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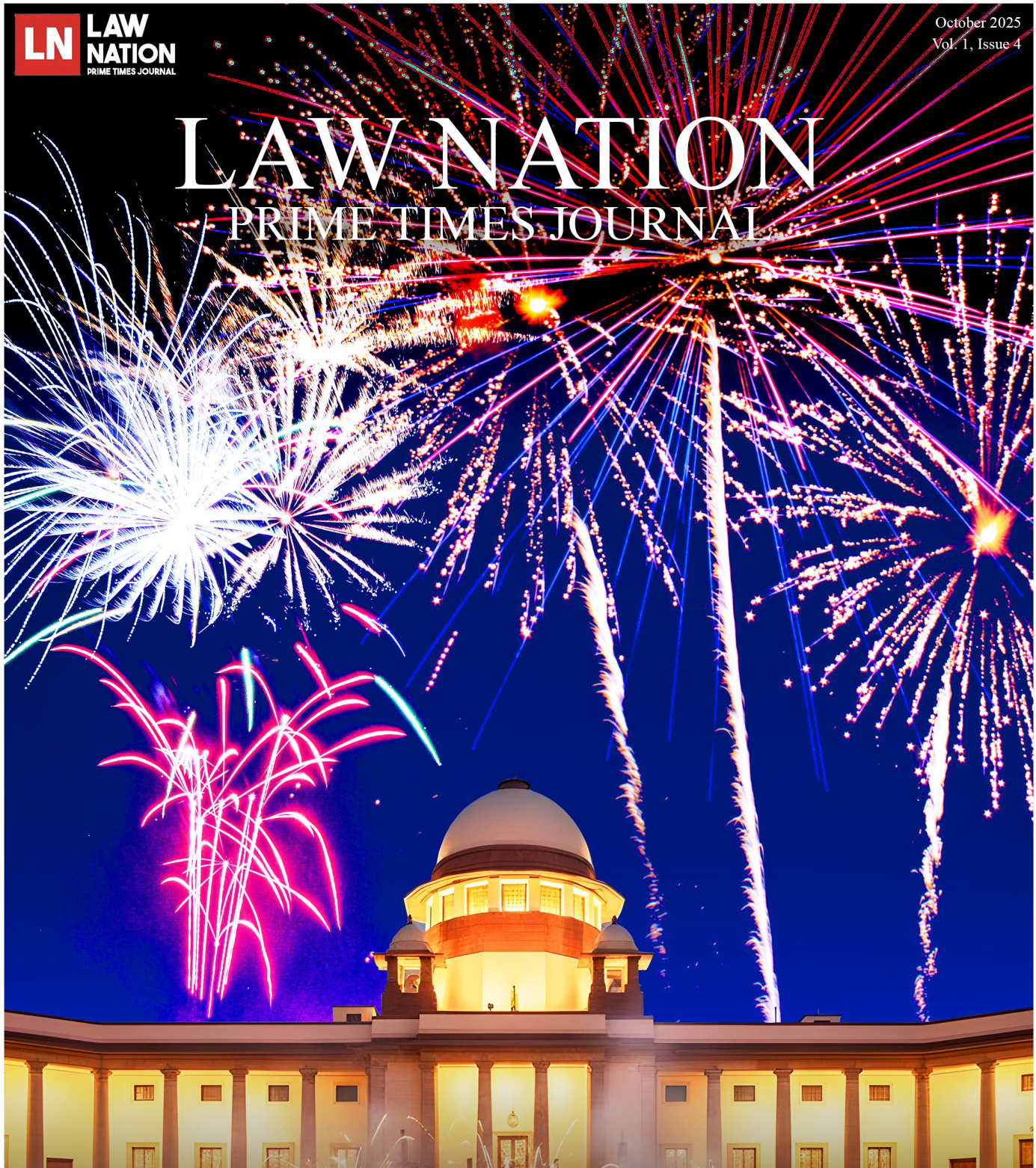

WILL INDIA EVER HAVE AN AI REGULATOR?
AI REVOLUTION

WAR OF CODES
ASSET ATTACHMENTS AMIDST INSOLVENCY

SUPREME DIWALI

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LAW NATION PRIME TIMES JOURNAL

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The Law Nation Prime Times Journal (LNPTJ) warmly invites law students, research scholars as well as academicians to contribute their original and unpublished manuscripts for publication in our upcoming issue. This is an opportunity to showcase your research, engage in meaningful academic dialogue, and add your voice to some of the most significant debates shaping the legal landscape today.

We encourage submissions that are analytical, critical, and innovative; whether they survey current practice, identify gaps in the law, propose reforms, or offer fresh theoretical perspectives.

We welcome thoughtful pieces on

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- Authors are fully responsible for the accuracy of references and any disputes over copyright, defamation, or objectionable content.
- While word limits are to be observed, "quality will take precedence over length".

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  - Times New Roman, 10 pt font, 1.0 spacing (footnotes).
  - Uniform formatting for all headings.
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FOREWORD

In an era where the balance between liberty and legality is constantly tested, the courts of India have once again stood as both a shield and a mirror—shielding constitutional values while reflecting the anxieties of a fast-changing society. From the crackers of contention that illuminate our festivals to the coded battles over data, AI, and surveillance, the law is no longer confined to courtrooms—it breathes through every screen, every opinion, and every silence.

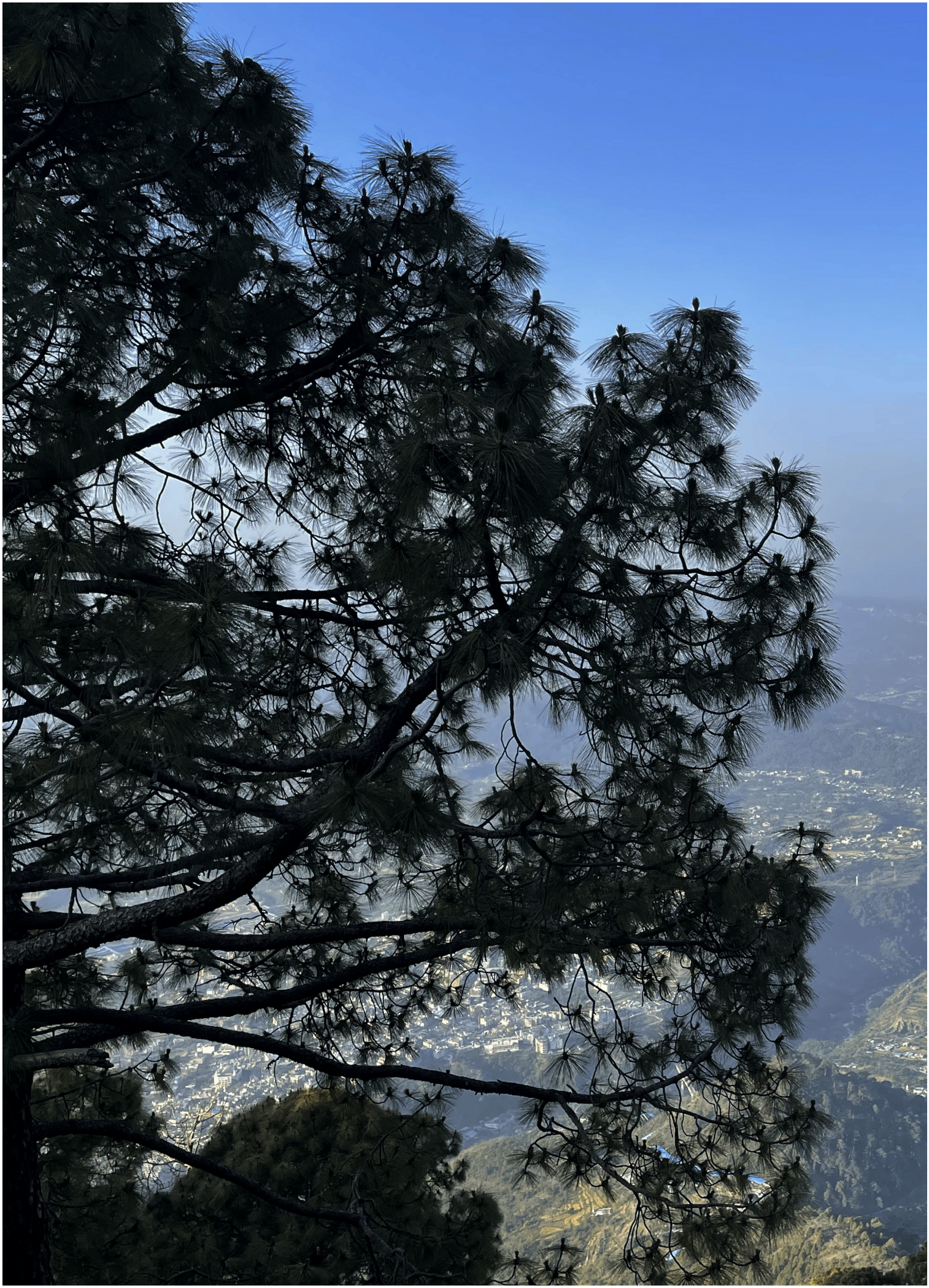
Recent months have witnessed the judiciary assert its moral authority amid rising waves of public criticism and contempt controversies. The thin line between accountability and affront to the court has become the fulcrum of democratic debate. Yet, in these times of challenge, the law reaffirms its faith in dialogue—not dominance.

This 4th issue of Law Nation Prime Times Journal captures that dynamic spectrum: Supreme Diwali explores environmental conscience through judicial restraint; Will India Ever Have an AI Regulator? questions the future of algorithmic justice; RTI Revolution revisits two decades of transparency; Bar to Bench traces journeys that redefine laws around appointments of Judges ; and War of Codes examines the fierce tug-of-war between the Insolvency and Bankruptcy Code and the Prevention of Money Laundering Act—a clash that now tests the very architecture of economic reform and asset attachments.

Our Vintage Section takes readers back to an era when dissent was an act of courage. Featuring Sir Chettur Sankaran Nair, one of India's boldest legal minds, and the landmark Bennett Coleman & Co. v. Union of India (1972) case, it reminds us that resistance and reform have always been twin strands of India's legal evolution.

Law, like light, must both illuminate and discipline. As our nation stands at the crossroads of faith, freedom, and fairness, may this volume remind us that justice—however slow, however stern—is still our collective conscience.

— Rajiv Kumar Virmani
Advocate-on-Record, Supreme Court of India
Founder, Tvamev Prime Associates



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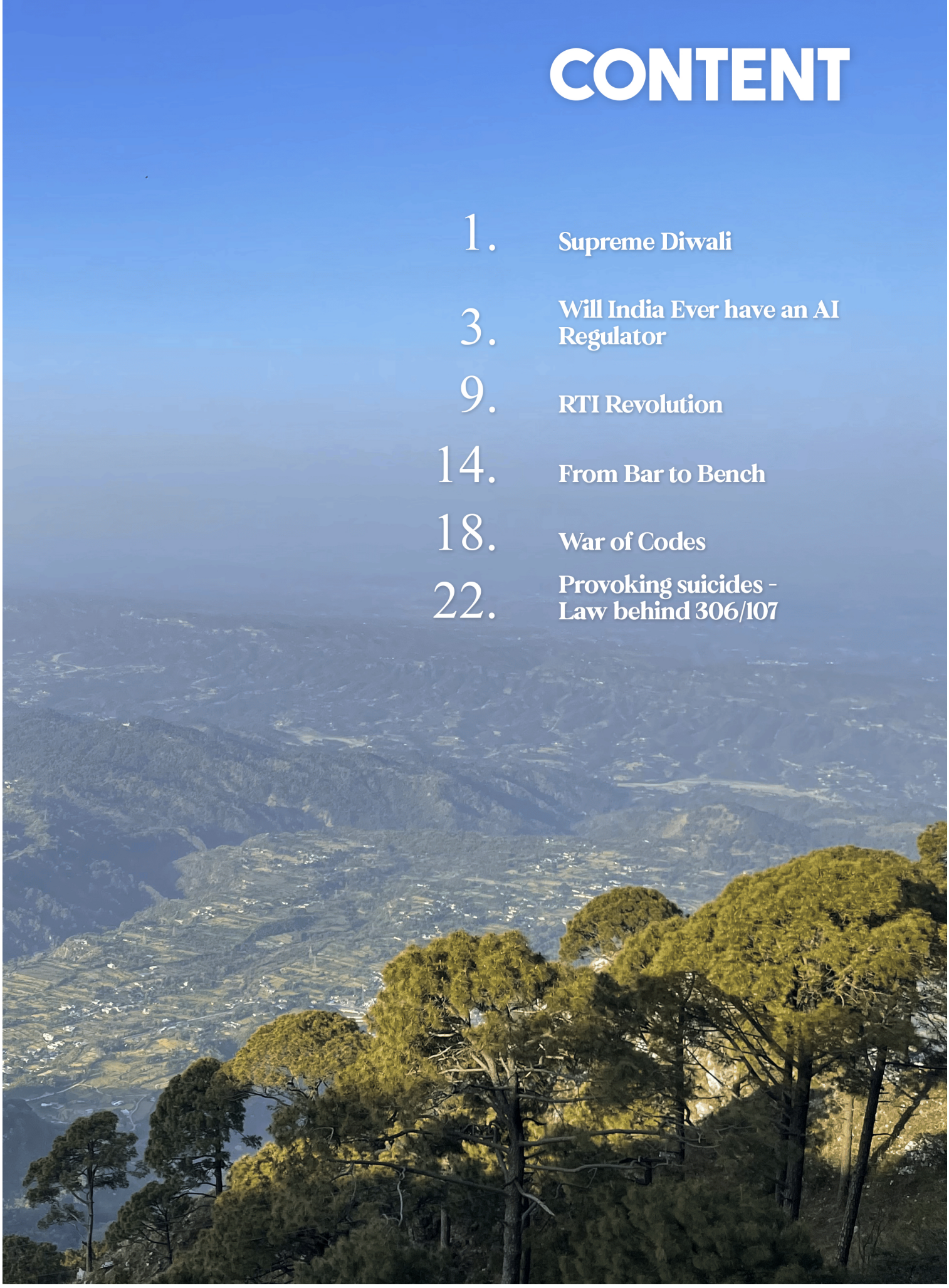


Sir Chettur Sankaran Nair
Creator: National Portrait Gallery London
Credit: National Portrait Gallery London

LEGAL TITANS

SIR CHETTUR SANKARAN NAIR

Sir Chettur Sankaran Nair stands as one of the most distinguished legal luminaries and statesmen in Indian history, whose unwavering commitment to justice and moral courage left an indelible mark on the nation's struggle for constitutional reforms and social equality. Born on 11 July 1857 in Mankara village of Malabar's Palakkad district (present-day Kerala) during India's First War of Independence, Sankaran Nair emerged from an aristocratic family that held considerable prominence in the region. His father, Mammayil Ramunni Panicker, served as a Tahsildar under the British government, representing the highest administrative position accessible to Indians at that time. Following the matrilineal tradition of the Nair community, he inherited his family name "Chettur" through his mother, Parvathy Amma Chettur.

Sankaran Nair's early education commenced in the traditional style at home before progressing through schools in Malabar, where he demonstrated exceptional academic abilities. He passed the arts examination with first-class distinction from the Provincial School at Kozhikode (Calicut), subsequently joining the prestigious Presidency College in Madras. In 1877, he obtained his Bachelor's degree in Arts (History and English), and two years later, in 1879, secured his law degree from the Madras Law College. This comprehensive educational foundation equipped him with the intellectual rigor and legal acumen that would define his illustrious career. Upon completion of his legal education, he was hired by Sir Horatio Shepherd, who later ascended to become the Chief Justice of Madras High Court, marking the beginning of a remarkable professional journey.

Legal Practice and Career Trajectory

Sir Sankaran Nair commenced his legal practice in 1880 at the High Court of Madras, becoming one of the youngest Indians to enrol as a lawyer at that time. His sharp intellect, exceptional oratorical skills, and unwavering commitment to legal principles quickly distinguished him among his contemporaries at the Madras bar.

His professional ascent was both rapid and remarkable. In 1884, a mere four years into his practice and at the age of 27, the Madras Government appointed him as a member of the committee for an inquiry into the district of Malabar, recognizing his exceptional expertise. By 1899, he was appointed as Public Prosecutor for the Madras Presidency, a position that showcased his formidable prosecutorial abilities. His reputation continued to grow, leading to his appointment as Advocate-General of Madras in 1906, succeeding C.A. White in this prestigious role, which he held until 1908. This trajectory culminated in his appointment as a permanent Judge of the Madras High Court in 1908, a position he occupied with great distinction until 1915.

The Jallianwala Bagh Massacre and Legal Battle for Justice

Sir Sankaran Nair's most defining contribution to the cause of justice came in his fearless challenge to colonial authority following the horrific Jallianwala Bagh massacre of 13 April 1919. When the atrocity occurred, in which General Reginald Dyer ordered troops to fire on a peaceful gathering, resulting in hundreds of deaths, Sankaran Nair took the extraordinary step of resigning from the Viceroy's Executive Council in 1919 in protest against the protracted use of martial law to quell unrest in Punjab and the subsequent cover-up of colonial atrocities. His resignation sent shockwaves through the British establishment and demonstrated his unwillingness to remain associated with a government that condoned such brutal violence.

In 1922, Nair published his seminal work “Gandhi and Anarchy,” in which he not only critiqued Gandhi's methods of non-cooperation but also directly held Michael O'Dwyer, the Lieutenant Governor of Punjab, accountable for the events leading to the massacre. In the chapter titled "The Punjab Atrocities," he wrote: "Before the reforms, under a Lieutenant-Governor, a single individual, the atrocities in the Punjab which we know only too well could be committed almost with impunity". This bold assertion attributed direct responsibility to Michael O'Dwyer for creating the conditions that enabled such brutality. Michael O'Dwyer responded by demanding an apology, which Nair promptly and categorically refused.

This led to O'Dwyer filing a defamation suit against Nair in the King's Bench Division of the High Court in London. The O'Dwyer v. Nair Libel Case, heard before Justice Henry McCardie from 30 April to 29 May 1924, became one of the longest civil law hearings in legal history, lasting five weeks. The case effectively became a proxy examination of Dyer's actions at Jallianwala Bagh, though Dyer himself never appeared in court due to poor health.

The odds were heavily stacked against Nair from the outset. He was an Indian fighting an Englishman in an English court before an all-English jury and a highly prejudiced judge who openly defended Dyer's conduct and repeatedly interrupted the defence counsel to assert that the actions of O'Dwyer and Dyer had saved European lives and the Empire. Despite being represented by the distinguished Sir Walter Schwabe, a former Chief Justice of the Madras High Court, Nair faced systematic bias throughout the proceedings. The jury delivered its verdict with eleven members ruling in favour of O'Dwyer, with only Harold Laski dissenting. Nair was ordered to pay £500 in damages and £7,000 in costs.

Perhaps most significantly, Sir Sankaran Nair exemplified a model of principled resistance that continues to inspire legal professionals and citizens alike. His willingness to challenge injustice at great personal cost, whether through resignations from prestigious positions, financial losses, or reputational risks, demonstrated that moral courage could be as powerful a weapon against oppression as mass movements or armed resistance. As Prime Minister Narendra Modi noted in April 2025 while commemorating the 106th anniversary of the Jallianwala Bagh massacre, Nair exemplified “the strong spirit of standing with humanity and the nation”.

Sir Chettur Sankaran Nair passed away on 24 April 1934 in Madras (now Chennai) at the age of 76, leaving behind a legacy of courage, principle, and unwavering commitment to justice that continues to resonate in contemporary India's ongoing journey toward fulfilling its constitutional promises. His life and work remind us that the pursuit of justice often requires standing alone against overwhelming odds, and that sometimes moral victories transcend legal defeats in the larger battle for human dignity and national freedom.


SUPREME COURT
OF INDIA

SUPREME DIWALI

Rajiv K. Virmani, Advocate-on-Record & Raman Sharma, Advocates

The Hon'ble Supreme Court of India on wednesday allowed the sale and bursting of green firecrackers in the National Capital Region during the upcoming festival of Diwali. The order, passed on 15th October, 2025, by a bench comprising of Hon'ble Chief Justice B.R. Gavai and Hon'ble Justice K. Vinod Chandran in the matter of M.C. Mehta v. Union of India[1] , represents a careful approach to address the issues of public health, environmental protection, economic hardships of the firecracker industry and sentiments attached with festivities. The bench characterized this relaxation as a temporary measure and on a "test case basis"[2] emphasizing the need to take a balanced approach while not compromising environmental concerns.

The Context of Conflicting Rights

The Supreme Court's order begins by acknowledging the fundamental tension at the heart of this litigation: aggravated environmental pollution causing serious health hazards versus the right to livelihood of persons engaged in the firecracker industry.[3] The Court recognized that while bursting firecrackers is deeply embedded in India's cultural milieu and enhances the festive spirit during religious ceremonies, such traditions cannot justify causing long-term or short-term damage to public health through uncontrolled use.[4]

The Apex Court reiterated a principle it has emphasized repeatedly: commercial considerations and festive spirit must take a back seat when environmental and health concerns are at stake.[5] This foundational principle guided the Court's approach in crafting a solution that neither completely surrenders to commercial interests nor ignores the legitimate concerns of an entire industry and its workforce.

Evolution of Firecracker Litigation

The judgment traces the evolution of litigation dealing with firecracker regulation. The case of Arjun Gopal v. Union of India[6], addressed the issue comprehensively through judgments. The present M.C. Mehta petition deals with the specific ban imposed by the Government of National Capital Territory of Delhi. The Court observed that issues in these two cases should eventually be discussed in the same light for the sake of consistency in jurisprudence.

In Arjun Gopal v. Union of India, the judgment of September 12, 2017 dealt with prayers for banning fireworks during festivals, noting that PM 2.5 levels in Delhi after Diwali 2016 had crossed 29 times the WHO standards, with AQI jumping from around 500 to over 700. While modifying the complete ban initially granted, the Court issued directions to reduce pollution, including prohibiting transport of fireworks into Delhi, reducing trading licenses by half, and constituting a research committee under CPCB to study firecracker constituents.[7]

The Green Cracker Innovation

A crucial development that influenced the Court's in the MC Mehta was the emergence of "green crackers." The National Environmental Engineering Research Institute (NEERI) developed formulations that reduce particulate emissions by a minimum of 30 percent, with some formulations achieving up to 80 percent reduction while maintaining brightness, safety, and shelf life. This was achieved through three major changes: the use of additives like zeolite, water-releasing molecules such as boron-based reagents as dust suppressants, and metallic composites to enhance combustion efficiency.[8]

Significantly, NEERI replaced Barium, a crucial component used worldwide but banned in India due to its toxicity, with Strontium and Potassium. This replacement accounts for both the price difference between conventional and green crackers and the reduced pollution levels. NEERI has also developed a Standard Operating Procedure for registering green cracker manufacturers and provides technology transfer of formulations, complete with a QR code system for verification.[9]

Submissions of the Government

The Union of India and the Government of National Capital Territory of Delhi, while supporting relaxation, proposed stringent compliance measures. Their suggestions included limiting sales to licensed traders, banning e-commerce sales, restricting bursting times to specific windows, and ensuring intensive inspections and testing. They emphasized the need for coordination among PESO (Petroleum and Explosives Safety Organisation), NEERI, State Pollution Control Boards, and local authorities.[10]

In contrast, the learned Amicus Curiae raised critical concerns about reverting to earlier times when Delhi suffered under smog and soot. The Amicus proposed that only firecrackers with at least 50 percent reduced emissions should be permitted as a test case, along with comprehensive monitoring of air, water, and soil quality. Additionally, the Amicus suggested imposing a 10 percent Environmental Compensation Charge on manufacturers.[11]

The Court's Balanced Directions

After considering all perspectives, the Supreme Court issued carefully crafted directions that represent a middle path. The Court permitted the sale of green crackers for a limited period from October 18 to 20, 2025, only at designated locations identified by District Collectors in consultation with police authorities. The use of firecrackers was restricted to specific time windows: 6:00 AM to 7:00 AM and 8:00 PM to 10:00 PM on the day before and on Diwali day and few other directions.[12]

The order prohibits several practices outright: the entry of firecrackers from outside NCR, the use of firecrackers containing Barium, the manufacture or sale of joined firecrackers (Laris), and any e-commerce transactions. Violations would result not only in confiscation but also cancellation of licenses and registrations.[13]

Recognizing the enforcement challenge, the Court mandated the constitution of patrolling teams comprising police officers and officials from State Pollution Control Board regional offices. These teams must familiarize themselves with NEERI-approved products and QR codes and conduct regular reconnaissance at designated sites. They are empowered to take random samples for analysis and attach responsibility to violators.[14]

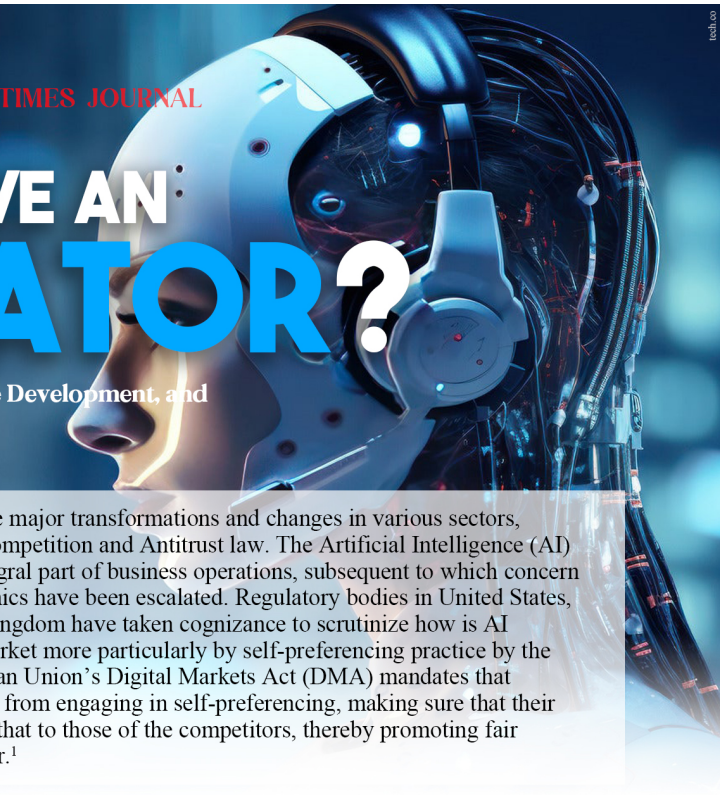
The Court also ordered comprehensive monitoring by the Central Pollution Control Board in consultation with State Pollution Control Boards from October 14 to 25, 2025. Regional offices must track the Air Quality Index daily and collect samples of sand and water from high-density usage sites for analysis. The report will be submitted to the Hon'ble Supreme Court.[15] This data collection will inform future policy decisions.

Conclusion

The Supreme Court explicitly characterized this relaxation as a test case for the specified period only.[16] By adopting the approach from the 2018 Arjun Gopal judgment[17] while incorporating stricter monitoring and enforcement mechanisms, the Court has attempted to balance multiple competing interests: the right to health, the right to livelihood, cultural traditions, and environmental protection.
The success of this measured approach will depend entirely on rigorous implementation by all stakeholders. The matter has been listed for further directions after three weeks, indicating the Court's intention to remain actively seized of the issue and adjust its approach based on ground realities and monitoring reports. This judgment carefully navigates between absolute prohibition and unregulated freedom to find a sustainable middle path that protects both people sentiments and the environment.

END NOTES

1. MC Mehta v. Union of India, WP (C) 13029/1985
2. Id. at p. 24
3. Id. at p. 1
4. Id. at p. 1
5. Id. at p. 1
6. Arjun Gopal and Ors. v. Union of India and Ors., Writ Petition No.728 of 2015
7. Supra note 1 at p.8
8. Id. at p. 12
9. Id. at p. 13
10. Id. at p. 14
11. Id. at p. 15
12. Id. at p. 24
13. Id. at p. 24
16. Id. at p. 24
17. Supra note 6



WILL INDIA EVER HAVE AN AI REGULATOR?

AI Revolution: Balancing Antitrust Regulations, Collaborative Development, and Competition Law in India's Evolving Digital Era

Naimesh Gupta & Jyotirmay Pandey, Advocates

The advancement in technology has made major transformations and changes in various sectors, leading to significant implications of Competition and Antitrust law. The Artificial Intelligence (AI) systems have become nowadays an integral part of business operations, subsequent to which concern regarding their impact on market dynamics have been escalated. Regulatory bodies in United States, The European Union, and the United Kingdom have taken cognizance to scrutinize how is AI affecting competition and regulating market more particularly by self-preferencing practice by the dominant digital platforms. The European Union's Digital Markets Act (DMA) mandates that designated "gatekeepers" should refrain from engaging in self-preferencing, making sure that their own products are not unfairly favoured that to those of the competitors, thereby promoting fair competition in the Digital Market Sector.[1]

Overview of AI Growth and need for Regulation in India

Defining AI

AI refers to the broad branch of computer science that studies and designs intelligent agents, which should be able to perform tasks of great difficulty in a way perceived as 'intelligent'.[2] This concept was invented in 1956 by John McCarthy, who defined it as 'the science and engineering of making intelligent machines.[3] The development of AI started way back in 1950's the human intelligence was exhibited by machines. It was later developed to Machine Learning which started in 1980s where in AI systems learned from the Historical data which was already existing in databases. Machine Learning (ML) developed and was more refined into Deep Learning, in 2010's, in which the machines used multilayered networks called deep neural networks, which resulted in decision making power of a human brain. AI systems that are observed today are refined and developed system of deep learning also, called as Generative AI (Gen AI). The Gen AI has the capability to generate complex original content- such as long-form text, high quality images, realistic video or audio, as per the inputs and requirement raised by the user.

Some AI tools like Chat GPT, Copilot, Gemini, etc. are owned by Big Tech companies like Open AI, Microsoft, Google etc. AI systems rely on data sets which might be vulnerable to data privacy of the users. Users may increasingly face a loss of control over their data and privacy. AI systems run on data that are stored on servers of the Big Tech companies. The process whereby large amounts of consumer data are collected from consumers to be turned into value under the form of targeted advertising or personalized recommendations is known as Big Data.

AI and Present Day Market

The present-day artificial intelligence (AI) market is experiencing significant growth, with projections indicating a surge from approximately USD 196.63 billion in 2023, reflecting a compound annual growth rate (CAGR) of 36.6% during this period.[4] This rapid expansion is primarily driven by advancements in machine learning, natural language processing, and computer vision technologies, which are increasingly being integrated into various industries such as healthcare, finance, retail, and automotive. North America currently holds the largest share of the market, driven by substantial investments from tech giants like Google and Amazon, while the Asia Pacific region is anticipated to witness the highest growth rate due to rising digitalization and government initiatives supporting AI adoption. The software segment is expected to dominate the market, as organizations seek scalable AI solutions to enhance operational efficiency and customer engagement. Moreover, the increasing demand for data-driven insights and automation is propelling businesses to adopt AI technologies at an accelerated pace. However, challenges such as data privacy concerns and high implementation costs may impact growth trajectories. Overall, the AI market is characterized by rapid innovation and a dynamic competitive landscape, underscoring its critical role in shaping future business strategies across multiple sectors.

Projected Growth of AI

The Artificial Intelligence (AI) market has shown unmatched growth, projected to expand from approximately USD 214.6 billion in 2024 to an astounding USD 1,339.1 billion by 2030, reflecting a compound annual growth rate (CAGR) of 35.7% during this period. This surge is largely fueled by advancements in computational power and the availability of vast datasets, which enable the development of more sophisticated AI algorithms and models.[5]

The demand for AI technologies is particularly pronounced across various sectors, including healthcare, finance, manufacturing, and retail, where organizations are increasingly leveraging AI to enhance operational efficiency, improve decision-making processes, and elevate customer experiences. The software segment is anticipated to dominate the market by revenue in 2024, driven by its critical role in supporting diverse AI

Source : AI Generated

applications. This includes both discriminative AI, excelling in classification and prediction tasks and generative AI, capable of creating new content and simulating scenarios.

Moreover, the marketing and sales functions are expected to hold the largest market share in 2024 due to AI's significant impact on optimizing customer engagement strategies. AI tools such as predictive analytics and personalized recommendation systems allow businesses to better understand consumer behaviour, leading to more effective marketing campaigns and improved customer satisfaction. In addition, the healthcare sector is poised for rapid growth as AI technologies facilitate advancements like electronic health records (EHRs) and telemedicine solutions, enhancing diagnostic accuracy and patient outcomes.

Overall, the integration of AI into various industries not only drives innovation but also necessitates a careful balance with regulatory frameworks to ensure ethical development and deployment practices that foster collaboration while addressing antitrust concerns in this rapidly evolving landscape.

Regulatory Framework of AI

As consumers are using internet to shop in rapidly growing numbers, businesses are increasingly adopting business models that reply on personal data. Through geolocation, IP address, censors , cookies, or online forms, firms are not only able to gather such traditional data on a consumer as gender, age, level of education, but also multiple other bits of information, such as his browsing history, website visits, past purchases , interactions on social networks. Once these data have been extracted, often without the subject's prior proper knowledge and authorization to pitch the customised and personalised new product and priced appropriately to entice him.

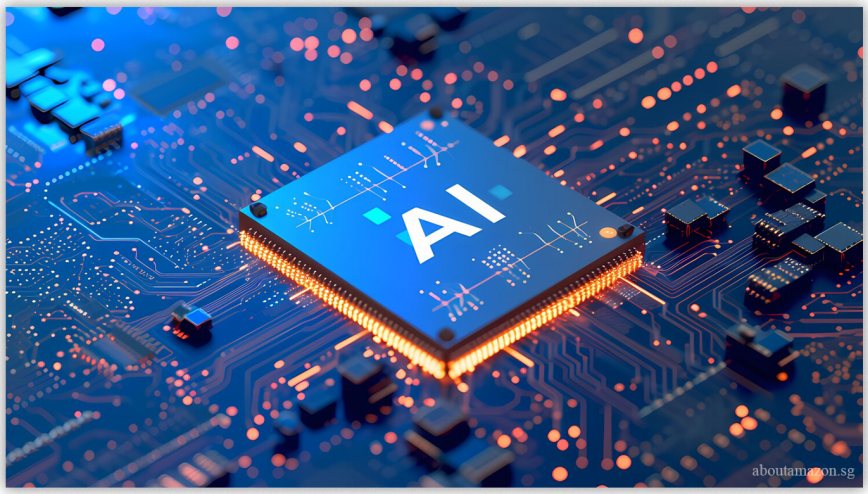
Harnessing Big Data using AI yields many economic benefits. It enables businesses to improve the quality of their products and services by better understanding individual consumer needs, to set optimal prices that effectively respond to market changes and to optimize inventory levels. At the macro level, it allows a better allocation of resources which may provide lower prices, more competition, higher quality, and a wider range of choice for consumers.[6]

The regulatory framework for artificial intelligence (AI) is rapidly evolving, aiming to balance innovation with safety, ethical considerations, and public trust. The European Union has taken a pioneering step with its proposed AI Act, which categorizes AI systems into four risk levels: unacceptable, high-risk, limited risk, and minimal risk. Each category imposes specific obligations on developers and users; for example, high-risk applications must undergo rigorous assessments before market entry to ensure compliance with safety and ethical standards.[7] In contrast, the United States adopts a more fragmented approach, relying on existing laws and sector-specific regulations rather than a cohesive national framework. This results in a patchwork of guidelines that vary across industries such as healthcare, finance, and transportation.[8]

Meanwhile, India is actively developing its own regulatory initiatives that align with international best practices while addressing local needs. The government has proposed a draft framework that emphasizes responsible AI development and deployment, focusing on ethical considerations and societal impact.[9] Key principles guiding these regulations include a risk-based approach that tailors oversight to the perceived risks associated with different AI applications, transparency and accountability to build public trust, and collaboration with stakeholders to foster innovation within safe boundaries.[10] However, several challenges complicate the regulatory landscape: the rapid pace of technological change necessitates future-proof legislation that can adapt over time; international cooperation is essential to prevent regulatory arbitrage and ensure consistent safety standards across borders; and sector-specific considerations require tailored regulations to address the unique implications of AI applications in various fields.[11] Ultimately, effective regulation is crucial to ensure that AI technologies are developed and regulated responsibly and ethically while fostering innovation in this transformative field.

Collaborative AI Development Aiding Healthy Competition

Collaborative AI development has the potential to significantly enhance competition in various markets by fostering innovation and enabling smaller firms to compete more effectively against established players. As competition authorities around the world, as The Canadian Competition Bureau and the UK Competition and Markets Authority (CMA), recognize, collaboration can lead to the sharing of resources, data, and expertise, thereby levelling the playing field for startups and smaller enterprises.[12]
When companies combine their expertise and technology resources to work together on developing AI solutions that they couldn't achieve on their own individually. It speeds up innovation and lowers expenses for everyone involved while delivering products and services to consumers in the end. Furthermore, when companies collaborate on ventures or partnerships to advance AI technologies together they can establish guidelines that emphasize standards and safeguard consumer interests all while encouraging healthy competition, in the industry.



These partnerships play a role in preventing behaviours ensuring that no one entity gains sole control, over the market through exclusive technologies or data access. Furthermore, regulatory bodies are showing support, for these efforts because they see the value in fostering fair competition and tackling issues, around data privacy and bias in algorithms. In India AI environment that is constantly changing presents chances to work together to improve market competition. The Competition Act of 2002 aims to eliminate practices detrimental to market competition and promote fair trade.[13] By encouraging partnerships among tech firms, startups, and research institutions, India can harness collective expertise to drive innovation in AI while adhering to competitive norms. This collaborative spirit aligns with global trends where regulatory frameworks are adapting to facilitate cooperation in AI development without compromising competitive integrity. In conclusion, working together on AI development helps to create a market structure which encourages new ideas, facilitates new companies to enter, and support ethical practices in technology use. As different parties collaborate to address the challenges of AI rules, they can build a more active market that is good for consumers and supports lasting growth. But the collaborations may lead to collusions that may raise concerns of market regulations, which needs to be regulated through robust legal framework.

Comparative Study of present Regulatory Framework in India to Foreign Nation

The regulatory landscape for AI varies significantly across countries, with foreign nations adopting diverse approaches to address the challenges and opportunities presented by AI technologies. In contrast, India is still in the process of developing a comprehensive regulatory framework for AI, relying on a series of guidelines and initiatives rather than codified laws.

In **India**, there is presently no specific law dedicated to governing Artificial Intelligence, instead the nation depends on several advisories and guidelines to encourage responsible development of Artificial Intelligence. “The National Artificial Intelligence Strategy”, launched by NITI Aayog in 2018, outlines key areas for prioritization but lacks enforceable regulations.[15] Recently, the Ministry of Electronics and Information Technology issued advisories requiring platforms to label AI-generated content and obtain explicit permission before deploying unreliable models.[16] However, these measures are not as stringent or comprehensive as those seen in the EU or other jurisdictions. India's approach appears to focus more on fostering innovation while addressing ethical concerns through frameworks like the “Digital Personal Data Protection Act (DPDP) 2023”, which aims to regulate data usage in alignment with international standards.

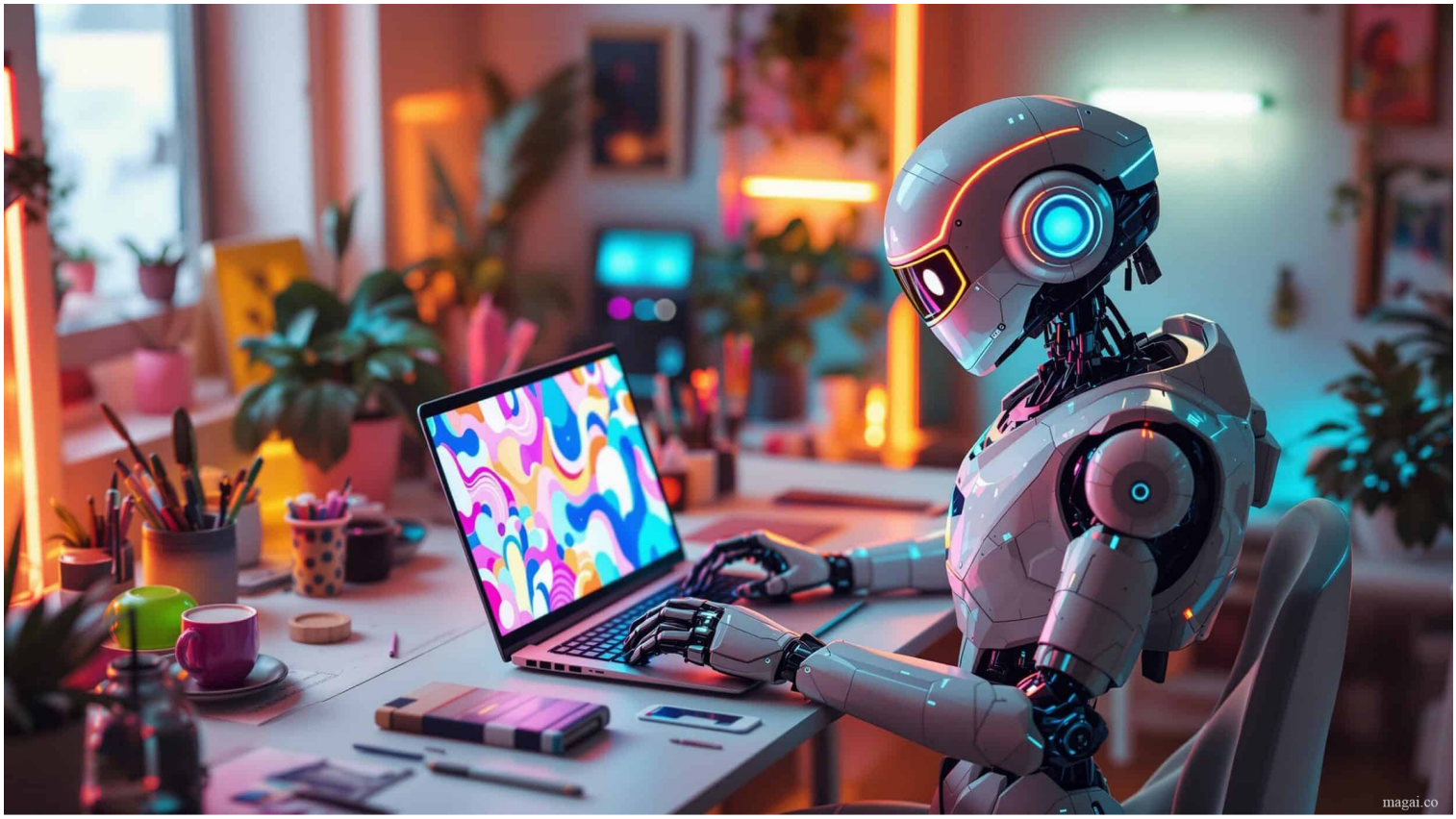
In the **European Union** (EU), the regulatory approach is notably proactive. The proposed Artificial Intelligence Act categorizes AI systems based on risk levels unacceptable, high-risk, and minimal risk. This comprehensive framework imposes strict compliance requirements for high-risk AI systems, emphasizing transparency, accountability, and user safety.[17] While this stringent regulation aims to protect consumers and ensure ethical AI deployment, some critics argue that it may stifle innovation by imposing heavy burdens on developers.[18]

The **UK** is working on a principles-based regulatory framework for AI, based on safety, transparency, fairness, accountability, and contestability, with no single central AI regulator. Existing regulators such as the Information Commissioner's Office will police the principles through their respective sectors using non-statutory guidance sketched out in a 2023 White Paper. This will encourage innovation, keeping a close eye on risks via new central function that will handle coordination, and may also lead to targeted legislation with regard to GPAI in the case where measures on a voluntary basis prove inadequate. Success will depend on an effective implementation of this approach and on the consistent interpretation of the principles in various sectors.

In **Canada**, the regulatory framework governing artificial intelligence (AI) in relation to anti-competition laws is currently shaped by several key initiatives and proposed legislation. The Canadian Competition Bureau released a discussion paper on March 20, 2024, titled "Artificial Intelligence and Competition," which seeks public feedback on how AI affects competition. This paper highlights concerns regarding potential anti-competitive practices such as predatory pricing, cartel behaviour, and deceptive marketing, emphasizing that AI could enable firms to engage in practices that harm competition. Additionally, the Bureau is particularly focused on mergers in the AI sector, suggesting that transactions involving significant market players may require closer scrutiny due to the high levels of concentration in AI markets.[19] Furthermore, Canada's first comprehensive AI legislation, the “Artificial Intelligence and Data Act (AIDA)”, is progressing through Parliament as part of Bill. This Act aims to establish a regulatory framework for AI use while addressing associated risks. These developments signal a proactive approach by Canadian authorities to ensure fair competition and consumer protection in an increasingly AI-driven economy. [20]

South Korea is actively developing its regulatory framework for artificial intelligence (AI), particularly concerning anti-competition laws. The proposed Act on “Promotion of the AI Industry and Framework for Establishing Trustworthy AI” aims to create a comprehensive legal structure to promote innovation while ensuring user protection through certification requirements. Additionally, the “Online Platform Antitrust Regulation Act” seeks to prevent anti-competitive practices among major digital platforms by prohibiting self-preferencing and mandating algorithm disclosures.[21] While there are currently no specific laws directly regulating AI, the South Korean government is pursuing a balanced approach to foster AI innovation and safeguard competition, reflecting a commitment to addressing the challenges of an increasingly digital economy.

In **Japan** regulatory framework for artificial intelligence (AI) is with a focus on innovation and competition. The Draft “AI Guidelines for Businesses”, released in January 2024, provide voluntary guidance for AI developers and users, aligning with principles from the G7 Hiroshima Summit in May 2023. While no specific law solely regulates AI, the Japan Fair Trade Commission has raised competition concerns in a 2021 report.[22] Additionally, a proposed “Basic Act on the Advancement of Responsible AI” aims to introduce stricter regulations for certain AI systems, indicating a shift toward more enforceable measures. This evolving landscape reflects Japan's commitment to fostering a competitive and ethical AI environment.



China has implemented a regulatory framework to govern artificial intelligence (AI) and prevent anti-competitive practices through several key regulations. "The Algorithm Recommendation Regulation" (effective March 1, 2022) aims to protect consumer rights by regulating algorithmic recommendations. "The Deep Synthesis Regulation" (effective January 10, 2023) requires AI service providers to file algorithms with the Cyberspace Administration of China (CAC) and clearly label AI-generated content.[23] "The Generative AI Regulation" (effective August 15, 2023) mandates accurate training data and prohibits harmful content. Additionally, the Interim AI Measures promote responsible development of generative AI services while safeguarding national security. Collectively, these regulations enhance transparency and accountability in AI applications while addressing competitive concerns in the market.

Additionally, the G7 countries (Canada, France, Germany, Italy, Japan, the UK, and the US) have collaboratively advanced their regulatory frameworks for artificial intelligence (AI) through the "Hiroshima Process International Code of Conduct", established on October 30, 2023. This code comprises high-level principles aimed at promoting safe and trustworthy AI development, particularly for advanced AI systems such as foundation models and generative AI. While the G7 nations share a commitment to ethical AI governance, their approaches vary significantly.

The Need for AI regulation in India: A Competition Law Perspective

The changes in technology and AI have, therefore, revolutionized the way business operates, including businesses operating in India. Since AI technologies have found space in almost every sector, alarming concerns about their impact on competition and the need for regulation have grown. The "National Strategy for Artificial Intelligence" and the "AI for All" program are two of the initiatives adopted by the government to promote development and the adoption of AI technologies. India is witnessing a surge in investments as startups and corporations increasingly harness artificial intelligence (AI) for innovation and economic growth. This trend is driven by a growing investor appetite for AI solutions, with significant funding flowing into Indian companies that are developing practical applications of the technology. Notably, over 77% of Indian startups are investing in advanced technologies, including AI, further solidifying the country's position as a burgeoning hub for tech innovation. However, with more and more applications being found for artificial intelligence, there has been a growing concern that this may affect effective market competition.

The Competition Act, 2002, serves as the principal legislative framework governing competition in the market in India. This Act is designed to foster competitive markets, deter anti-competitive conduct, and safeguard consumer interests. The enforcement of this Act falls under the jurisdiction of the Competition Commission of India (CCI), the designated regulatory authority.

Anti-competitive concerns caused by the application of artificial intelligence have emerged as a major issue in considering regulations over AI in India. Artificial intelligence may be leveraged to implement anti-competitive practices, including price fixing, bid rigging, and predatory pricing. Without intervention, firms could use AI to collude with one another at the cost of competition, which hurts consumers and the market as a whole. Worse, AI dependence on data is alarming because, in the process, companies that can generate and handle massive amounts of data will start to have an undue advantage over their competitors. This sets in data monopolies where a select few dominate, which suppresses further innovation.

The Competition Act does not explicitly address issues pertaining to artificial intelligence, highlighting the necessity for a thorough regulatory framework that harmonizes the advantages of AI with

the imperative to preserve competition and consumer interests.[24] The balance is that the overall regulatory framework is urgently needed in India to weigh AI's benefits against its detriments in terms of protection of competition and consumer interest. Regulatory measures may include data protection laws, ensuring that companies handle data responsibly and do not misuse it to gain an unfair competitive advantage. The need, therefore, is for AI-specific regulations on issues like bias, discrimination, and job displacement. Furthermore, the Competition Act needs to be revised in order to incorporate the relevant provisions relating to anti-competitive practices involving AI.

Industry-led initiatives, including code of conduct and best practices, are promoting reasonable development and deployment of AI. The initiatives provide guidelines on ethical development of AI. Thus, from a Competition Law perspective, the need for regulation in India is crystal clear. Due to the growth and evolution of AI technologies and their increased access to a variety of sectors, a comprehensive regulatory framework has become imperative for the protection of competition, consumer interest, and the greater economy. With the introduction of robust regulations and guidelines, India can ensure that AI is being developed and deployed responsibly with minimized adverse consequences in the market and in the society.

Way Forward

India is progressing towards an AI regulatory framework, but there are many challenges ahead. The absence of specific laws, the need to keep up with fast technology changes, ensuring ethical use, and aligning with global standards are key steps needed for a solid AI regulatory setup in India. As AI technologies rapidly evolve, they raise significant concerns regarding market competition, potential monopolistic behaviours, and consumer protection. Effective regulation must balance the need for innovation with the imperative to maintain fair competition. The AI is boon for the intellectuals and bane for gullible, judicious use of AI is appreciable at the same time the user shall be diligent enough to foresee the consequences.[25] Collaborative effects of AI shall lead to advancements that benefit society however, these collaborations shall be more carefully structured in order to avoid evading antitrust laws.

Regulatory bodies globally should be vigilant, equipped with advanced tools to monitor and address anticompetitive practices in the AI sector. Thus, a nuanced approach is essential for fostering a competitive marketplace while encouraging responsible AI development.

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RTI REVOLUTION

Twenty Years of the Right to Information Act

Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing."

Anuj Malhotra & Surbhi Rashmi, Advocates

Democracy is not merely about casting a vote once in five years, it is about people's meaningful participation in public affairs. A democratic government cannot function in silence, it must be transparent, accountable, and answerable to its citizens. The Right to Information ("RTI") has emerged as one of the most powerful tools that empowers citizens of India to question the authority, expose corruption, and ensure transparency in governance.

The Right to Information Act (RTI Act) was enacted by the United Progressive Alliance Government headed by then Prime Minister Dr. Manmohan Singh in 2005. This Act was enacted for citizens to secure access the information which are under the control of public authorities, to promote transparency and accountability in the working of every public authority.[2]

The RTI Act replaced the Freedom of Information Act, 2002, which was never effectively implemented.[3] In 2025, the RTI Act has completed 20 years since its enactment. In this Article, we will discuss the journey of RTI.

EVOLUTION OF THE RIGHT TO INFORMATION ACT

The first law on the subject of Right to Information was enacted by Sweden in 1766 which was called the Freedom of the Press Act. The Swedish example was later followed by the US, which enacted its first law in 1966 and then by Norway in 1970. Similarly, several western democracies enacted their own laws such as France and Netherlands 1978, Australia, New Zealand and Canada 1982, Denmark 1985, Greece 1986, Austria 1987, Italy 1990).1 By 1990, the number of countries with Freedom of Information laws climbed to thirteen. A big step forward was the European Union Charter of Fundamental Rights in 2000, which included both freedom of expression and the right of access to documents. By 2010, more than eighty-five countries had national-level RTI laws or regulations. In Asia so far almost 20 nations have adopted Freedom of Information laws like Kazakhstan, Afghanistan, Bhutan, Maldives etc.[4]

In India, Firstly, the concept of RTI began through judicial interpretation of the Constitution. In the case of State of U.P. v. Raj Narain (1975) 4 SCC 428, the Hon'ble Supreme Court of India discussed the Right to information under Article 19(1)(a). Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression to all Indian citizens. However, there is no mention of the right to information under this Article.

Later, In the case of S.P. Gupta v. President of India and Ors (1982), a 7 Judge Bench of the Supreme Court observed that,

> *"…disclosure of information in regard to the functioning of Government must be the rule and secrecy an exception justified only where the strictest requirement of public interest so demands."* [5]

Mazdoor Kisan Shakti Sangathan (MKSS) formed in Rajasthan in 1990. It played a vital role in bringing the Right to Information to citizens. The National Campaign for People's Right to Information (1996) gave the movement national momentum. Tamil Nadu became the first state to enact an RTI law in 1997. All these efforts led to the enactment of the Freedom of Information Act 2002. Later, this act was repealed by the Right to Information Act, 2005, which came into full force on October 12, 2005.

KEY PROVISIONS OF THE RTI ACT

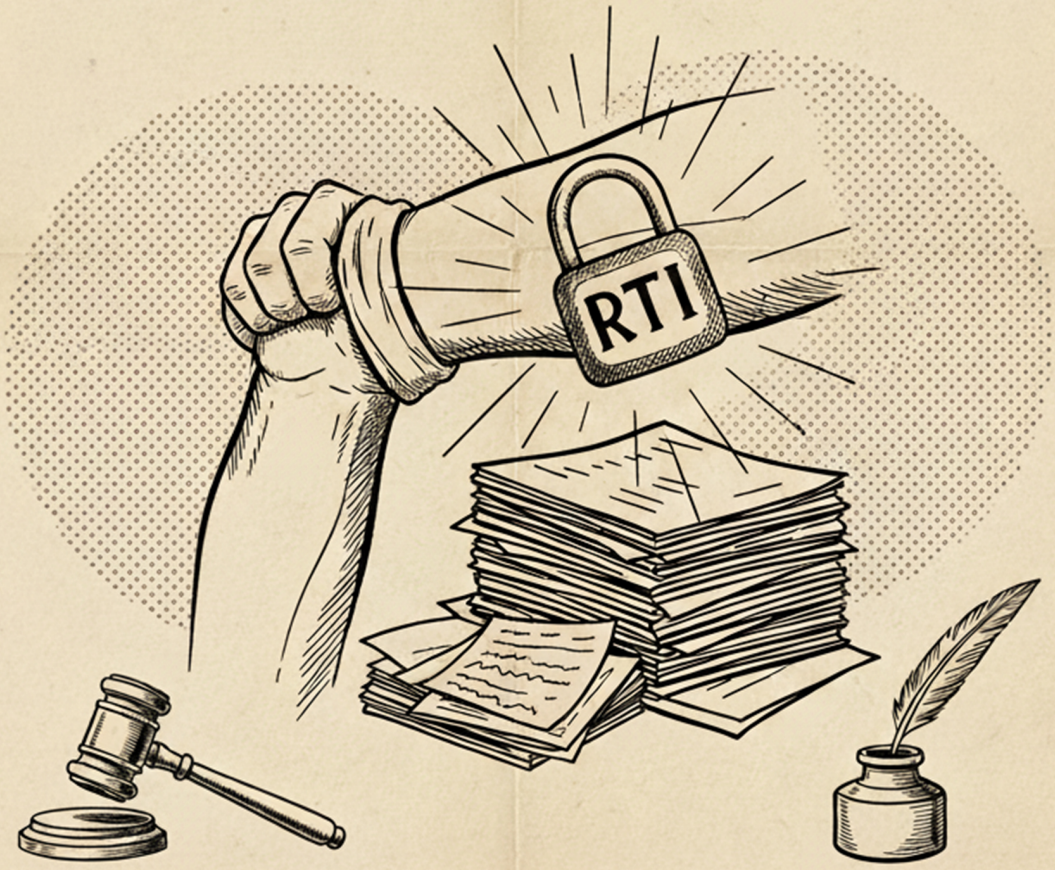
The Act was enacted to set out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected. [6]

Under this Act, 'Right to information' means the right to information accessible which is held by or under the control of any public authority and includes the right to inspection of work, documents, records, taking notes, extracts or certified copies of documents or records, taking certified samples of material, obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.[7]

The Act mandates that every public authority appoint a Public Information Officer ("PIO") and an Assistant PIO to provide information to a person requesting.[8] The Information must be

20 YEARS OF RTI

Right to Information Act 2005 – 2025: A Two-Deade Journey for Transparency



EMPOWERING CITIZENS, SECURING ACCOUNTABILTY

Source : AI Generated

provided within 30 days.[9] The penalty for failing to penalty of ₹250 each day till the application is received or information is furnished so however, the total amount of such penalty shall not exceed twenty-five thousand rupees.[10]

THREE-TIER SYSTEM UNDER RTI ACT

1. First Tier: Central Assistant Public Information Officer/Central Public Information Officer ("CAPIO/CPIO") in a Public Authority.

2. Second Tier: First Appellate Authority ("FAA") in a Public Authority
If an RTI applicant does not receive the required information within the specified time or is dissatisfied with the decision of the CPIO, the applicant may file a first appeal within thirty days to an officer senior in rank to the CPIO in each Public Authority. [11]

3. Third Tier: Central Information Commission ("CIC")
The CIC is the apex appellate authority under the RTI Act, 2005

EXEMPTION

However, the Act also provides an exemption to balance transparency with national interests. Section 8(1) provides several exemptions from disclosure of Information, including information affects the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relations with foreign State, information which has been expressly forbidden to be published by any court of law, information, the disclosure of which would cause a breach of privilege of Parliament, commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, information available to a person in his fiduciary relationship, information received in confidence from foreign Government, information, the disclosure of which would endanger the life or physical safety of any person, information which would impede the process of investigation or apprehension or prosecution of offenders, cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.

Exemptions under Section 24: This Act shall not apply to the intelligence and security organisations and the organization mention under Second Schedule of the Act i.e. Intelligence Bureau, Research and Analysis Wing including its technical wing namely, the Aviation Research Centre of the Cabinet Secretariat, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Special [Frontier] Force of the Cabinet Secretariat, Border Security Force, Central Reserve Police Force, Indo-Tibetan Border Police, Central Industrial Security Force, National Security Guards, Assam Rifles, Sashtra Seema Bal, Directorate General of Income-tax (Investigation), National Technical Research Organisation, Financial Intelligence Unit, India, Special Protection Group, Defence Research and Development Organisation, Border Road Development Board, National Security Council Secretariat, Central Bureau of Investigation, National Investigation Agency, National Intelligence Grid and Strategic Forces Command are exempted from disclosure. However, if the information is about allegations of corruption and human rights violations.

RTI IN DIFFERENT STATES

1. Rajasthan
Mazdoor Kisan Shakti Sangathan is founded in Devdungri, Rajasthan by Aruna Roy and team to fight for workers' rights and transparency. The first Jansunwai was conducted in Kot Kirana, Pali, Rajasthan. It publicly exposed corruption in development works, laying the foundation for RTI activism.[12]

2. Uttar Pradesh
In a Pre-Middle School in Panchampur village, situated 70 kilometers away from the District Headquarters of Banda, Uttar Pradesh, a teacher was appointed for the school. However, the teacher was absent for most of the times. The workers and volunteers from the Delhi based organisations like Kabir and Parivartan, along with the local workers from the Chingari Sangathan under the 'Action Research Villages' Campaign, propagated the use of the Right to Information. Finally, the villagers witnessed a ray of hope when they learned that they could question the Government and ask for information related to the attendance records, leave records and medical records of the absconding village school teacher.[13]

LANDMARK JUDGMENTS ON RTI

In the case of Saurav Das v. Union of India, Hon'ble Supreme Court refuse grant relief as prayed directing all the States to put on their websites the copies of all the charge-sheets/challans filed under Section 173CrPC. In this a case the Petitioner relied on Section 4(2) of the RTI Act duty is cast upon the public officer/public authority to provide as much information suo motu to the public at regular intervals through various means of communications and to provide as much information as mentioned in Section 4(1)(b) of the RTI Act. The bench consists of MR Shah and CT Ravikumar, JJ. has held that the States cannot be directed to put such information on their websites. [14]

In CBI v. Central Information Commission, the Delhi High Court interpreted "human rights violations" by referencing the Universal Declaration of Human Rights, 1948 and the Protection of Human Rights Act, 1993, defining it to include rights related to life, liberty, equality and dignity. However, the exact scope of these exceptions, particularly for human rights violations, remains legally unsettled. [15]

In another case, Union of India v. Central Information Commission1 the Delhi High Court held that while the ED is generally exempt from the RTI Act under Section 24, it must disclose service-related information to its own employees when the request pertains to human rights, which broadly interpreted to include the right to promotion. [16]

ANALYSIS

As per RTI Act, the RTI applications and first appeals are required to be mandatorily disposed of within 30 days of their receipt. However, no time limit has been prescribed for the disposal of 2nd appeal/complaint by the Central Information Commission.[17]

As on 17.02.2015, marking the 10th anniversary of Right to information Act 2005, a total number of 37935 2nd appeals/complaints are pending with the Central Information Commission.

Further, the number of appeals and complaints pending on June 30, 2023, in the 27 information commissions, from which data was obtained, stood at 3,21,537. The 2019 assessment had found that as of March 31, 2019, a total of 2,18,347 appeals/complaints were pending in the 26 information commissions from which data was obtained, which climbed to 2,86,325 as of June 30, 2021 and then crossed 3 lakhs as of June 30, 2022.[18]

S. No	Information Commission	Pending as of June 30, 2023
1	Maharashtra ①	1,15,524
2	Karnataka	41,047
3	Uttar Pradesh	27,163
4	CIC	20,078
5	Chhattisgarh	17,567
6	Odisha	16,703
7	West Bengal	11,871
8	Rajasthan	10,988
9	Telangana	10,030
10	Madhya Pradesh	9,078
11	Bihar	8,185
12	Jharkhand ②	7,768
13	Kerala	5,228
14	Haryana	4,783
15	Gujarat	4,632
16	Punjab	4,069
17	Andhra Pradesh ③	3,245
18	Uttarakhand	1,713
19	Arunachal Pradesh	786
20	Himachal Pradesh	503
21	Assam	279
22	Goa	184
23	Manipur	75
24	Meghalaya	17
25	Nagaland	13
26	Mizoram	6
27	Sikkim	2
28	Tripura	Defunct
29	Tamil Nadu	Refused information
	Total	**3,21,537**
Note- ① Pending as of December 31, 2022 ② Pending as of May 2020 when the SIC became defunct ③ Pending as of May 2023		

Table 1.1 Pending appeals and complaints [19]
Source: Satark Nagrik Sangathan (SNS), Report Card on the Performance of Information Commissions in India, 2022-23 (October 2023)

In Maharashtra, as of March 31, 2018, close to 40,000 appeals and complaints were pending. The backlog as of May 2021 increased to nearly 75,000 and reached an alarming level of 1,15,524 by December 2022. A nearly 200% increase in the backlog in four years. The apex court, in its February 2019 judgment, had observed that given the large pendency in the Maharashtra SIC, it would be appropriate if the commission functioned at full strength.[20]

The Hon'ble Supreme Court February 2019 taking cognizance of the fact that the Karnataka Information Commission had a backlog of 33,000 appeals/complaints, directed the Karnataka government to ensure that the Commission functions at full strength of 11 commissioners. As of June 2023, the backlog has increased to more than 41,000 pending appeals and complaints.[21]

The Uttar Pradesh SIC disposed of the highest number of cases (48,607) followed by the CIC (27,452) and Karnataka (21,516). SIC of Maharashtra registered the highest number of appeals and complaints (30,479) even though this data pertains only to 6 months and not the whole period under review as data for January to June 2023 was not provided by the SIC. The SIC of Karnataka registered 30,207 appeals and complaints, while Uttar Pradesh registered 29,637. The CIC registered 20,083 appeals/complaints.[22] The least appeals and complaints are pending in the state of Sikkim.

The consistent rise in backlogs of appeals/complaints highlights a major concern. Some reasons for the consistent rise of cases are inadequate staff, lack of information in the offices, absence of fixed timelines. The defects and delays hamper the very essence of the enactment of the RTI Act. As per data, every year, cases have been increasing. Additionally, sometimes information is denied on vague grounds. Despite every flaw, the RTI Act remains one of the most transformative legislations in independent India.

CONCLUSION

The Right to Information Act has empowered the people in transforming governance from secrecy to transparency. RTI has changed the relationship between the State and the citizen from one of authority and obedience to one of accountability and responsibility.

However, the complete journey is far from achieved. There are a number of appeals pending in commissions. Further, the success of the RTI Act not only depends upon the government but also depends on the citizens.

RTI AND THE INDIAN EVIDENCE ACT, 1872

It is pertinent to mention that Section 129 of Bharatiya Sakshya Adhiniyam, 2023/ section 123 of the Indian Evidence Act, 1872 restricts disclosure of unpublished official records relating to affairs of the state without departmental permission. However, the RTI Act, being a later and specific law, overrides the Act, unless it covers an exemption under the Act.

RTI AND THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023

The RTI Act promotes transparency and accountability in governance, whereas the Digital Personal Data Protection Act protects personal data and the privacy of individuals.[23] Digital Personal Data Protection Act does not override the Right to Information Act.

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FROM BAR TO BENCH

"REWRITING DHEERAJ MOR"

Supreme Court Breaks Barriers: Rejanish KV Judgment Redefines Direct Recruitment and Eligibility for District Judges in India

Rajiv K. Virmani, Advocate-on-Record & Jayeeta Deb Sarkar, Advocates.

In October 2025, the Supreme Court delivered a landmark judgment that revolutionized district judge appointments in India. The case centered on Rejanish KV, a Kerala lawyer with seven years of practice who applied to become a District Judge but was appointed as a Munsiff-Magistrate while his application was pending. His subsequent District Judge appointment was challenged and canceled by the Kerala High Court. This led to a comprehensive re-examination of Article 233 of the Constitution of India and the overturning of four decades of legal precedent. The judgment not only resolved Rejanish's career dilemma but also addressed a systemic problem affecting thousands of judicial officers nationwide who, despite their experience and qualifications, were prevented from direct recruitment simply because they were already in service.

Article 233 of the Indian Constitution was the heart of the debate which governs the appointment of district judges across the country.[1] It consists of two crucial sub-clauses that have been the subject of intense judicial scrutiny and conflicting interpretations for decades.

Article 233(1) establishes the fundamental framework for appointments, stating that district judges in any state shall be appointed by the Governor in consultation with the High Court exercising jurisdiction over that state. This clause also covers posting and promotions of district judges, creating the administrative structure for these appointments.

The second clause specifies that "a person not already in the service of the Union or of the State" shall be eligible for appointment as district judge only if they have been an advocate or pleader for not less than seven years. This criteria became the heart of the debate for many years.

The critical question that emerged from this wording was whether the phrase "a person not already in the service of the Union or of the State" was meant to exclude serving judicial officers from the direct recruitment process entirely, or whether it merely set out additional qualifications for those coming from outside government service. Previous judicial interpretations had consistently favored the former understanding.

REJANISH KV'S STORY

The path to this historic judgment began with a deeply personal career dilemma faced by Rejanish KV, a lawyer from Kerala whose professional journey embodied the very contradiction that the law had created.[2] Rejanish had practiced law for seven years, hence fulfilling the requirement under Article 233(2) to apply for the post of District Judge through direct recruitment. With this qualification in hand, he submitted his application for the said position.

Rejanish simultaneously applied for selection to the post of Munsiff-Magistrate in the subordinate judiciary. While the selection process for the District Judge position was still underway, he received his appointment as a Munsiff-Magistrate on December 28, 2017, and took up his duties in the lower judiciary.[3]

When the District Judge appointment order finally came through, Rejanish was relieved from his position in the subordinate judiciary on August 21, 2019, and took charge as District Judge in Thiruvananthapuram three days later. However, another candidate, K. Deepa, challenged this appointment before the Kerala High Court, arguing that Rejanish was ineligible because at the time of his appointment as District Judge, he was no longer a practicing advocate but a serving judicial officer.[4]

The Single Judge Bench of the Kerala High Court, relying heavily on the Supreme Court's judgment in Dheeraj Mor v. High Court of Delhi[5] , ruled in favor of the Petitioner.[6] The Dheeraj Mor case had established a strict interpretation that candidates applying for District Judge positions through direct recruitment must remain practicing advocates until the date of appointment. Under this precedent, Rejanish's intervening appointment as a Munsiff-Magistrate disqualified him from taking up the District Judge post.

The Division Bench of the Kerala High Court upheld this decision and further noted that several appointments of District Judges across the country might have been made based on rules that contradicted the interpretation laid down in Dheeraj Mor. Recognizing the far-reaching implications of this issue, the High Court granted a certificate to file an appeal before the Supreme Court, acknowledging that the matter involved substantial questions of law of importance.

THE SUPREME COURT'S CONSTITUTIONAL BENCH

When the case reached the Supreme Court, a three-judge bench led by Chief Justice BR Gavai, along with Justices K Vinod Chandran and NV Anjaria, recognized the importance of the questions at hand.[7] On August 12, 2025, they passed an order referring the matter to a larger Constitution Bench, noting that the issues needed to be resolved by a bench of greater strength.

The Constitution Bench that assembled to hear the case comprised five distinguished jurists: Chief Justice BR Gavai, Justice MM Sundresh, Justice Aravind Kumar, Justice SC Sharma, and Justice K Vinod Chandran.[8] The bench grappled with fundamental questions about constitutional interpretation, judicial career structures, and the very purpose of recruitment processes in the judiciary.

The petitioners argued that the decision in Dheeraj Mor required reconsideration and that excluding civil judges from direct recruitment to district judge positions was not mandated by the Constitution.[9]

The respondents contended that Article 233(2) was specifically designed to benefit practicing advocates and that the old understanding should be maintained under the principle of stare decisis, which holds that courts should respect and follow established precedents.[10]

THE FOUR CRITICAL QUESTIONS

The Constitution Bench formulated four primary questions for consideration, each addressing a crucial aspect of the appointment process [11]

1. Whether a judicial officer who has already completed seven years in Bar being recruited for subordinate judicial services would be entitled for appointment as Additional District Judge against the Bar vacancy?[12]

2. Whether the eligibility for appointment as a District Judge is to be seen only at the time of appointment or at the time of application or both? [13]

3. Whether there is any eligibility prescribed for a person already in the judicial service of the Union or State Under Article 233(2) of the Constitution of India for being appointed as District Judge? [14]

4. Whether a person who has been Civil Judge for a period of seven years or has been an Advocate and Civil Judge for a combined period of seven years or more than seven years would be eligible for appointment as District Judge Under Article 233 of the Constitution of India? [15]

UNDERSTANDING ARTICLE 233(2)

Turning to Article 233(2), the court carefully parsed its language. The provision states that "a person not already in the service of the Union or of the State" shall be eligible to be appointed district judge only if they have been an advocate or pleader for not less than seven years. Previous interpretations had read this as creating an exclusive channel for advocates.

The Constitution Bench rejected this reading.

The court reasoned that if Article 233(2) truly meant to exclude all in-service candidates, there would be no need for the opening phrase "a person not already in the service of the Union or of the State." That phrase would serve no purpose if the entire provision applied only to advocates. Instead, the court found that this phrase creates a distinction: for those not in service, the seven-year practice requirement applies, but for those already in judicial service, no such specific requirement is mandated by the Constitution itself. The Court held as follows:

> **"The first Clause of Article 233 speaks of appointment, posting and promotion of district judges in a State which shall be made by the Government of the State in consultation with its High Court. Clause (2) of Article 233 does not restrict appointment of persons employed in the Union or the State to the post of district judges but enables, in addition advocates or pleaders who have seven years' practice, to be appointed as district judges. The appointment or promotion and the consequential posting has to be made under Clause (1) of Article 233, while Clause (2) provides for two sources of appointment. The plain meaning coming out of the words employed does not provide any restriction to judicial officers from direct recruitment. On the other hand, it enables a judicial officer to be appointed as a district judge by direct recruitment even without the prescription of a period of practice.**[16]

OVERTURNING PRECEDENT

One of the most significant aspects of the judgment was the Constitution Bench's willingness to overrule a long line of precedents that had interpreted Article 233 differently. The doctrine of stare decisis, which means "to stand by things decided," generally requires courts to follow previous decisions to ensure consistency and predictability in the law. However, this principle is not absolute, particularly when a larger bench identifies fundamental errors in earlier rulings.

The doctrine of stare decisis is not an inflexible Rule of law. This Court may review its earlier decisions if it believes that there is an error, or the effect of the decision would harm the interests of the public or if "it is inconsistent with the legal philosophy of the Constitution". In cases involving the interpretation of the Constitution, this Court would do so more readily than in other branches of law because not rectifying a manifest error would be harmful to the public interest and the polity. The period of time over which the case has held the field is not of primary consequence.[17]

The court explicitly overruled the two-judge bench decision in Satya Narain Singh v. High Court of Judicature at Allahabad from 1984[18] and the three-judge bench decision in Dheeraj Mor v. High Court of Delhi from 2020.[19] Both these judgments had cemented the interpretation that direct recruitment channels were exclusively reserved for practicing advocates.

In Satya Narain Singh, the court had found a clear distinction between two streams of recruitment for district judges and held that a person in judicial service could not simultaneously sail in both streams. This "two streams" theory created an artificial separation that the Constitution Bench found unsupported by constitutional text.[20]

The Dheeraj Mor judgment had reinforced this interpretation, holding that under Article 233(2), only advocates or pleaders with seven years of practice who were not already in judicial service could be appointed as District Judges through direct recruitment. The case had required candidates to maintain their status as practicing advocates continuously until the date of appointment.[21]

The Constitution Bench concluded that these precedents had "incorrectly applied the law" and had "inconsistently interpreted Article 233." More importantly, the court found that these decisions had resulted in "injustice being meted out to the members of the judicial services" for decades, depriving them of opportunities to compete for positions for which they were qualified.

The present judgment noted that when an interpretation of the Constitution is found to be inconsistent with its text and harmful to the public interest, the court has a duty to correct it. The

judgment emphasized that constitutional interpretation cannot be pedantic but must be organic[22] and purposeful, advancing the efficiency of administration and attracting meritorious candidates.

NEW ELIGIBILITY CRITERIA

Having established that judicial officers cannot be barred from direct recruitment, the Constitution Bench faced the challenge of creating fair and uniform criteria that would ensure genuine competition between advocates and in-service candidates. The court recognized that simply opening the door to judicial officers without any qualifying criteria might create concerns about fairness and consistency.

The bench crafted an elegant solution that values both legal practice and judicial experience while maintaining standards. The court directed that an in-service candidate should be eligible for recruitment to the post of district judge directly only if they have a combined experience of seven years as an advocate and a judicial officer.[23]

Similarly, the judgment addresses the situation of advocates who may have previously served in the judiciary. If an advocate participating in the selection process was formerly a member of the judicial service, their experience as a judicial officer cannot be ignored. The court stated that such a candidate's experience as an advocate before joining judicial service, their tenure as a judicial officer, and their subsequent experience as an advocate after leaving judicial service must all be considered together. They will be eligible only if they have a combined experience as an advocate and judicial officer totalling seven years.[24]

However, the court imposed an important limitation that the seven-year experience must be continuous. The judgment rejected the idea that persons with significant breaks in their professional engagement should be counted as eligible merely because they had accumulated seven years of practice at some point. Chief Justice Gavai explained that if a person has practised for five years and thereafter, he takes a break of ten years and thereafter practises for two years, there will be a disconnect with the legal profession.[25] Only those with continuous experience as an advocate, judicial officer, or a combination thereof on the date of application shall be eligible for consideration. [26]

REJECTING THE QUOTA ARGUMENT

One of the contentions raised by the Respondents was that the direct recruitment provision in Article 233(2) effectively created a quota or reservation for practicing advocates, with the intention that at least 25% of district judge positions should be filled from the Bar.[27] Several state rules had been framed on this understanding, setting aside a portion of district judge posts specifically for advocates.

The Constitution Bench firmly rejected this interpretation. The court held that a plain and literal reading of Article 233(2) does not contemplate any such quota system.[28] The provision sets out eligibility criteria for certain candidates; it does not create reservations or guaranteed allocations for any particular group.

THE VALUE OF JUDICIAL EXPERIENCE

The Constitution Bench took pains to emphasize that the experience gained by judicial officers while working as judges is substantial and, in many respects, exceeds what an advocate gains through legal practice.

The Court opined that judicial officers undergo rigorous training before commencing their duties, typically lasting at least one yea[29]. This training provides systematic instruction in various aspects of law, procedure, and judicial administration that may not be available to practicing advocates. Once appointed, judicial officers gain first-hand experience in case management, courtroom administration, legal reasoning, judgment writing, and the practical challenges of delivering justice.

The judgment pointed out an anomaly in the previous system: Government pleaders and Assistant Public Prosecutors, who were still practicing before courts, were held eligible to apply for direct recruitment as district judges. Yet judicial officers, before whom these advocates argued their cases, were deemed ineligible.[30] This contradiction highlighted the irrationality of excluding judicial officers from the direct recruitment process.

The court also drew upon the recommendations of the Shetty Commission, which had studied issues related to judicial recruitment and recommended that service judges should be given opportunities for direct recruitment as district judges.[31]

"HEARTBURN"

One argument raised against allowing judicial officers to compete for direct recruitment was the potential for "heartburn" among more senior members of the judiciary which is basically when a junior gets promoted before the senior is concerned. The concern was that if a relatively junior judicial officer with seven years of combined experience as advocate and judge could directly become a district judge, this might demoralize senior judges who were waiting for promotion through the regular channel.

The Constitution Bench held that the in-service candidates, though junior, will have to compete before being selected with the advocates as also their seniors, who also will be qualified, and only meritorious candidates would be selected and appointed. If a person is meritorious and on account of merit and merit alone gets selected directly as a district judge, there can be no question of heartburn for those who are not as meritorious as persons selected. [32]

Moreover, the judgment pointed out that the new system does not guarantee advancement for junior officers, it merely allows them to compete. They will still need to demonstrate their abilities in examinations and interviews, competing not only against advocates but also against their own senior colleagues who may also choose to apply. This competitive environment, will ultimately benefit the judiciary by ensuring that district judge positions are filled by the most capable individuals available.

THE QUESTION OF TIMING

The court held unequivocally that eligibility for appointment as a District Judge or Additional District Judge must be assessed at the time of

application.[33] This ruling provides clarity and certainty to candidates, who can now evaluate their eligibility when they decide to apply rather than worrying about whether subsequent changes in their professional status might disqualify them.

Selection processes for judicial positions can be lengthy. During this period, an advocate might join judicial service, or a judicial officer might resign and return to practice. If eligibility were judged at the time of appointment rather than application, candidates would face uncertainty about whether they would ultimately be allowed to take up positions for which they had been selected.

JUSTICE SUNDRESH'S ALTERNATIVE REASONING

Justice Sundresh fradiscused on the concept of "constitutional silence" in an innovative way. Justice Sundresh opined that the Constitution's silence on eligibility criteria for judicial officers seeking appointment as district judges was deliberate rather than accidental. The framers of the Constitution, he suggested, intentionally left this matter open, trusting the wisdom of High Courts and the Governor of the States to determine appropriate criteria rather than imposing rigid constitutional bars.[34]

According to Justice Sundresh, creating an absolute prohibition on judicial officers competing for direct recruitment would amount to reading into the Constitution something that is not there. When the Constitution is silent on a matter, courts should be cautious about implying restrictions, particularly when such restrictions would limit opportunities for meritorious individuals to serve in higher positions.

CONCLUSION

The Supreme Court's landmark judgment in Rejanish KV vs K Deepa marks a major turning point in how India recruits district judges, fixing decades old problem. The five-judge Constitution Bench ruled that judicial officers who have seven years of combined experience as both advocates and judges can now apply for direct appointment as District Judges, with their eligibility checked at the time they apply rather than when they're actually appointed. By overturning previous judgments from 1984 and 2020, the Court corrected decades of injustice and opened up opportunities that were previously reserved only for practicing advocates. The new system sets uniform standards for everyone, both lawyers and judges must be at least 35 years old and have continuous professional experience, ensuring fair competition between all candidates. The Court recognized an important truth: judicial officers gain valuable hands-on experience that often exceeds what practicing advocates learn, and excluding them from competing for higher positions made no sense. This decision will create a larger pool of talented candidates, encourage healthy competition, and ultimately improve the quality of India's district courts. With state governments and High Courts given three months to update their rules, and the clarification that existing appointments remain unaffected, the judgment provides a clear path forward toward a more fair, merit-based judicial system that benefits everyone.

END NOTES

1. *The Constitution of India, Article 233.*

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3. Anmol Kaur Bawa, "Judicial Officers With 7 Years Combined Experience On Date Of Application Eligible For Direct Recruitment As District Judges: Supreme Court," LiveLaw, October 9, 2025.

4. Ibid.

5. Dheeraj Mor vs. Hon'ble High Court of Delhi MANU/SC/0208/2020 : 2020:INSC:209

6. Rejanish K.V. vs. K. Deepa and Ors. (14.10.2020 - KERHC) : MANU/KE/2816/2020

7. Rejanish K.V. vs. K. Deepa and Ors. (12.08.2025 - SC) : MANU/SC/1065/2025

8. Sucheta, "Judicial Officers with 7 years' experience in law practice are eligible for direct appointment as District Judge/Additional District Judge: Supreme Court," SCC Times, October 9, 2025.

9. Rejanish K.V. vs. K. Deepa and Ors. (09.10.2025 - SC) : MANU/SC/1409/2025, p. 7(iv)

10. Id. at p. 8(ii)

11. Supra note 7

12. Supra note 7 at p. 23(i), see also supra note 9 at p. 1

13. Ibid.

14. Supra note 9 at p. 2

15. Ibid.

16. Supra note 9 at p. 17

17. Sita Soren v. Union of India MANU/SC/0158/2024 : 2024:INSC:161 : (2024) 5 SCC 629, see also Supra note 6 at p. 166

18. Satya Narain Singh and Ors. vs. High Court of Judicature at Allahabad and Ors. MANU/SC/0069/1984 : 1984:INSC:216

19. Dheeraj Mor vs. Hon'ble High Court of Delhi MANU/SC/0208/2020 : 2020:INSC:209

20. Satya Narain Singh and Ors. vs. High Court of Judicature at Allahabad and Ors. MANU/SC/0069/1984 : 1984:INSC:216 at P. 3, see also Supra note 6 at p. 68

21. Dheeraj Mor vs. Hon'ble High Court of Delhi MANU/SC/0208/2020 : 2020:INSC:209 at p. 45-46, see also p. 98

22. Supra note 9 at p. 153

23. Supra note 9 at p. 157

24. Ibid.

25. Supra note 9 at p. 163

26. Supra note 9 at p. 162-163

27. Supra note 9 at p. 8(ii)

28. Supra note 9 at p. 164

29. Supra note 9 at p. 146

30. Supra note 9 at p. 147

31. Supra note 9 at p. 161₹

32. Supra note 9 at p. 159

33. Supra note 9 at p. 92

34Supra note 9 at p. 190-192

WAR OF CODES

Asset Attachments amidst Insolvency

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The tussle between the Enforcement Directorate (ED) as the investigating agency under the Prevention of Money Laundering Act, 2002 (PMLA) and the National Company Law Tribunal (NCLT) as the adjudicating authority under the Insolvency and Bankruptcy Code, 2016 (IBC) is an issue that has been discussed by the courts and tribunals in their various judgements. However, what remains concerning is that this jurisdictional tussle between both authorities predominantly troubles the common man. For example, when a company's assets are attached by the ED under Section 5 of the PMLA, and the company subsequently enters Corporate Insolvency Resolution Process (CIRP) leading to its dissolution, the new management taking over through an approved resolution plan by the Hon'ble NCLT faces significant operational challenges if the assets remain frozen by the ED.

This scenario has become increasingly relevant in real estate projects where companies undertaking residential complexes and flat construction face attachment of their assets by the ED. Even after the company goes into insolvency and new management assumes control by Hon'ble NCLT's order, the attached assets prevent project completion, causing immense hardship to homebuyers who have invested their life savings in those projects.

IBC

The Insolvency and Bankruptcy Code, 2016 (Code/IBC) is the umbrella legislation for insolvency resolution of all entities in India—both corporate and individuals.[1] The IBC, was enacted to provide a framework to resolve insolvency in a time-bound manner and to maximise the value of assets of the entities going bankrupt. This objective is further aided by a moratorium under Section 14 of the IBC that stops legal proceedings against the corporate debtor, and the immunity provision under Section 32A of the IBC, which offers a fresh slate to resolution applicants upon approval of the resolution plan.

PMLA

The Prevention of Money Laundering Act, 2002 (PMLA) forms the core of the legal framework put in place by India to combat money laundering.[2] Its enforcement mechanism rests with the Directorate of Enforcement, which is empowered to provisionally attach assets derived from or involved in money laundering. The PMLA provides for a structure and mechanism to deal with the trouble of money laundering, which has a very serious impact on the economic health of the nation.

Section 32A of IBC

Section 32A grants immunity to the corporate debtor and its assets from prosecution for offenses committed prior to the commencement of the insolvency process, once a resolution plan is approved and there is a change in management or control. This "clean slate" principle ensures that resolution applicants are not deterred from bidding for insolvent companies due to the fear of being burdened with the past criminal liabilities of the company. However, the immunity does not extend to the erstwhile promoters or management, who were responsible for the commission of such offenses which is ensured by Section 32A of IBC which aims to balance the objective of reviving stressed entities with the need to hold wrongdoers accountable.

The provision assumes significance when seen in the context of conflicts between the IBC and the PMLA, where enforcement actions by the ED, such as attachment of assets, can undermine the effectiveness of the resolution process. For example, when the ED attaches properties of the corporate debtor during the CIRP, especially those critical to the resolution plan, it may threaten the effectiveness of the resolution plan. This is problematic when assets financed by secured creditors are confiscated as alleged proceeds of crime under the PMLA.

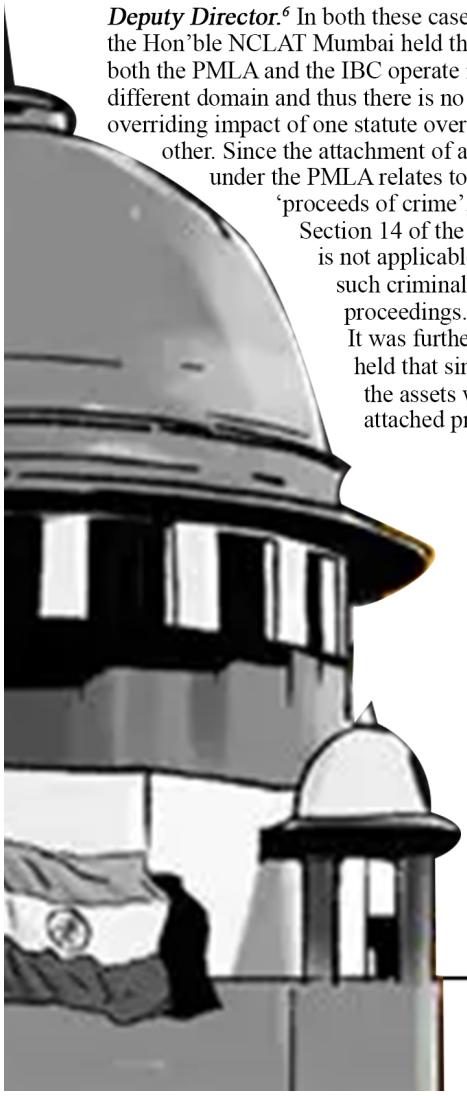
The constitutional validity of Section 32A was challenged in the landmark judgement of ***Manish Kumar v. Union of India.***[3] The petitioners argued that the provision violates Articles 14, 19, 21, and 300A of the Constitution by granting immunity even when assets are deemed "proceeds of crime" under Section 2(u) of the PMLA. However, the Hon'ble Supreme Court upheld the validity of Section 32A, observing that the provision is critical to ensuring the success of the resolution process. Hon'ble Supreme Court noted that immunity is not blanket, but is conditional upon a genuine change in control and non-involvement of the new management in prior offenses. It emphasised that the objective of the provision is to encourage resolution applicants to invest in distressed assets without the fear of criminal consequences stemming from the actions of the previous promoters. Hon'ble Supreme Court further clarified that Section 32A does not shield individuals who have committed any wrongdoing and also does not override the prosecution of those who were responsible for the criminal conduct.

Which is superior- IBC or PMLA?

The IBC and PMLA collide, it creates uncertainty about the status of attached assets and the rights of the new resolution applicants also affecting the rights of the stakeholders.

Section 71 under the PMLA and Section 238 under the IBC are both non-obstante clauses. Such clauses are made to ensure that the provisions of these special statutes have overriding effect over other statutes. When two such statutes with non-obstante provisions come into conflict, the year in which each statute was enacted becomes a factor in determining which statute prevails.[4] However, this factor may not always be the sole factor for determination. It would also depend on the intent and scope of the two competing statutes.

The interplay between the PMLA and the IBC first came to be considered in case of ***Varrsana Ispat Limited v. Deputy Director, Directorate of Enforcement,***[5] and thereafter in ***Rotomac Global Private Limited v. Deputy Director.***[6] In both these cases, the Hon'ble NCLAT Mumbai held that both the PMLA and the IBC operate in different domain and thus there is no overriding impact of one statute over the other. Since the attachment of assets under the PMLA relates to 'proceeds of crime', Section 14 of the IBC is not applicable to such criminal proceedings. It was further held that since the assets were attached prior to CIRP initiation, no benefit can be derived out of Section 14 of the IBC, as the notice of attachment was already available to the relevant stakeholders.



In Directorate of Enforcement Vs Manoj Kumar Agarwal & Others,[7] the Hon'ble NCLAT took a different position. In this case, a provisional attachment order was passed after the moratorium came into effect. Hon'ble NCLAT held that considering the aim and object of the IBC, it would be impermissible for the authorities under the PMLA to exercise the powers of attachment once the moratorium has come into effect. It was held that even if a property has been attached under the PMLA, and if CIRP is initiated, the property should become available to fulfil objects of the IBC.

Later, the Hon'ble NCLAT in ***Kiran Shah, RP of KSL and Industries Ltd. v. Enforcement Directorate, Kolkata,***[8] held that there is no repugnancy and inconsistency between the two statutes and that Section 14 of the IBC will not hinder proceedings under PMLA. The Hon'ble NCLAT further observed that Hon'ble NCLT lacks the jurisdiction to handle issues that fall under the authority of another body, such as those governed by the PMLA. Further, the Hon'ble Supreme Court had upheld this judgment in ***Varrsana Ispat Ltd. v. Deputy Director of Enforcement***,[9] and it became binding. Thus, the decision in Manoj Kumar Agarwal was overruled and came to be considered contrary to the principles of stare decisis.

In ***Nitin Jain, Liquidator PS: Ltd. v. Enforcement Directorate,***[10] the Hon'ble Delhi High Court held that the two statutes operate over distinct subjects and subserve separate legislative aims and policies. It was held that the Hon'ble NCLAT has correctly determined that the moratorium would not prevent authorities under the PMLA from exercising powers conferred by Sections 5 and 8, notwithstanding the pendency of the CIRP.

In ***Joint Director, Directorate of Enforcement v. Asset Reconstruction Company India Ltd and Ors.***,[11] even the Madras High Court held that Hon'ble NCLT lacks jurisdiction over matters governed under the PMLA. It further held that Section 32A of the IBC, which deals with the liability for prior offences, becomes applicable only when the Adjudicating Authority approves a resolution plan under Section 31 of the IBC.

In ***Rajiv Chakraborty RP of EIEL v. Directorate of Enforcement,***[12] the Hon'ble Delhi High Court ruled that the Moratorium under Section 14 of IBC would not affect the attachment of tainted property of Corporate Debtor under Sections 5 and 8 of PMLA. Moratorium under Section 14 of IBC would not affect the attachment of property under Sections 5 & 8 of PMLA, notwithstanding the pendency of CIRP as such attachment is not an action for enforcement of debt. Attachment under the PMLA is not an attachment for debt but principally a measure to deprive an entity of property and assets which comprise proceeds of crime. The Hon'ble HC further ruled that the principle that the "latter Act shall prevail" is not an inviolable rule applicable in case of conflict between two special statutes, both having non-obstante clauses. Therefore, by virtue of this principle, one cannot mechanically conclude that moratorium under IBC would gain an overriding effect over attachment actions under Sections 5 and 8 of PMLA without having regard to Section 32A of IBC, which was enacted later in 2020 to clarify the extent to which the provisions of the PMLA are to give way to proceedings initiated under the IBC. Both the legislation shall be construed in harmonious manner to not frustrate the intent and objects of the legislations. However, the protection prescribed under the newly inserted provision is with regard to the new management of the corporate debtor and the assets of the corporate debtor only to the extent of compliance of Section 32A of IBC. Thereby, it is quintessential to struck balance between the two different legislations, otherwise, persons involved in proceeds of crime shall abuse the law relating to insolvency and bankruptcy to escape from the liability resultantly affecting the revenue.[13]

The Gujarat High Court in ***Am Mining India Pvt Ltd v. Union of India***[14] concluded that Section 32A of the IBC excludes the operation of PMLA, thus overriding the power of ED to attach properties under PMLA. Further, the Bombay High Court in ***Shiv Charan v. Adjudicating Authority,***[15] upheld the Hon'ble NCLT's powers to direct the Directorate of Enforcement to release attached properties of a corporate debtor, once a resolution plan had been approved in terms of Section 32A, ensuring a clean slate for the entity post-insolvency resolution.

In a significant ruling, the Hon'ble Supreme Court court in ***Manish Kumar vs Union of India***[16] upheld the constitutionality of Section 32A of the IBC, noting that its purpose was to strike a balance between prosecuting guilty individuals and facilitating economic revival. The Court stated that "the provision is not an escape route for the wrongdoer but a mechanism to save a corporate debtor which may still be a viable economic entity." It is also in line with the doctrine of a clean or fresh slate, as was originally propounded by the Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel Ltd v. Satish Kumar Gupta.***[17]

Settled position in Kalyani Transco v. M/s Bhushan Power and Steel Ltd. & Ors.

The Hon'ble Supreme Court in ***Kalyani Transco v. M/s Bhushan Power and Steel Ltd. & Ors***[18] has dealt with issue of whether Hon'ble NCLT and Hon'ble NCLAT has power of judicial review over decisions of statutory authorities under the PMLA.

In this case, the Corporate Insolvency Resolution Process against M/s. Bhushan Power and Steel Limited was initiated on July 26, 2017, at the application of Punjab National Bank. The CIRP of BPSL has been riddled with multiple rounds of disagreements, discussions and litigations involving a broad range of stakeholders, including operational creditors, financial institutions, government bodies and erstwhile promoters.

JSW Steel Limited emerged as the Successful Resolution Applicant, with the Hon'ble NCLT eventually approving the resolution plan on September 05, 2019, with certain conditions. Those conditions were challenged by Successful Resolution Applicant before the Hon'ble NCLAT. Meanwhile, the ED passed a Provisional Attachment Order, dated October 10, 2019, provisionally attaching the assets of BPSL under Section 5 of the PMLA. This PAO was challenged before Hon'ble NCLAT by Successful Resolution Applicant and vide order dated October 14, 2019, this PAO was stayed. Several appeals also came to be filed by various parties before the Hon'ble NCLAT, challenging the order dated September 05, 2019, passed by the Hon'ble NCLT.

The Hon'ble NCLAT vide a single order dated February 17, 2020, decided the aforesaid batch of appeals and upheld the judgment and order dated September 05, 2020, passed by the Hon'ble NCLT. Furthermore, the Hon'ble NCLAT modified the conditions imposed on the Resolution Plan by the Hon'ble NCLT. Aggrieved by the Impugned NCLAT Order, a batch of appeals were filed by certain operational creditors and erstwhile promoters of BPSL, and government authorities. The core of the grievance of various stakeholders laid in the procedural and legal lapses during the CIRP process and the implementation of the resolution plan.

One of the most crucial issues addressed by the Hon'ble Supreme Court was the role and jurisdiction of the Hon'ble NCLT and Hon'ble NCLAT in overriding the enforcement actions initiated by statutory authorities, such as the ED under the PMLA.

The Hon'ble Supreme Court in the present case overturned the findings of the Hon'ble NCLAT and held that neither the Hon'ble NCLT nor Hon'ble NCLAT has jurisdiction to review decisions taken by statutory authorities on matters that are in the realm of public law. Their jurisdiction and powers under the IBC are well-circumscribed under Section 31 and Section 60 (for NCLT) and Section 61 (for NCLAT). The Hon'ble Supreme Court, citing its earlier judgment in ***Embassy Property Developments,***[19] clarified that the jurisdiction of the NCLT/ NCLAT under Section 60(5)(C) which covers questions arising out of or in relation to insolvency resolution does not extend to reviewing or interfering with decisions made by a statutory authority in the realm of public law, like actions under the PMLA.

However, in a recent legal development, the Hon'ble NCLAT ruled that any asset attachment by the ED automatically ceases once a resolution plan is approved under the IBC, as Section 32A of IBC extinguishes all prior criminal liabilities of the corporate debtor. The Hon'ble tribunal held that there is no need to obtain a separate order from PMLA authorities for asset release, and the provisional attachment must be treated as ceased upon approval of resolution plan.

Procedure under Section 8(3) of PMLA

In terms of sub-Section (3) of Section 8, the adjudicating authority is obliged in law to confirm any provisional order of attachment that may have been made under Section 5(1) as also to direct the retention of property or record ceased or frozen under Sections 17 or 18 of the PMLA. The order of the Adjudicating Authority confirming the provisional order of attachment is to continue during the period of investigation and not exceeding 365 days or during the pendency of proceedings relating to any offence committed under the Act before a Court. That order of attachment attains finality once the property comes to be confiscated in terms of sub-Section (5) or sub-Section (7) of Section 8. Similarly, the order of attachment attains finality once that property comes to be confiscated in terms of orders passed by a Special Court under Sections 58B or Section 60. Section 8(5) of the PMLA prescribes that if upon conclusion, the Special Court comes to hold that the offence of money laundering is established to have been committed, it shall order its confiscation in favor of the Union Government. The property upon confiscation comes to vest absolutely in the Union Government free from all encumbrances as provided in Section 9.[20]

Conclusion

The judgments given by the Hon'ble Courts does not put an end to the unending battle between the IBC and PMLA, thus giving the debate over the effect of insolvency proceedings on the powers of ED no closure. In Kalyani Transco (Supra), the Hon'ble NCLAT did based its decision partly on the interpretation of Section 32A of the IBC but the Hon'ble Supreme Court did not express a definitive opinion on the interpretation of Section 32A(2) or the ED's power to attach assets once moratorium is imposed upon a corporate debtor. However, in Vantage Point Asset Management (supra), the Hon'ble NCLAT ruled that any asset attachment by the ED automatically ceases once a resolution plan is approved under the IBC, as Section 32A extinguishes all prior criminal liabilities of the corporate debtor. The ED by getting the vast and ultimate power to confiscate the property even when the proceedings before Hon'ble NCLT is pending will make the life of the several homebuyers

and other investors difficult, blocking their ways of getting their hard earned money invested in the projects. The ED has now become an investigation agency with no bar and boundaries which can stop it from doing anything unconstitutional. The said fact is clear from the recent Hon'ble Supreme Court judgements which has questioned the sanity of ED.

The ongoing legal conflict between PMLA and IBC is one of the most difficult challenges. The Hon'ble Supreme Court's recent decision in Kalyani Transco (Supra) clarified that the Hon'ble NCLT and Hon'ble NCLAT do not have the power to review decisions made by the ED. However, it did not deal with another issue between attachment under PMLA and moratorium imposed under section 14 of IBC. The sanctity of Section 14 of IBC still remains unattended. On one hand the Hon'ble Supreme Court had made it clear through Kalyani Transco (Supra) that Hon'ble NCLT and Hon'ble NCLAT cannot review the order of ED but on the other hand it still remain unattended that whether the ED has powers make the order of Hon'ble NCLT and Hon'ble NCLAT infructuous under section 14 of IBC.

END NOTES

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2. https://fiuindia.gov.in/files/AML_Legislation/pmla_2002.html (last visited on 25.09.2025)

3. WP. (C) No. 26 of 2020 – Decided by SC on 19.01.2021

4. Rajiv Chakraborty Resolution Professional of EIEL v. Directorate of Enforcement, W.P.(C) 9531/2020; Solidaire India Ltd. v. Fairgrowth Financial Services Ltd. ((2001) 3 SCC 71).

5, Company Appeal (AT)(Insolvency) No. 493 of 2018 – Decided by NCLAT on 02.05.2019

6. Company Appeal (AT)(Insolvency) No. 140 of 2019 – Decided by NCLAT on 02.07.2019

7. Company Appeal (AT)(Insolvency) No. 575 of 2019 – Decided by NCLAT on 09.04.2021.

8. Company Appeal (AT)(Insolvency) No. 817 of 2021 – Decided by three Member of NCLAT on 03.01.2022.

9. W.P.(C) 3261 of 2021 – Decided by Delhi High Court on 15.12.2021.

10. Writ Petition No. 29970 of 2019 – Decided by Madras High Court on 02.06.2020.

11. W.P.(C) No. 9531 of 2020 – Decided by Delhi High Court on 11.11.2022.

12. https://www.mondaq.com/india/insolvencybankruptcy/1269466/tussle-between-ibc-and-pmla-attachment-of-corporate-debtors-assets-by-enforcement-directorate-during-moratorium-under-section-14-of-ibc-2016

13. R/Special Civil Application No. 808 of 2023 – Decided by Gujarat High Court on 24.08.2023.

14. WP (L) No. 9943 of 2023 and WP (L) No. 29111 of 2023 – Decided by Bombay High Court on 01.03.2024.

15. WP. (C) No. 26 of 2020 – Decided by SC on 19.01.2021.

16. Civil Appeal No. 8766-67 of 2019 – Decided by SC on 15.11.2019.

17. Civil Appeal No(s).1808/2020 – Decided by SC on 02.05.2025.

18. Embassy Property Developments Private Limited v. State of Karnataka & Ors. [3 (2020) 13 SCC 308].

19. Vantage Point Asset Management Pte. Ltd v Gaurav Misra Resolution Professional of Alchemist Infra Reality Ltd. & Anr., Company Appeal (AT) (Ins) No. 1495 of 2024

20. W.P.(C) 3261 of 2021 – Decided by Delhi High Court on 15.12.2021, p. 70

Provoking suicides - Law behind 306/107

When Harassment Alone Is Not Enough, Judicial Clarity on Abetment Under Section 306 of IPC in Parkash Kaur's Case

By Rajiv K. Virmani, Advocate-on-Record and Akashdeep Rajput, Advocates

The Punjab and Haryana High Court's recent decision in Parkash Kaur @ Parkash Rani v. State of Punjab[1] has quietly but powerfully reaffirmed an enduring principle of criminal law; that mere allegations of harassment cannot, in itself, amount to abetment of suicide under Section 306 of the Indian Penal Code,1860. Hon'ble Ms. Justice Kirti Singh's judgment restores a much-needed equilibrium between human sympathy for a tragic death and the evidentiary rigour required to fix criminal responsibility.

The case concerned a woman who had taken her own life nearly nine years after marriage. Her in-laws, including her seventy-year-old mother-in-law, Parkash Kaur @ Prakash Rani, were accused of subjecting her to cruelty for want of dowry and on account of non-birth of child. Yet the evidence told a different story. The father of the deceased had initially told the police that relations between his daughter and her in-laws were cordial and that she had been suffering from depression because she did not have any children. Furthermore, there was a delay of seven-days in lodging of FIR, and even the doctor who conducted the post-mortem was not examined before the trial Court. The trial Court nonetheless convicted the mother-in-law under Section 306 of the IPC.

The matter went in appeal to Hon'ble Punjab and Haryana High Court, before Hon'ble Ms. Justice Kirti Singh, on reviewing the record the Hon'ble Court could not found direct or indirect act by the appellant that could have instigated, aided, or abetted the suicide. While revisiting the statutory framework, the Hon'ble Court observed that Section 306 of the IPC must be read alongside Section 107 of the IPC, which defines "abetment" as instigation, conspiracy, or intentional aid. For bringing home conviction under Section 306 of the IPC, two elements must coexist; the act of suicide, and a conscious act of the accused leading to it. The Hon'ble Court held that the prosecution had failed to establish any such nexus and harassment alone, even if accepted, did not constitute abetment in the absence of deliberate provocation or facilitation.

Judicial Precedents Relied Upon:

To ground this reasoning, the judgment drew upon a rich line of Supreme Court precedents. In Jayedeepsinh Pravinsinh Chavda v. State of Gujarat[2], the Court held that harassment must be accompanied by a proximate act of incitement to sustain conviction. The principle was echoed in Prakash and Ors vs State of Maharashtra and Anr.[3] where the Court linked the decisive incident preceding suicide to "the straw that broke the camel's back", a proximate, not remote, cause. Earlier rulings such as Ramesh Kumar v. State of Chhattisgarh[4] and S.S. Chheena v. Vijay Kumar Mahajan[5] had already underscored that a word spoken in a fit of anger or a quarrel without intent cannot amount to instigation. In Madan Mohan Singh v. State of Gujarat[6] even a suicide note blaming the employer was deemed insufficient when the mental element of abetment was missing.

Conclusion

Seen together, these authorities make one thing clear that: abetment requires proximity, intent, and causation. The conduct complained must display a guilty mind and a clear, active role in pushing the victim to a point of no return. Hon'ble Ms. Justice Kirti Singh distilled these rulings into a single standard that "mere harassment by itself is not sufficient to hold an accused guilty of abetting suicide unless the acts are deliberate, proximate and compelling." Finding none of these elements present, the Hon'ble High Court set aside the conviction and acquitted Parkash Kaur @ Prakash Rani.

Beyond its immediate facts, the ruling resonates widely as Section 306 of the IPC is now one of the most frequently invoked provisions in cases of domestic discord, workplace bullying, and student suicides. Yet its misuse can inflict lasting injustice upon those only peripherally connected to the tragedy. The Hon'ble High Court's decision therefore performs an important corrective function. It reminds investigators and Courts alike that criminal liability must rest on proof of intent, not on assumption born of emotion. The judgment does not trivialise the loss of life but places it within the framework of Constitutional fairness; balancing compassion for victims with the rights of the accused. In reaffirming that mere allegations cannot replace evidence of act of abetment and proximate incitement, Parkash Kaur @ Prakash Rani v. State of Punjab strengthens the moral core of criminal justice. It tells us that the law's duty is not only to mourn the dead but also to protect the innocent living from wrongful conviction

END NOTES

1. Parkash Kaur @ Parkash Rani v. State of Punjab, CRA-S-1168-SB-2006 (O&M), decided 13 Oct 2025 (Punjab & Haryana High Court, per Kirti Singh J.), paras 12–21.

2. Jayedeepsinh Pravinsinh Chavda v. State of Gujarat, 2024 SCC OnLine SC 3679, paras 23–24.

3. Prakash and Ors vs State of Maharashtra and Anr

4. Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 at para 20.

5. S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 at para 25

6. Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628 at para 19

BENNETT COLEMAN & CO. VS. UNION OF INDIA (1972) 2 SCC 788

Bennett & Coleman
THE TIMES OF INDIA

Bennett Coleman & Co. vs. Union of India stands as a landmark affirmation of press freedom amidst state imposed restrictions in post-independence India. The Hon'ble Supreme Court in 1973 confronted the pressing constitutional question: can governmental controls on essential raw materials for newspapers, exercised under the guise of economic regulation, lawfully restrict the fundamental right to free speech and expression?

The case arose from the challenges posed by Bennett Coleman & Co. and other major publishers to the Newsprint Control Policy of 1972-73, framed under the Newsprint Control Order, 1962 and Import Control Order, 1955. The Petitioners approached Hon'ble Supreme Court, invoking Article 32, contested the validity of restrictive quotas on imported and domestic newsprint, which in effect limited the number of pages and editions they could publish. Central to the controversy was whether these controls infringed upon Article 19(1)(a) the right to freedom of speech and expression, by circumscribing not just the quantum but the very substance and reach of press communication.

The Hon'ble Supreme Court meticulously considered pivotal legal questions:

- Whether corporate entities such as newspaper companies could claim fundamental rights under Part III of the Constitution.

- The maintainability of the writ petitions in light of Article 358, especially regarding possible suspension of Article 19 rights during emergencies.

- Whether quantitative page and circulation limitations under the government's policy amounted to an impermissible restraint on press freedom.

- The constitutional validity of the newsprint quotas under Article 19(1)(a) (freedom of speech) and Article 14 (equality before law).

The Court's Analysis

The majority, led by Hon'ble Chief Justice Sikri, emphatically recognized that restrictions on the volume of published matter directly impinge upon editorial control, thereby stifling freedom of speech. While 'newsprint', as an essential commodity, could be regulated to serve the public interest, the State's policy could not be wielded to arbitrarily or disproportionately curb press activities. The Court drew upon the doctrine of reasonable restrictions, holding that limitations on newsprint importation and usage, if crossing the threshold into content or editorial interference, become constitutionally infirm.

Importantly, the Bench reaffirmed that fundamental rights do not evaporate when citizens form associations or corporations. Rights conferred on companies reflect the rights of their constituencies, notably shareholders and editorial staff. Thus, newspaper corporations had the locus standi to approach the Court for enforcement of their rights.

Dissenting Opinion

Hon'ble Justice Mathew, in a nuanced dissent, opined that a mere regulation of newsprint supply did not constitute a direct abridgement of press freedom absent evidence of targeted content suppression. He defended the regulatory framework as a means to prevent monopolistic practices and ensure wider dissemination of newspapers, rather than as an anti-democratic encroachment.

The Decision & Consequences

The Hon'ble Supreme Court ulti mately declared the impugned provisions of the Newsprint Policy for 1972-73 unconstitutional, to the extent that they unduly restricted the freedom of the press guaranteed under Article 19(1)(a). The Court struck down unjustifiable quantitative limits but upheld the government's authority under the Essential Commodities Act to regulate distribution for the larger public good, provided such powers were exercised within constitutional bounds.

Legacy and Significance

Bennett Coleman & Co. vs. Union of India cemented the primacy of free and unfettered press in democratic governance. The judgment became a touchstone for subsequent freedom of speech cases, crystallizing the "basic structure" doctrine, that essential constitutional guarantees cannot be diluted by executive or legislative action. The verdict underscores that true democracy thrives when the media can operate without disproportionate regulatory shackles, thus upholding both liberty and accountability in public life.

Source : Delhi High Court website