTIONS

**Directions (1-5)** Read the following passage and answer the given questions.

In a significant ruling on February 15, the Supreme Court scrapped the Electoral Bonds scheme. A five-judge bench comprising Chief Justice of India, DY Chandrachud, Justices Sanjiv Khanna, BR Gavai, JB Pardiwala, and Manoj Misra delivered a unanimous verdict. Electoral bonds Introduced in 2017, Electoral Bonds allowed individuals and corporate entities to donate unlimited sums of money to political parties anonymously through financial instruments. Electoral bonds and income tax exemption Electoral bonds issued by individuals or entities were eligible for tax exemptions under Section 80GG and Section 80GGB of the Income Tax Act, 1961. Following the Supreme Court's ruling, a question arises regarding whether firms and individuals can still avail of income tax benefits "Political parties could accept donations through these bonds as per the provisions of Section 13A of the Income Tax Act. Following the judgement and the Supreme Court's directive to the State Bank of India (SBI) to cease issuing electoral bonds, there is uncertainty regarding whether firms and individuals can still avail tax benefits for donations made during the fiscal year FY 23- 24," said Abhishek Soni CEO and Co-founder Tax2win "However, an official has clarified that firms, individuals, and others who have made donations to political parties through electoral bonds in FY24 would still be able to claim the benefits of a 100% tax deduction when filing their returns before July 31, 2024," added Soni. Mumbai-based tax and investment expert Balwant Jain welcomes the SC decision on the electoral bonds. "The taxpayers can claim the benefit of tax exemption under the IT Act but only for the bonds that have been encashed by the beneficiary political parties," said Jain. The apex court instructed the State Bank of India (SBI) to cease issuance immediately. Additionally, the bank was required to provide the Election Commission (EC) with the names of bond purchasers, purchase dates, and donation amounts by March 6.

**1. What are Electoral Bonds in India?**

- (a) Bonds issued by political parties for fundraising
- (b) Bonds issued by the government to facilitate anonymous donations to political parties
- (c) Bonds issued by the Election Commission to

ensure fair elections

- (d) Bonds issued by foreign governments for election interference

**2. When were Electoral Bonds introduced in India?**

- (a) 2014
- (b) 2017
- (c) 2019
- (d) 2023

**3. Which authority issues Electoral Bonds in India?**

- (a) Reserve Bank of India (RBI)
- (b) Election Commission of India
- (c) Securities and Exchange Board of India (SEBI)
- (d) State Bank of India (SBI)

**4. Any citizen or company could buy Electoral bonds in denominations of ₹1,000; ₹10,000; ₹1 lakh; ₹10 lakh; and \_\_\_\_ and donate it to a political party.**

- (a) ₹1 crore
- (b) ₹10 crore
- (c) ₹50 crore
- (d) ₹100 crore

**5. Which of the following entities can purchase Electoral Bonds?**

- (a) Individuals
- (b) Companies
- (c) Foreign entities
- (d) All of the above

**Directions (6-10):** Read the following passage and answer the given questions.

The Uniform Civil Code (UCC) refers to a common set of laws prevailing personal matters of all citizens irrespective of their religion. UCC deals with aspects like marriage, divorce, inheritance, succession, adoption etc. The objective is to have secular law overriding religious laws that regulate these aspects for different communities. Currently, UCC is applicable only in Goa, while a bill is under discussion in Uttarakhand. While nations like India, Malaysia, and Israel adhere to the community-specific model of personal law, Western nations like the

US and France already have UCCs in existence. One of the Directive Principles of the Indian Constitution states that the state must make an effort to provide its citizens with a Uniform Civil Code. There are three major personal law codes in India: Hindu Personal Laws: Governed by various acts like Hindu Marriage Act 1955, Hindu Succession Act 1956. Muslim Personal Laws: Based on their religious laws and Sharia covering marriage, succession, inheritance. Christian Personal Laws: Regulated by Indian Christian Marriage Act 1872 and Indian Succession Act 1925. Why is UCC controversial? UCC is controversial as it pitches group rights against individual rights. While UCC is perceived as granting people the right to demand equitable treatment, it is also perceived as an infringement on a group or community's ability to establish its own laws regarding things like inheritance and marriage. Supporters contend that secularism entails treating all citizens equally, regardless of their religious affiliation. Therefore, they contend, it is unjust for the government to penalize one person for a crime for which another citizen is exempt from punishment simply because their philosophies vary. Those who are against UCC also utilize secularism to support their positions. Secularism, according to them, entails allowing adherents of all religions to fully pursue their traditions and views while also requiring respect for each and every one of them. The state will obstruct people attempting to adhere to religions with norms that differ from the UCC, claim critics. Those who oppose the UCC also worry, though without any substance, that, under the pretense of enforcing a uniform code, the government would restrict the rights of other communities while only permitting the majority Hindu community to adhere to its traditions and customs. Judicial lack of consistency on this matter has also added to the confusion and controversy. Courts in India have given contradictory rulings.

**6. What is the Uniform Civil Code (UCC) in India?**

- (a) A code regulating the uniform taxation system across all states.
- (b) A code governing the uniform application of criminal law throughout the country.
- (c) A code aimed at standardising personal laws related to marriage, divorce, inheritance, etc., for all citizens.
- (d) A code exclusively applicable to the armed forces.

**7. Who among the following can enact laws related to the Uniform Civil Code in India?**

- (a) Central Government
- (b) State Governments
- (c) Both Central and State Governments
- (d) Religious Authorities

**8. Which article of the Indian Constitution mentions the Directive Principle of State Policy related to the Uniform Civil Code?**

- (a) Article 40
- (b) Article 44
- (c) Article 48
- (d) Article 51

**9. Uniform Civil Code is followed in countries like:**

- (a) US
- (b) Pakistan
- (c) Bangladesh
- (d) All of the above

**10. The Uniform Civil Code essentially means that existing personal laws like The Hindu Marriage Act, 1955. The Hindu Succession Act, 1956) and \_\_\_\_\_ will technically become void.**

- (a) The Muslim Personal Law (Shariat) Application Act, 1934
- (b) The Muslim Personal Law (Shariat) Application Act, 1937
- (c) The Muslim Personal Law (Shariat) Application Act, 1938
- (d) The Muslim Personal Law (Shariat) Application Act, 1939

**Directions (11-15): Read the following passage and answer the given questions.**

Farmers have once again taken to the streets, echoing protests reminiscent of those three years ago. In 2021, the government was compelled to retract newly enacted agricultural policies. The primary objective of the 2020 Farm Act was to empower farmers to freely sell their produce in any market, moving beyond the confines of local Mandis. This was also expected to improve the Agri supply chain in India and develop the sector with the introduction of private players. Today again, farmers are once again spearheading protests, seeking further freebies from the government under the belief of their victory in 2021. So far, the ongoing agitation has not impacted the stock market, even as it unfolds on the brink of a National Election. This may be because the prices of foodgrains are still stable and no effect on supply and demand has been noticed to date, other than some hiccups reported in NCR. Further, the market has a belief that the government is unlikely to accept the excessive demands as it could have a dire effect on the fiscal. A significant demand put forth by the farmers is the increase in Minimum Support Price (MSP) and a pledge to extend the scheme to cover all crops. While the government's MSP-based procurement is largely concentrated on rice and wheat, the scheme technically encompasses 23 crops. The farmers are demanding the implementation of Dr Swaminathan Commission's MSP, 50% above  $A2 + FL + C2$  formulae. Current method is 50% above  $A2 + FL$  ( $A2$ : actual Agri input costs,  $FL$ : imputed value of family labour). The existing formula sets the Minimum Support Price (MSP) at 50% above the all-

India weighted average cost of production. A2 includes expenses paid in cash and kind for items such as seeds, fertilizers, pesticides, hired labour, fuel, lease, interest on working capital, irrigation, etc., while FL accounts for the value of unpaid family labour. In essence, the MSP cost will encompass the actual expenses on inputs, labour, and the imputed value of unpaid family labour. From an accounting standpoint, the cost of an asset (interest and depreciation) is considered below the belt of the operating margin. And the cost of equity is not accounted for. If C2 is considered, it will lead to a plus 50% profit after tax margin, a parameter no manufacturing & services company in India can even dream-off. It's worth noting that agriculture is exempt from taxes. Forecasts suggest that incorporating these factors could potentially lead to an increase in the prices of foodgrains in a range of 10% to 30%. Another factor to affect the fiscal is the demand to increase the MGNREGA wage to ₹700 from an average of ₹300 in states like Haryana, Punjab, and UP. There is also a call to extend the fixed period to 200 days from the existing 100 days. The government has allocated ₹86,000 cr. in the 2025 interim budget, meeting this demand would escalate the budget to ₹4.5 lakh crore. Some other demands are to exit out of the WTO agreement (even though that is positive for the farmer), Loan Waivers, and monthly ₹10,000 pensions to farmers above the age of 60. The agitation is mostly from the Punjab & Haryana regions, which hugely benefited from the green renovation programmes, especially wheat and rice. However, as India has evolved towards self-reliance, the perks associated with these programs have dwindled. Concurrently, the cost of production and living standards have escalated, while the net gains from crop sales have contracted due to increased supply in India. Hopefully, a middle ground can be reached between the Government and farmers associations of Punjab, Haryana, and North UP. The overarching objective should be to diversify into other categories of food grains (which requires much lower water necessity compared to Rice & Wheat), backed by a guaranteed MSP.

**11. What has been the primary criticism of the 2020 Farm Acts by protesting farmers and some state governments?**

- (a) They provide excessive government control over agricultural markets.
- (b) They prioritize the interests of agribusiness firms over small-scale farmers.
- (c) They lack provisions for ensuring minimum support prices for farmers' produce.
- (d) They undermine the federal structure by bypassing state regulations.

**12. What has been a criticism of the Minimum Support Price (MSP) system in India?**

- (a) It encourages overproduction of certain crops, leading to market distortions.

- (b) It does not provide adequate protection to small and marginal farmers.
- (c) It is entirely dependent on international market prices, making it volatile.
- (d) It undermines the role of private players in agricultural markets.

**13. What is the main objective of MGNREGA?**

- (a) To provide subsidised food grains to rural households.
- (b) To ensure employment and livelihood security in rural areas.
- (c) To promote mechanisation in agriculture.
- (d) To facilitate migration of rural population to urban areas.

**14. Which of the following acts aimed to provide farmers with the freedom to sell their produce outside regulated markets and enter into contracts with agribusiness firms?**

- (a) Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.
- (b) Essential Commodities (Amendment) Act, 2020.
- (c) Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020.
- (d) Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2020.

**15. Which Indian state witnessed the most significant farmer protests, with farmers camping at Delhi borders for several months?**

- (a) Punjab
- (b) Uttar Pradesh
- (c) Maharashtra
- (d) Haryana

**Directions (16-20): Read the following passage and answer the given questions.**

While hearing a defamation suit moved by a businessman against a senior advocate for making irrelevant statements during court proceedings, the Delhi High Court recently held that the statement made by a counsel during court hearings is a "privileged occasion" and they can't be held liable for "libel or slander" in such cases. A single judge bench of Justice Mini Pushkarna in its February 9 decision was hearing a defamation lawsuit moved by a businessman, related to a renowned business family claiming that statements made by the senior advocate during proceedings before a sessions judge in open court were defamatory. The defamation plea sought damages of ₹2 crore for "loss and harm caused to the reputation and goodwill" of the businessman by the defamatory statement of the senior advocate. The High Court perused the order

of the sessions court issued on July 14, 2022, and noted that it simply records that part arguments had been heard by the court. "Thus, even if it were to be assumed that what the plaintiff is saying is correct, there would be no means to ascertain as to whether what was the question put forth by the Court and what was the exact statement that was made on behalf of the defendant. Anyway, as per the law as discussed above, the defendant being a Senior Advocate and having made the statement during the course of judicial proceedings would be protected, the statement being in the nature of absolute privilege", the HC observed. The HC said it cannot go into the exercise of finding out whether the statement made by the senior counsel was "irrelevant in any manner or was made with any malice". "If every statement made by a lawyer during judicial proceedings was to be subjected to such scrutiny, then the system of judiciary would come to a literal halt as the lawyers would feel constrained in making their submissions before the Court," the HC observed, adding that this may "interfere and hamper" the judicial process in a "detrimental manner". The HC held that it was necessary to protect the statements made by lawyers during the course of judicial proceedings as "absolute privilege" and that lawyers cannot be put to trial for defamation on the basis of any statements made during the course of judicial proceedings. The HC noted that none of the businessman's family members or friend circle were present as is evident from the session court's order and therefore, it cannot be said that "reputation" of the businessman has been "damaged in front of his friend circle or family members". The HC noted that a "Senior Advocate, in the scheme of things as per general code of conduct, makes statement upon instructions from the briefing counsel" therefore no malice or motive can be imputed to them for making any statement made on instructions. "The plaintiff has not been able to make any prima facie case for registering the present plaint and for issuance of summons. In view thereof, it is held that the defamatory statement as alleged by the plaintiff in this suit is not actionable, on the ground of absolute privilege," the HC said, rejecting the defamation lawsuit. The plaintiff had alleged that during the proceedings before the sessions court the senior counsel made statements which were completely false, baseless, divorced from reality, scandalous and had no relation to the proceedings pertaining to the revision petition in the perjury case. It was alleged that the statement had been made by the senior advocate with malafide intentions solely to cause harm to plaintiff's reputation and malign him at the hearing in open Court, wherein his relatives and friends were present. The businessman alleged that the senior advocate made such statements in response to a query by the judge with respect to a separate mediation proceeding in which he was not even present. The senior advocate's counsel submitted that the privilege of a lawyer is absolute and statement given by a lawyer in Court is absolute privilege. It was also argued that his client's

answer to the court's query may be irrelevant, but it does not become defamatory.

**16. What is absolute privilege in the context of legal proceedings?**

- (a) Immunity from prosecution for any statement made during legal proceedings.
- (b) Limited protection against defamation claims for statements made in certain contexts.
- (c) Conditional immunity granted to public officials for official actions.
- (d) None of the above

**17. What is a key criticism of absolute privilege in recent times?**

- (a) Its failure to protect individuals' right to free speech.
- (b) Its potential for shielding individuals from accountability and consequences.
- (c) Its limited scope in protecting public officials from defamation claims.
- (d) Its susceptibility to misuse by journalists and media organizations.

**18. Which of the following Acts provides absolute privilege to certain categories of individuals, granting them immunity from legal action for statements made during official proceedings?**

- (a) Right to Information Act, 2005
- (b) Official Secrets Act, 1923
- (c) Contempt of Courts Act, 1971
- (d) Parliament (Prevention of Disqualification) Act, 1959

**19. Which recent development in the legal landscape reinforced the concept of absolute privilege in India?**

- (a) Amendment to the Indian Penal Code
- (b) Supreme Court ruling on defamation laws
- (c) High Court judgement on parliamentary proceedings
- (d) Interpretation by the Election Commission on campaign speeches

**20. Which of the following statements best defines defamation in the context of a lawsuit?**

- (a) Making false statements with the intent to harm someone's reputation.
- (b) Exposing government corruption through investigative journalism.
- (c) Expressing an opinion about a public figure's performance in office.
- (d) Criticizing company's products based on factual evidence.



## Answer Key

1. (b) 2. (c) 3. (d) 4. (a) 5. (d) 6. (c) 7. (c) 8. (b) 9. (d) 10. (b)  
11. (b) 12. (a) 13. (b) 14. (a) 15. (a) 16. (a) 17. (b) 18. (c) 19. (b) 20. (a)

## Solution

1. (b) Bonds issued by the government to facilitate anonymous donations to political parties.  
Electoral Bonds are financial instruments introduced by the Government of India as a means to donate money to political parties anonymously. These bonds were introduced to bring transparency in political funding by reducing the use of cash in elections.
2. (b) Electoral Bonds were indeed introduced in India in the year 2017 by the Finance Minister as part of the government's initiative to cleanse political funding. They were introduced to bring transparency and accountability to political funding by reducing the use of cash in elections.
3. (d) Electoral Bonds are indeed issued by notified branches of the State Bank of India (SBI) as authorized by the Government of India. These authorized branches of SBI play a crucial role in the issuance and management of Electoral Bonds in accordance with the guidelines and regulations set forth by the government.
4.
  - ♦ Any citizen or company could buy these bonds in denominations of ₹1,000; ₹10,000; ₹1 lakh; ₹10 lakh; and ₹1 crore and donate it to a political party.
  - ♦ It can be encashed only through a bank account with an authorised bank.
  - ♦ The State Bank of India was the bank authorised to issue and encash these bonds.
5. (d) Electoral Bonds can be purchased by individuals as well as entities such as companies and organizations, both domestic and foreign, except for the individuals/entities who are non-residents or foreign citizens. This restriction ensures that only Indian residents and entities are eligible to participate in the electoral funding process through Electoral Bonds, thereby maintaining the integrity and transparency of the system.
6. (b) A code aimed at standardizing personal laws related to marriage, divorce, inheritance, etc., for all citizens.  
The Uniform Civil Code (UCC) is a proposed code aimed at standardizing personal laws related to marriage, divorce, inheritance, and other personal matters for all citizens, irrespective of their religion. This proposal seeks to bring about uniformity and equality in matters of personal law across all communities in India.
7. (c) Both Central and State Governments have the authority to enact laws related to the Uniform Civil Code in India. However, the primary responsibility for enacting and implementing the Uniform Civil Code lies with the Central Government.
8. (b) Article 44 of the Indian Constitution mentions the Directive Principle of State Policy related to the Uniform Civil Code. It urges the state to secure for its citizens a Uniform Civil Code throughout the territory of India.
9. (d) Uniform Civil Code is followed in countries like US, Pakistan, Bangladesh, Malaysia, Turkey, Indonesia, Egypt and Ireland. All these countries have one set of personal laws for all religions and there are no separate laws for any particular religion or community.
10. (b) The Uniform Civil Code would be applicable to all religious and tribal communities. This essentially means that existing personal laws like The Hindu Marriage Act (1955), The Hindu Succession Act (1956) and The Muslim Personal Law Application Act (1937) will technically become void.
11. (b) Critics argue that these acts could potentially lead to the exploitation of small farmers by large corporations due to the lack of regulatory safeguards. They fear that without proper regulation, farmers may not receive fair prices for their produce and could face disadvantageous terms in contracts with powerful corporate entities.
12. (a) Critics argue that the MSP system, if not complemented with effective procurement and distribution mechanisms, can lead to overproduction of MSP-supported crops, creating surpluses and market distortions. Overall, while the MSP system has been instrumental in ensuring a certain level of income security for farmers, critics argue that it needs reforms to address these criticisms and make it more responsive to the diverse needs of farmers and the agricultural sector as a whole.

13. (b) MGNREGA aims to enhance the livelihood security of people in rural areas by guaranteeing the 'right to work' and ensuring timely payment of wages for the work done. Overall, MGNREGA plays a significant role in addressing rural poverty and promoting inclusive growth by empowering rural households through the provision of employment opportunities and wage security.
14. (a) Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 act allows farmers to sell their produce outside the Agricultural Produce Market Committees (APMCs) and engage in inter-state trade without any restrictions. Overall, This Act is aimed at empowering farmers by giving them greater control over the marketing and sale of their produce, thus potentially improving their income and livelihood security.
15. (a) Farmers from Punjab played a significant role in the protests, with large numbers camping at the borders of Delhi, particularly at Singhu, Tikri, and Ghazipur borders, for several months. Farmers from Punjab played a significant role in the protests against the farm acts passed by the Indian government in 2020.
16. (a) Absolute privilege grants individuals, particularly those involved in judicial or parliamentary proceedings, complete immunity from legal consequences for the statements they make during such proceedings, regardless of their truth or malicious intent.
17. (b) Critics argue that absolute privilege, while intended to protect individuals participating in official proceedings, can sometimes shield them from accountability and consequences for their statements, leading to potential misuse and erosion of public trust in the legal and parliamentary systems.
18. (c) Contempt of Courts Act, 1971 provides absolute privilege to judges, lawyers, witnesses, and other participants in court proceedings, granting them immunity from legal action for statements made during such proceedings, irrespective of the truth or malicious intent behind the statements. It is important to note that absolute privilege granted by this Act is specific to statements made within the context of judicial proceedings.
19. (b) In a recent ruling, the Supreme Court of India upheld the concept of absolute privilege, emphasizing that statements made by public servants during official proceedings are protected from defamation suits, regardless of their nature or intent. This ruling reaffirmed the principle of absolute privilege in the Indian legal system.
20. (a) Defamation involves the communication of false statements that harm the reputation of an individual or entity. It includes both libel (written defamation) and slander (spoken defamation). To constitute defamation, the false statements must be made with the intent to cause harm or injury to the reputation of the person or entity being defamed.





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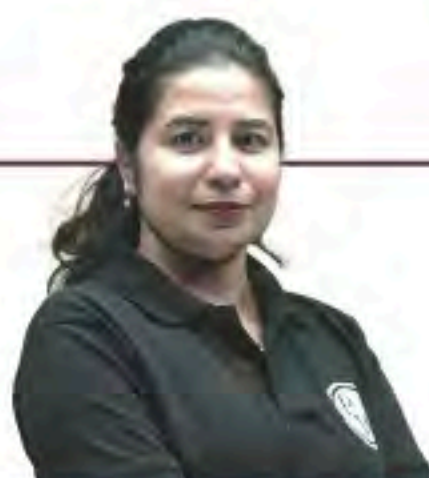
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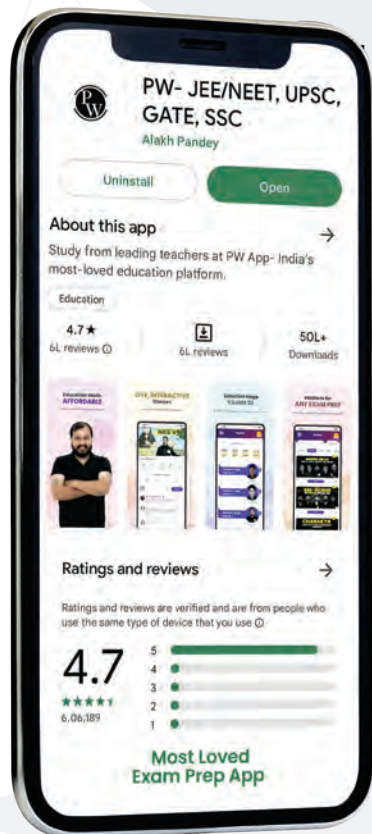


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