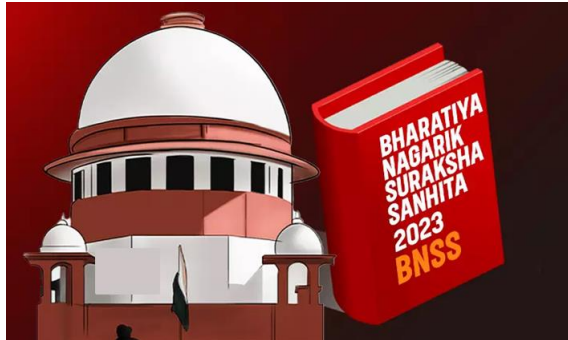


### Kush Kalra v. UoI And Anr.

- ❖ **BENCH:** Chief Justice of India DY Chandrachud, Justice JB Pardiwala and Manoj Misra



- ❖ **FORUM:** Supreme Court India

#### OBSERVATIONS

- The Supreme Court closed a petition challenging a gender discriminatory provision in the Code of Criminal Procedure 1973 taking note of the fact that the statute's replacement, the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, has removed the provision.
- The petition challenged Section 64 of the Code of Criminal Procedure on the ground that the said section discriminated against women by treating female members of a family incapable of accepting summons on behalf of the person summoned.
- It may be noted that Section 64 reads as follows: "Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him..."
- The corresponding provision in the BNSS, Section 66, does not use the term "male", enabling any adult family member to receive the summons.
- Attorney General for India R Venkataramani informed the bench comprising Chief Justice of India DY Chandrachud, Justice JB Pardiwala and Manoj Misra about the changed provision.
- "The Parliament while enacting BNSS has incorporated provisions which redress the grievance," the bench noted in the order

while closing the petition as In infructuous.

- A bench of Chief Justice DY Chandrachud and Justice Hima Kohli had issued notice in the petition in November 2022. As per the petition, while the Civil Procedure Code, enacted in 1908, required the summons to be served on any adult member of the defendant's family regardless of their gender, the CrPC, which was enacted after 65 years of CPC was "anarchic and dogmatic".
- It states that "Cr.P.C. does not consider an adult female member of the family capable and competent to receive summons." As per the petition, the exclusion of female family members to receive summons on behalf of the summoned person violates the women's right to equality guaranteed to them under Articles 14 and 15 of the Constitution of India, the right to know guaranteed to them under Article 19(1)(a) of the Constitution of India, and right to dignity guaranteed to them under Article 21 of the Constitution of India.
- Additionally, the petition states that the provision fails to account for the following situations:
  - When the person summoned resides only with the female family members or;
  - When the only person available at the time of service of summons is a female.
- It stated that the possibility of such situations is particularly high in light of the stark gender gap in the workforce between the males and the females, i.e., only 22% of the Indian women are at work, which entails that the remaining 78% of women are at home.

### Har Narayan Tewari (D) Thr. Lrs. v. Cantonment Board, Ramgarh Cantonment & Ors.

- ❖ **BENCH:** Justices Abhay S. Oka and Pankaj Mitha



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❖ **FORUM:** Supreme Court India

❖ **FACTS**

- In the present case, the appellant/plaintiff was independently claiming rights over 0.30 acres of suit land as part of the Cantonment Board property whereas the Respondent/Cantonment Board, Ramgarh was claiming rights over 2.55 acres of the land which formed part of the Estate of Raja.
- The respondent contended that the suit of the plaintiff was barred by the principle of res judicata as the rights over the suit property were decided against the plaintiff in an earlier suit filed by Maharani where the appellant and respondent were co-defendants.
- However, the suit filed by Maharani came to be dismissed without adjudication of any rights of the plaintiff-appellant over the suit land vis-à-vis the Cantonment Board, Ramgarh.

❖ **OBSERVATIONS**

- Observing that the principle of res judicata is applicable not only between the plaintiff and the defendants but also between the co-defendants, the Supreme Court held that the condition precedent to make the principle of res judicata applicable between the co-defendants is that there must be a conflict of interest between the co-defendants.
- The bench comprising Justices Abhay S. Oka and Pankaj Mithal stated that the principle of res judicata would not be attracted unless there exists a conflict of interest between the co-defendants. While explaining the meaning and context of the principle of Res judicata enshrined under Section 11 of the Code of Civil Procedure, the Judgment authored by Justice Abhay S Oka upon placing reliance on Govindammal v. Vaidyanathan culled out three conditions that are necessary to be fulfilled in applying the principle of res judicata between the co-defendants:
  - There must be a conflict of interest between the co-defendants.
  - There is a necessity to decide the said conflict in order to give relief to the plaintiff.
  - There is a final decision adjudicating the said conflict.
- "Once all these conditions are satisfied, the

principle of res judicata can be applied inter se the co-defendants.", the court said.

- The Supreme Court observed that since there was no adjudication of the rights of the appellant over the suit property in a suit filed by the Maharani, where the respondent was also a defendant, therefore "the principle of res judicata would not be attracted as the issue in the present suit was neither directly or indirectly in issue in the previous suit and there was no conflict of interest between the co-defendants in the said previous suit which if any never came to be adjudicated upon."
- The Court opined that the right of the plaintiff-appellant to claim the suit land or the right of the Cantonment Board over the 2.55 acres of land settled in its favor never came to be adjudicated in the previous Suit filed by the Maharani, therefore the suit filed by the plaintiff-appellant claiming title over the suit land against the Cantonment Board, Ramgarh is not barred under Section 11 CPC.

### ANI Media Pvt. Ltd. v.. Wikimedia Foundation INC And Ors.

❖ **BENCH:** : Justice Navin Chawla



❖ **FORUM:** Delhi High Court

❖ **OBSERVATIONS**

- ANI Media Private Limited has filed suit against Wikipedia before the Delhi High Court over allegedly defamatory description of the news agency.
- Justice Navin Chawla issued notice on ANI's plea seeking interim relief in the suit and listed the matter for hearing next on August 20. ANI has sought to restrain Wikipedia from publishing allegedly defamatory content on the news agency's page on its platform. It has also sought removal of the content.
- ANI has further sought Rs. 2 crores as

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damages from Wikipedia. Wikipedia's page says ANI "has been criticized for having served as a propaganda tool for the incumbent central government, distributing materials from a vast network of fake news websites, and misreporting events."

- Advocate Sidhanth Kumar appearing for ANI told court that the content mentioned in the description is defamatory. He said that Wikipedia, which is an intermediary, is a platform which is now used as a public utility and cannot behave as a private actor.
- Kumar further said that Wikipedia has closed ANI's page for editing by the news agency, except its editors.
- Justice Chawla orally remarked that Wikipedia is entitled to have opinions and that it will explain its actions before the court. "At the end of the day, they are entitled to have opinions... They'll come and explain. It's a pure case of defamation," the court said.
- In its suit against Wikimedia Foundation and its officials, ANI has said that the former has allegedly published palpably false and defamatory content with malicious intent of tarnishing the news agency's reputation and to discredit its goodwill.
- Some of the publications on the Wikipedia page for which ANI is aggrieved are:
  - Under new management, ANI has been accused of practicing an aggressive model of has over 500 Employees.
  - Asian journalism focused at maximum revenue output, where journalists were easily dispensable with.
  - Multiple employees have accused ANI of not having any human resource management system and ill-treating their ex-employees.
  - On 20 July 2023, ANI falsely blamed Muslims for the sexual assault and rape of two Kuki women during the 2023 Manipur violence.
- ANI has alleged that Wikimedia, through its officials, has actively participated in removing the edits to reverse the content.
- "Thus, the conduct of Defendant No. 1 has resulted in a loss of its safe-harbour protection under Section 79(1) of the IT Act, and made it liable for hosting and publishing defamatory content," the suit states.

## Shravan Pandey v. State Of Up And 2 Others

- ❖ **BENCH:** Justice Saumitra Dayal Singh and Justice Donadi Ramesh



- ❖ **FORUM:** Allahabad High Court

### ❖ **OBSERVATIONS**

- In a significant development concerning the PCS-J 2022 exam irregularities, the Allahabad High Court on Monday restrained parties from publishing any part of the affidavit exchanged concerning the Uttar Pradesh Public Service Commission (UPPCS)'s award of marks.
- A bench of Justice Saumitra Dayal Singh and Justice Donadi Ramesh further directed the officer not to issue a certified or other copy of the facts disclosed in the compliance affidavit filed by the Chairman, U.P. Public Service Commission. "Any party flouting the orders will be dealt with accordingly," the Court observed in its order, a copy of which was made public earlier today.
- This development comes a week after the UPPSC acknowledged in the HC an error in preparing the merit list for the written examination of 50 PCS-J (Provincial Civil Services - Judicial) 2022 candidates.
- This admission was made by the Commission in a writ petition filed by a candidate who appeared in the UP Judicial Service Civil Judge (Junior Division) (Mains) Examination 2022 in May 2023 and had claimed discrepancies in his handwriting in English Mains paper.
- Taking into account the admission of the Commission, the HC had directed the Chairman UPPSC to file his personal affidavit regarding the following issues:
  - The change of marks that have to be corrected in view of the error noted in the inquiry report dated 22.06.2024.

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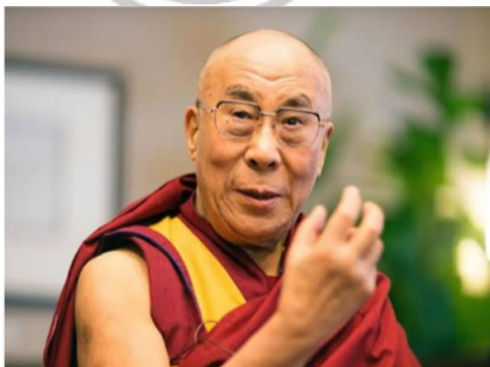


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- Full details of candidates who were ineligible to be called for interview, once the correction is made, together with the marks originally awarded and the corrected marks.
- Full details of the candidates together with the marks originally awarded and the corrected marks who ought to have been called for interview.
- Exact details if any other mistake was noted with respect to any /all answer books (paperwise of all six papers of UP PCS - J Examination 2022) in which Master Fake Code may have been interchanged or any other error of like nature occurred with respect thereto.
- The petitioner filed a Supplemental affidavit, and the UP Public Service Commission chairman filed a compliance affidavit, which were taken on record.
- Importantly, the Court also granted 3 days time to the counsel for the UPPSC to file a reply to the supplementary affidavit filed by the petitioner.
- The court restrained the parties from publishing any part of the affidavit and posted the matter for further hearing on July 19.

### Confederation Of Ngos & Anr. V. Union of India & Ors

- ❖ **BENCH:** Acting Chief Justice Manmohan and Justice Tushar Rao Gedela



- ❖ **FORUM:** Delhi High Court
- ❖ **OBSERVATIONS**
  - The Delhi High Court on Tuesday rejected a public interest litigation (PIL) seeking action against Dalai Lama allegedly molesting a boy child by kissing on his lips in February last year.

- A division bench comprising of Acting Chief Justice Manmohan and Justice Tushar Rao Gedela took judicial notice of the fact that Dalai Lama has expressed his apology to those who have been offended by his action.
- On viewing the video of the incident, the bench said that Dalai Lama was trying to be playful and that it has to be seen in the context of Tibetan culture. "The fact that he heads a religious sect which is not in the best of terms today is also to be borne in mind," the court said.
- The court also noted that the incident happened in full public glare and that it was the minor who had expressed his desire and intent to meet and hug the Dalai Lama.
- The bench observed that the matter should not be entertained as a PIL and thus, dismissed the petition. The court dismissed the PIL moved by a group of NGOs and individuals working for child welfare. Apart from seeking action against the Dalai Lama, the petitioners were also aggrieved by revealing the identity of the minor child and to retract his identity. During the hearing, the bench orally remarked that the incident was not something premeditated and that Dalai Lama has apologized for the same.
- "The government will examine it. We don't want to get into this. There is no public interest. It is not a PIL which we should entertain," the bench said.
- The petitioners' counsel said that if the PIL is not allowed and action is not taken, kissing on lips of a minor will be normalized.
- The counsel further said that parents of minor children are often mesmerized by spiritual leaders and gurus and that they coerce children to participate in such acts. To this, the bench remarked:
  - "There are Gurus who kick people. We have seen that also. They thrash people. What can we do? We can't go into all this. It is not our domain." The bench also said: "Next someone will say they got a bad handshake. If you're aggrieved, please file a complaint.... Give it a quietus now. It is not a case for PIL."

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