



## Contents

1. <i>Pro Bono Club Activities</i>	
<i>a. Inauguration of PBC.....</i>	<i>2</i>
<i>b. Events organized by PBC.....</i>	<i>3</i>
2. <i>Case Analysis.....</i>	<i>5</i>
3. <i>Legal News</i>	
<i>a. Supreme Court on Sedition.....</i>	<i>7</i>
<i>b. Supreme Court on Eco-Sensitive Areas....</i>	<i>8</i>
<i>c. New Legislation on Bail?.....</i>	<i>9</i>
4. <i>Crossword.....</i>	<i>10</i>
5. <i>Right to Education.....</i>	<i>11</i>

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*Under the Nyaya Bandhu Programme, Department of Justice, Ministry of Law & Justice, Government of India*

## **Inaugural Event of PBC**

**May 18, 2022**



**S**ymbiosis Law School, NOIDA has been once again selected by the Department of Justice, Ministry of Law and Justice, Government of India to implement its Nyaya Bandhu (Pro Bono Legal Services) Programme, along with other premier Law Schools in India.

The Nyaya Bandhu Program uses mobile technology to link practising attorneys interested in pro bono work with qualified recipients who are disadvantaged and vulnerable. This program's main goal is to increase the effectiveness and calibre of pro bono legal services by helping pro bono attorneys with the help of competent law students.

As part of the Programme, Symbiosis Law School, NOIDA formally inaugurating the 'Pro Bono Club' in the gracious presence of Ms. Sneha, Program Manager, Access to Justice, Department of Justice, Ministry of Law and Justice, Government of India on Wednesday, May 18, 2022.

## June 8, 2022

**A** National Consultation on the theme of “Justice for All”: Developing a Citizen-Centric Justice Delivery System. As part of “Vision India @2047” was organised by the Department of Justice, Ministry of Justice, Government of India.

Day 1 of the consultation invited law students for their innovative and transformative ideas for future reforms in judicial landscapes. Keeping in view the aspiration of “Vision India @2047”, DOJ had nominated Symbiosis Law School, NOIDA amongst other law schools inviting our students from senior batches to give their suggestions. Our students, namely Balram Pandey, Ashabari Basu Thakur and Bhavy Birla enthusiastically participated in the consultation. They suggested pragmatic solutions to some of the problems being faced by the Justice System in India. The suggestions given by our students focused on ‘Access to Justice’ to promote reforms in the system. The suggestions included: Development of mobile application for the elderly so as to resolve their ordinary disputes like pension, access to legal services and access to remedies available under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Further selection included use of mediation during the Corporate Insolvency Resolution Process, so as to promote collaboration between parties. This suggestion was proposed to be financially more beneficial for all stakeholders in the resolution process. The students also suggested the use of Information and Communication technology as part of digital India Initiative to include access to the system by people in their vernacular languages.

## June

### SELECTION OF PRO BONO ASSOCIATES

**A**fter the formal inauguration of the pro bono club, call for applications were circulated for ‘Pro Bono Associates’, we received 177 applications. Upon scrutiny of the responses, 56 candidates were shortlisted for the second phase of selection as PBA out of which 55 students appeared. In the second phase of selection, the candidates were qualitatively judged based on interaction during ‘Interview’, answers to questions posed by panellists, general demeanour and approach to ‘Pro Bono Club’ activities, language proficiency (English and Hindi), prepared pamphlet (judged on readability, creativity, language correctness, and appropriateness of content), and expectation of dedicated time with the candidate. Upon completion of the second phase of selection along with scrutiny of the pamphlets shared by the 55 candidates, 20 students were selected to Pro Bono Club for Academic Year 2022-23.



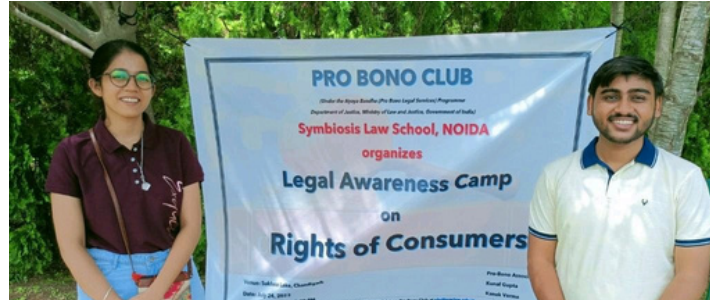
*Under the Nyaya Bandhu Programme, Department of Justice, Ministry of Law & Justice, Government of India*

# Legal Awareness Camp at Chandigarh

## July 24, 2022

The Pro Bono Club, Symbiosis Law School, Noida took the initiative to organise a legal awareness camp on the subject of "consumer rights" on July 24, 2022, at Sukhna Lake in Chandigarh. Under the guidance of Ms. Megha Nagpal, Faculty Advisor, Pro Bono Club, Kunal Gupta and Kanak Verma, members of the Pro Bono Club, organised and managed the camp where they interacted with individuals of all ages and informed them of their legal rights as consumers. The public showed interest and active participation and read the booklets distributed.

The club members explained the Consumer Protection Act of 2019's key provisions in their brochure, which also covered the rights of consumers, the importance of e-daakhil and its rise. They emphasised consumer rights like the right to safety, right to information, right to make a choice, right to be heard, right to seek redress, and right to consumer education during their campaign and explained these rights to the public as well as the legal actions they can take if any of these rights are violated. Additionally, they described the requirements of the Consumer Protection Act of 2019's sanctions and punishments, dispute resolution procedures, and guidelines for preventing unfair trading practises on e-commerce platforms. The members of the pro bono club also asked people to sign up on the E-daakhil website. Which is an effort made by the Department of Consumer Affairs to make cases easier to file, and as a result, they were successful in signing up 10 people to participate in the campaign. As the club's inaugural Legal Awareness Camp, we believe we've off to a strong start. The Pro Bono Club will undoubtedly continue with the same positive energy growing stronger with each upcoming event.



## SYMBIOSIS ALUMNI- REGISTRATION OF PRO BONO ADVOCATES

Symbiosis Law School, NOIDA invites our alumni to join us in our noble initiative as part of the Pro Bono Club scheme under *Nyaya Bandhu* Programme, Department of Justice, Ministry of Law and Justice, Government of India.

Your legal skills will help us building a bridge between the needy and the courts ensuring access to legal services for all. Please feel free to get in touch with us through PBC Faculty Advisor, Ms. Megha Nagpal, Assistant Professor, at [pbc@symlaw.edu.in](mailto:pbc@symlaw.edu.in) or on her handheld number 9899864756.

Many people cannot afford the hefty expense of expert legal services. Therefore, we hope that you can join us in becoming a strength to the vulnerable for their rightful legal service.

**CASE ANALYSIS**

**Ms. Mohini Jain vs. State of Karnataka & Others**

**Citation** - [1992] 3 SCR 658

**Date of Judgment** – 30th July 1992

**Bench** - HON'BLE MR. JUSTICE KULDIP SINGH, HON'BLE MR. JUSTICE R. M. SAHAI

**ISSUE**

·Whether Right to Education is of such nature that it can enjoy a similar status that fundamental rights do and be interpreted as an extension Article 21?

·Whether charging that capitation fee violates this right to equality enshrined under Article 14 of the Constitution?

**RULE**

Article 21 -Right to Protection of Life and personal liberty – no person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 14 – Equality before Law- The state shall not deny to any person equality before the law or equal protection of the laws within the territory of India.

**ANALYSIS**

This case was brought forward to challenge the constitutionality of the imposition of capitation fee and establish that the “right to education is collateral to the fundamental rights enshrined within Part 3 of the Constitution of India. Right to education is a part of Right to life enshrined under Article 21, as the dignity of individual can only be assured when there is equal access to the right to education to every citizen irrespective of their income status.

The State Government gives authority to the Private Institutions via creation of an agency, an obligation to the agency is to fulfill all the obligations under the Constitution as it were the State who was performing the duty. The court observed in the given case that students must be given admission irrespective of the fact that the institution is State owned, or State recognized under “right to education”.

The Karnataka Government introduced the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act which legalized fee capitation which in simple terms can be defined as a price for selling education and the court held that the act is contrary to the fundamental right enshrined under Article 14.

The judgement is based on the rationale that opportunity to acquire education cannot be confined to the richer sections of the society only and making it beyond the reach of the poor strata. While admission to the non-meritorious students belonging to the richer sections of the society were allowed to enter college by paying a capitation fee and students who could not afford the capitation fee were not allowed to take admission. Law which divides the society into two sections without reasonableness is unfair and against Article 14.

The court also observed the framers of our constitution made it mandate for the state to provide education for its citizens, as it is enshrined within our preamble to secure social justice, which is specifically part as an objective of the state under Article 38 of the Constitution. DPSP also direct the states to promote right to education so that our country becomes literate. Education is a big part for the growth of a country, the objective of the preamble cannot be achieved and would remain part of the paper unless the people of this country are educated. The preamble also assures about the dignity of an individual, and it is the duty of the state to respect and protect the same. It is primary education which brings forth the dignity of a man.

### ***CONCLUSION***

This judgment made the court to conclude how the right to education has to be read along with the right to life, and how well it is important to connect such right with the right to dignity and life of the citizens. Along with it the Court also observed how even private institutions, being acting as agents of the state has to comply to the fundamental rights enshrined in our constitution under Article 14, 21 and 45, where they have to ensure that they are providing equal access to education without any discrimination on the grounds of income status.

### ***COMMENTS***

The following case was a steppingstone in the path of recognizing Right to Education as a fundamental right. The case mentioned above was extended in Unni Krishnan J.P & Ors. V. State of Andhra Pradesh & Ors. and the court established the recognition of Right to Education as part of Article 21 and it was held that states were obligated to provide compulsory education to children up to the age of 14 and further if the state had the economic capacity.

These cases were the foundation of Tapas Majumdar Committee 1999 which recommended the insertion of Article 21-A to provide free and compulsory education up to the age of 14 years. Upon the recommendation of the committee the 86th Constitutional Amendment saw the inclusion of Article 21-A and amendment in Article 45 which focused on education of children below the age of 6.

A Central Legislation, The Right of Children to Free and Compulsory Education Act, 2009 was passed in accordance with Article 21-A. Due to this Act there was a significant impact of yearly increase in children being admitted to schools under Section 12(1)(c). Over 40 lakh children are admitted under section 12 (1) (c) RTE Act. The highest number of students studying under RTE Act were in Madhya Pradesh (1,118,433 students).

### SUPREME COURT ON SEDITION

11th May, 2022



### STATISTICS

The conviction rate of sedition cases as per the NCRB data was 33.3% in 2020; 3.3% in 2019; 15.4% in 2018; 16.7% in 2017 and 33.3% in 2016. A total of 44 persons were arrested under the sedition law in 2020, as compared to 99 in 2019; 56 in 2018; 228 in 2017; 48 in 2016; and 73 in 2015. The numbers have consistently shown a low conviction rate pointing towards lodging of false cases. Source : "Crime in India : Statistics", National Crime Records Bureau, Vol 1., 2020

Recently, in an order dated 11.05.2022, in W.P. (CrI.)No.217/2021 along with W.P.(CrI.)No.216/2021 in the case of S.G. Vombatkere v. Union of India, 2022 SCC OnLine SC 609, the Supreme Court has ordered that the 152-year-old sedition law under Section 124A of IPC should be effectively kept in abeyance till the Union Government reconsiders the provision.

- This is an interim order in a petition contending gross misuse of the provision. A bench consisting of the Chief Justice of India, Justice Surya Kant, and Justice Hima Kohli ruled that all ongoing trials, appeals, and proceedings relating to charges established under Section 124A be stayed. It decided that adjudication under other provisions may proceed with no prejudice to the accused.

### HISTORICAL INSIGHT

- Sedition law was enacted by the British as an instrument to suppress criticisms and nationalist voices back in 1870. Numerous freedom fighters were charged with sedition including Bal Gangadhar Tilak, Bhagat Singh, Mahatma Gandhi etc.

Bal Gangadhar Tilak was the first ever person to be convicted of sedition in Colonial India. The law, however, was repealed in the United Kingdom in the year 2009.

- The term "sedition" was dropped from the constitution at the time it was adopted but was reintroduced in the form of public order by the very first amendment.

- The offence was later on made cognizable via the implementation Criminal Procedure Code, 1973 which replaced the previous code of 1898.

### SEDITION AND THE PROBLEM

- Section 124A of the Indian Penal Code, criminalises an act of exciting disaffection towards the government via speech, writing, signs or visible representations.

The provision has earlier been condemned to be obnoxious and detrimental to the liberty of citizens.

- The arguments in favour of the law contend suppression of anti-national and secessionist movements and entities as the purpose of the law which makes it necessary for the integrity of the nation

- During the 2019 Indian general election the opposition Indian National Congress (INC) included a specific proposal to abolish Section 124A in their manifesto.

- The constitutional validity of Sedition was previously challenged in the case of Kedar Nath Singh v State of Bihar, where the Supreme Court held that the section was indeed a "Reasonable restriction" to the Right to Freedom of Speech and Expression, as a part of public order and national security, but only to the extent where it is interpreted as being committed against the government and not parties or members specifically. It demarcated the scope to only acts which could.



## ECO-SENSITIVE ZONES

3rd June, 2022

India has a wide range network of protected areas including tiger reserves, national parks, and wildlife sanctuaries. The eco-sensitive zones around such protected areas are dwindling owing to the pressures of increasing human occupancy and infrastructural development projects.

In wake of this, the supreme court, on June 3, 2022, mandated that every national park and wildlife sanctuary in the nation have an eco-sensitive zone that extends for at least one kilometer from its precisely articulated limits. This decision was made to preserve forest lands in Tamil Nadu's Nilgiris district. Some states made it clear that residents living near the forest boundary were not given preference in this notification process. Others condemned it because industries like quarrying and mining have a substantial economic impact on the state. The Supreme court finally intervened, concluding that while development is desirable, it shouldn't be done at the expense of forest degradation.

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### Background of eco-sensitive zones

There are various statutory provisions that lay down the need for eco-sensitive zones-

1. National wildlife action plan 2002-2016 indicates that the area outside the protected areas network serves as vital ecological corridor links and must be protected to prevent the isolation of the biodiversity.
2. The Union Ministry of Environment and Forests is empowered to take any actions it deems necessary to protect and improve the quality of the environment as well as to prevent and control environmental pollution under Section 3 of the Environment Protection Rules.
3. To meet this objective, the government may impose geographic restrictions on the locations in which a class of industries, operations or processes may or may not be carried out, subject to specific restrictions under section 3(2)(V) of the said act.

### Significance of Eco-sensitive zones

Urban expansion that takes place in forests, wetlands, and agricultural system leads to habitat clearing and fragmentations. This has a serious impact on species that are solely dependent on those habitats. Urban lifestyles have become consumptive and are generating a large amount of waste, also contributing to the increased level of air, water and soil pollution.



### Significance of Eco-sensitive zones

Urban expansion that takes place in forests, wetlands, and agricultural system leads to habitat clearing and fragmentations. This has a serious impact on species that are solely dependent on those habitats. Urban lifestyles have become consumptive and are generating a large amount of waste, also contributing to the increased level of air, water, and soil pollution. Thus the Development of eco-sensitive zones shall minimize the impacts of urbanization. This shall also protect and benefit the communities of the local area.

### Activities that are permitted within Eco-sensitive Zones

Activities including agricultural, and horticultural practices, rainwater harvesting, organic farming, and the use of renewable energy sources are permitted. Activities that involve the adoption of green technology are encouraged to use. However, activities such as commercial mining, pollution-causing industries, commercial use of the land including tourism activities such as hot-air balloons and the establishment of hydroelectric power projects, creation of dams are strictly prohibited.

### Sources

<https://www.newindianexpress.com/states/kerala/2022/jun/13/sc-order-oneco-sensitive-zone-creates-unrest-in-keralas-high-range-2464861.html>

<https://indianexpress.com/article/explained/everyday-explainers/eco-sensitive-zones-supreme-court-verdict-kerala-protests-798808/>

## **NEW LEGISLATION ON BAIL?**

*22nd July, 2022*

The Supreme Court on July 11 had issued directives to courts and investigative agencies to prevent “unnecessary” arrests while urging the central government to frame a new law to simplify the bail process. A Bench of Justices Kaul and M.M. Sundresh said there is a “pressing need” to bring the bail law as there is no separate law on bail in the constitution. The judges took into consideration the fact that the conviction rate is “abysmally low” in the country. The apex court issued these directions stating that the situation of judicial system which shows heavy number of arrests, reflects a colonial mindset and creates the impression of a “police state”. The judges also referred to the UK’s Bail Act of 1976 that stresses upon the right of an individual to liberty

Two recent pronouncements, one a judicial order and another a public speech by the Chief Justice of India, have drawn attention to the manner in which bail law operates in the country. The Supreme Court, in Satender Kumar Antil vs CBI, has sought to expand the scope for the grant of early bail to those arrested without sufficient cause.

The Supreme Court and its judges have ruled that bail remains the rule and jail is the exception, and has called for a separate bail law to prevent “unnecessary arrests.” In the words of former Supreme Court Justice VR Krishna Iyer, “the basic rule may perhaps be tersely stated as bail, not jail.” The Supreme Court and its judges have time and again made important observations, suggestions, remarks and issued directions in relation to arrests and the grant of bail in our criminal justice system.

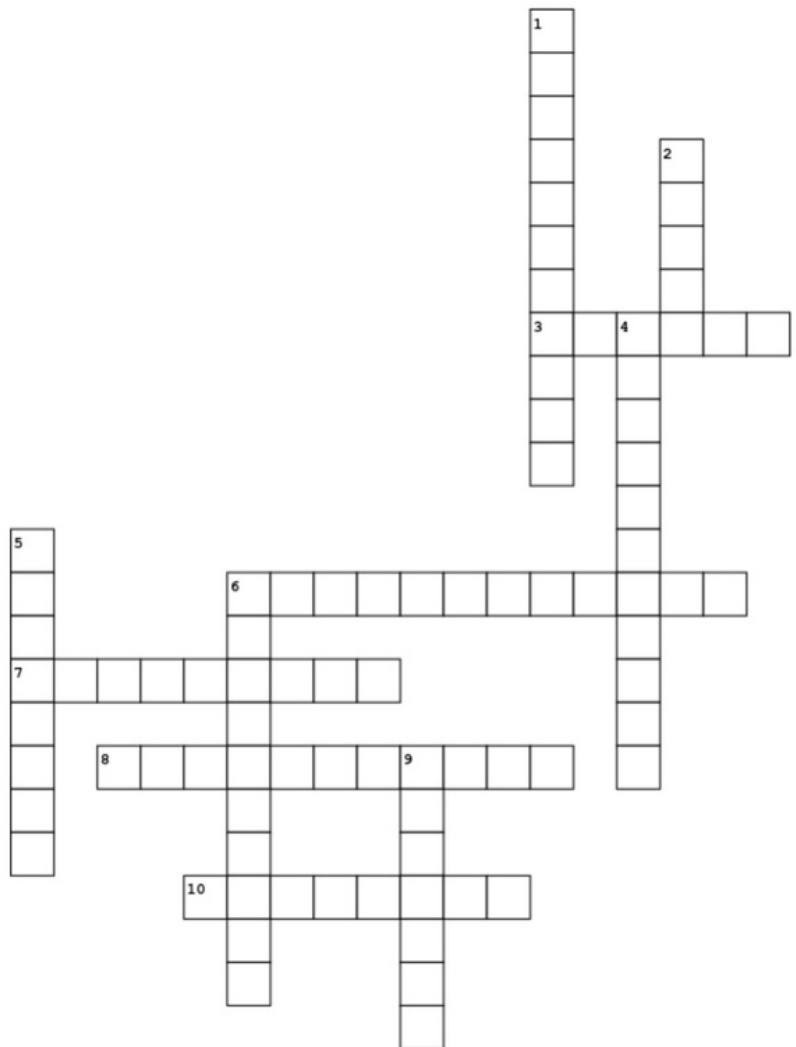
# Fun with words

## Down

1. a putting off a court session or other meeting or assembly until a later time.
2. a defence based on the physical impossibility of the defendant's guilt by placing the defendant in a location other than the scene of the crime at the relevant time
4. the right to bring an action or to be heard in a given forum.
5. made in good faith; without fraud or deceit.
6. an extraordinary writ issued by an appellate court, at its discretion, directing a lower court to deliver the record in the case for review.
9. a court-ordered allowance that one spouse pays to the other spouse for Maintenance and support while they are separated, while they are involved in a law suit, or after they are divorced.

## Across

3. the intent, without justification or excuse, to commit a wrongful act.
6. let the buyer beware- a doctrine holding that purchasers buy at their own risk.
7. the wrongful deed that comprises the physical components of a crime and that generally must be coupled with mens rea to establish criminal liability
8. incapable of committing a crime or tort.
10. a writ issued by a superior court to perform mandatory or purely ministerial duties correctly



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