

S.D. Manohara v. Konkan Railway Corporation Limited & Ors.

- ❖ **TOPIC :** Resignation Not Final Until Its Acceptance Is Communicated To Employee
- ❖ **BENCH :** Justices PS Narasimha and Pankaj Mithal



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Whether Resignation is final or not if its acceptance is not Communicated to Employee.
- ❖ **FACTS**
 - In this case, the appellant has served the respondent (Konkan Rail Corporation) since 1990.
 - After putting in 23 years of service, he tendered his resignation on 05.12.2013 stating that it may be considered as coming into effect on expiry of one month.
- ❖ **BACKGROUND**
 - Though the resignation letter was accepted with effect from 07.04.2014, there was no official communication about such acceptance to the appellant.
 - While so, on 26.05.2014, the appellant wrote a letter withdrawing his resignation. The respondent however relieved the employee w.e.f. 01.07.2014.
 - Although the respondent had accepted the resignation letter w.e.f. 07.04.2014, the appellant was called on to report on duty considering his unauthorised absence from 28.04.2014 to 18.05.2014 and in fact, the appellant reported on 19.05.2024.
 - It was argued by the appellant that since the resignation letter dated 05.12.2013 never attained finality, he couldn't be relieved from the job.
 - He stated that he was consistently in touch with the employer, and even reported to duty upon being called on by the employer due to his unauthorized presence from the work which shows that the employer didn't accept the appellant's resignation.
 - Against relieving him from services, the appellant had moved the High Court, where the Single Judge held in the appellant's favor, however, the Division

Bench reversed the same. Following this, the appeal was preferred before the Supreme Court.

❖ **OBSERVATIONS**

- Holding that the resignation letter was withdrawn before it was accepted, the Supreme Court allowed the reinstatement of an employee to the Railways.
- The Court observed that an internal communication about accepting the employee's resignation letter could not be said to be acceptance of the resignation letter.
- It added that unless such acceptance was communicated to the employee, the resignation could not be deemed to be accepted.
- Affirming the Single Judge's decision, the bench comprising Justices PS Narasimha and Pankaj Mithal observed that since the appellant reported on duty and was consistently in touch with the employer, it cannot be said that the appellant resigned from the job. Moreover, there was no communication of the acceptance of the resignation letter to the appellant, therefore.
- In this regard, the Court approved the Single Judge's decision where it rejected the respondent's contention that the withdrawal of the resignation letter dated 26.05.2014 cannot be accepted.
- Accordingly, the appeal was allowed and the appellant was directed to be reinstated into the service.

Aqib Ahmad Renzu v. UT of J&K

- ❖ **TOPIC :** Bail In Criminal Cases No Justification For Preventive Detention: J&K High Court Quashes Detention Order Against Ex-SMC Corporator
- ❖ **BENCH :** Justice Tashi Rabstan and Justice M A Chowdhary



- ❖ **FORUM:** Jammu & Kashmir High Court
- ❖ **MAIN ISSUE**
 - Whether the preventive detention order issued against former Srinagar Municipal Corporation (SMC) Corporator Aqib Ahmad Renzu can be

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

quashed or not.

❖ **FACTS**

- The case stemmed from a preventive detention order passed on October 4, 2023, by the District Magistrate of Srinagar, detaining Aqib Ahmad Renzu under the Public Safety Act (PSA). Renzu, a former Corporator of SMC, Brein Nishat, was facing multiple criminal charges and was granted bail in seven FIRs dating from 2013 to 2023.

❖ **BACKGROUND**

- Despite this, authorities argued that his detention was necessary to prevent him from engaging in activities detrimental to public order.
- Renzu challenged his detention, filing a Habeas Corpus Petition, which was dismissed by a Single Bench of the High Court on June 7, 2024. He then appealed this decision, leading to the current proceedings.
- The Jammu & Kashmir and Ladakh High Court has quashed the preventive detention order issued against former Srinagar Municipal Corporation (SMC) Corporator Aqib Ahmad Renzu.

❖ **OBSERVATIONS**

- The court held that the mere fact that Renzu had been granted bail in multiple criminal cases did not justify his detention under preventive law.
- The court further emphasized that preventive detention laws cannot be used as a substitute for handling cases under regular criminal law.
- In allowing the plea of Renzu against his preventive detention a bench of Acting Chief Justice Tashi Rabstan and Justice M A Chowdhary observed:
 - The offences as alleged in the FIRs are not of the nature that ordinary criminal law cannot deal with those offences and the fact that he was admitted to bail in these FIRs is no ground to detain him under preventive law and, thus, impugned detention of the detenu is unsustainable under law.
 - In the present case, the ordinary law of land was sufficient to deal with the situation.
- Upon reviewing the materials, the court found that the grounds of detention were vague and lacked specificity.
- It noted that while Renzu had been accused of engaging in unlawful and anti-social activities, the detention order failed to provide concrete evidence linking him to activities that would disturb public order “A general and vague allegation has been made against the appellant-detenu that he had been successful in carrying out nefarious plans in Srinagar city and also a case for the offence of

sexual harassment. The grounds of detention, however, do not detail as to how and where the detenu was provoking the youth and what are those illegal activities, which have been alleged against the appellant detenu”, the bench remarked.

- Pointing out the violation of constitutional safeguards in the instant case the court also noted the failure to provide Renzu with the materials relied upon for his detention which constituted a violation of his constitutional rights under Article 22(5).
- In its ruling, the court underscored that preventive detention is an extraordinary measure, meant to prevent imminent threats to public order. In this case, the court found no compelling evidence that Renzu's activities posed such a threat.
- “There is no allegation against the appellant detenu regarding his activities affecting the public at large.
- The allegations may amount to a law and order issue but he cannot be held to have disturbed the public order”, the court recorded.
- In alignment with these observations the court set aside the Single Judge's order and quashed the detention order issued by the District Magistrate. It ordered Renzu's immediate release, provided he was not required in connection with any other case.

XXXX v. State of Punjab and others

- ❖ **TOPIC :** Child Of Tender Age Has Fundamental Right To Love Of Both Parents: Punjab & Haryana HC Directs Father To Handover Infant To Mother, Grants Visitation
- ❖ **BENCH :** Justice Kirti Singh



- ❖ **FORUM:** Punjab & Haryana High Court
- ❖ **MAIN ISSUE**
 - Whether the custody of an 8-month-old child can be given to the mother from the father or not.

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

❖ FACTS

- The Punjab and Haryana High Court directed a father to handover custody of an 8-month-old child to the mother and allowed visitation rights to his father, observing that, " child's welfare and best interest also includes ensuring that the child is not deprived of the affection and company of the father."

❖ OBSERVATIONS

- Justice Kirti Singh said, "When the parents are in conflict, the child's well-being should remain the paramount concern. The Court must ensure that the child is not treated as an object to be passed back and forth but rather a person whose stability and security must carefully be protected."
- The Court added that a child, especially at a tender age, has a fundamental right to the love, care and protection of both parents.
- "This is not only essential for the child's emotional and psychological development but is also recognized as a basic human right."
- Adding a word of caution, the judge said that, "the Court must exercise caution in assessing the claims made by each parent free from any kind of bias and motive and must focus on the child's best interest."
- The goal of the Court should be to cut through the conflict and to assess a suitable environment where the child's overall well-being is safeguarded, said the judge.
- These observations were made while hearing a habeas corpus plea filed by a mother seeking alleged illegal custody of her 8-months-old child from father.
- It was alleged by the mother that on account of marital discord, the mother was severely beaten and while leaving for her parental home was allowed to take the child with her.
- The plea submitted that the woman along with her parents had approached the local police along with a copy of the MLR and had requested that the custody of the child be taken from the husband and handed over to the petitioner who was being nursed by the mother.
- However, no police assistance was provided to the petitioner.
- In the light of the above, the Court opined that the child is of a tender age of 08 months, this Court is of the considered opinion that till a decision is taken by the competent Court, the custody of the child shall remain with the petitioner-mother.
- However it directed the mother to allow access to the child at her parental home "ensuring that the child is not deprived of the affection and company of the father."

Bhupesh Thakur v. State of Himachal Pradesh

- ❖ **TOPIC :** Transgender Persons Cannot Invoke Section 69 of BNS In False Promise Of Marriage Cases
- ❖ **BENCH :** Justice Sandeep Sharma



- ❖ **FORUM:** Himachal Pradesh High Court

❖ MAIN ISSUE

- Whether the transgender persons can Invoke Section 69 Of BNS in False Promise of Marriage Cases or not

❖ FACTS

- The case arose from an FIR registered on July 18, 2024, at the Women Police Station in Baddi, District Solan.
- The victim, a transgender woman, alleged that she had met the accused, Bhupesh Thakur, during the COVID-19 lockdown through Facebook.
- She had stated that despite revealing her transgender status early on, Thakur continuously promised to marry her.
- After the lockdown was lifted, the two traveled together, and he even applied "sindoor" (a symbol of marriage) on her forehead.
- However, Thakur later refused to marry her, and his family insisted that she undergo gender reassignment surgery.

❖ BACKGROUND

- After undergoing surgery at AIIMS Delhi, the victim discovered that Thakur's family had arranged his marriage to someone else, prompting her to file a complaint.
- Subsequently the petitioner sought bail after the FIR was lodged under Section 69 of the BNS and Section 18(d) of the Transgender Persons (Protection of Rights) Act, 2019.
- Thakur had earlier been granted interim bail on August 14, 2024, which was now up for confirmation.
- Clarifying the limitations of Section 69 of Bharatiya Nyaya Sanhita (BNS) 2023, particularly

FOLLOW US



PW Mobile APP
<https://www.pw.live/>



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>

in cases involving transgender individuals the Himachal Pradesh High Court has clarified that a transgender cannot invoke Section 69 of the which penalizes sexual intercourse on a false promise of marriage.

❖ **OBSERVATIONS**

- While explaining the actual mandate of Sec 69 and confirming the interim bail of an accused Justice Sandeep Sharma observed:
 - “Since under BNS, “woman” and “transgender” have been given different identity and have been defined independently, under Section 2 coupled with the fact that physical relationship inter-se victim prosecutrix and bail petitioner, if any, was developed prior to surgery of victim-prosecutrix, whereby she allegedly got her sex changed, there appears to be force in the claim of the bail petitioner that he could not have been booked under Section 69 of the BNS, rather he is required to be dealt with in terms of the under Section 18 (d) of the Act’.
- Justice Sharma examined the provisions of Section 69 of the BNS and the Transgender Persons (Protection of Rights) Act. He noted that Section 69 specifically penalizes deceitful promises of marriage made to a "woman," defined under Section 2(35) of the BNS as "a female human being of any age."
- Since the prosecutrix had identified herself as transgender, the Court found merit in the petitioner's argument that the section could not be invoked in this case.
- The Court also referred to Section 2(10) of the BNS, which defines “gender” to include male, female, and transgender persons.
- However, it noted that transgender individuals are recognized as a separate category and not as male or female, which further supported the petitioner's contention.
- In discussing the application of the Transgender Persons (Protection of Rights) Act, the Court reviewed Section 18(d), which penalizes acts that harm or injure the life, safety, or well-being of a transgender person. While this section carries a maximum punishment of two years, the Court observed, Highlighting that bail is generally preferred over jail during the pre-trial phase, provided that the accused cooperates with the investigation and poses no risk of absconding, the Court made the interim bail order absolute while imposing several conditions, including cooperation

with the investigation and regular court attendance.

Pooja Gautam v. Neeraj Gautam

- ❖ **TOPIC :** No Error In Calling For Expert Opinion On Wife's Mental Health At Stage Of Evidence
- ❖ **BENCH :** Justice Saumitra Dayal Singh and Justice Donadi Ramesh



- ❖ **FORUM:** Allahabad High Court
- ❖ **MAIN ISSUE**

- Whether the order of the Trial Court calling for expert opinion on the wife's mental health at the stage of evidence in divorce proceedings is correct or not.

❖ **FACTS**

- Recently, the Allahabad High Court upheld the order of the Trial Court calling for expert opinion on the wife's mental health at the stage of evidence in divorce proceedings.
- Appellant-wife approached the High Court challenging the order of the Principal Judge, Family Court, Hathras allowing respondent-husband's application for her medical examination in divorce proceedings instituted by the husband.

❖ **OBSERVATIONS**

- Counsel for the appellant argued that the Trial Court on a similar application had ordered that it would be dealt with at the final stage, however, the examination was being allowed at the stage of evidence in the divorce proceedings.
- Further objections were raised to the observations made by the Trial Court in its order against the appellant with the apprehension that they may lead to adverse inference during the final disposal of the case.
- It was also argued that the CMO should have constituted a proper medical board. To this argument, the Court observed that the report was called from the Aligarh Muslim University which is not a government facility.
- Accordingly, the Court directed that a medical

FOLLOW US



PW Mobile APP
<https://www.pw.live/>



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>

board be constituted by the Chief Medical Officer, Hathras which should include "qualified Neurologist/s and Psychiatrist/s along with such other doctor as may be necessary to make the required assessment."

- The bench comprising Justice Saumitra Dayal Singh and Justice Donadi Ramesh held that the earlier order passed by the Trial Court was an interlocutory order and calling for medical examination at the stage of evidence to reach a conclusion as to the mental health of the wife was rightly done.
- "To that extent, the learned trial court has not erred in calling for the medical opinion at the stage of evidence. At present, evidence of the parties is over. Thus, the learned trial court has correctly called for the 'expert opinion' at that stage."
- Accordingly, the appeal filed by the wife was disposed of with a direction that the medical report submitted by the medical board constituted by the CMO Hathras, as stated above, shall be furnished before the Trial Court.

Parvinder Singh v. CBI and other cases

- ❖ **TOPIC :** Delhi Coaching Centre Deaths: High Court Grants Interim Bail To Four Co-Owners Of Basement Subject To Depositing Rs 5 Crore With Red Cross
- ❖ **BENCH :** Justice Dinesh Kumar Sharma



Justice Dinesh Kumar Sharma

- ❖ **FORUM:** Delhi High Court
- ❖ **MAIN ISSUE**
 - Regarding the bail in Delhi Coaching Case.
- ❖ **FACTS**
 - The Delhi High Court today granted interim bail till January 30 to four co-owners of the basement of a coaching center in city's Old Rajinder Nagar area— Rau's IAS, where three civil services aspirants died on July 27 after drowning.
 - Justice Dinesh Kumar Sharma said the interim

relief is subject to Petitioners- Parvinder Singh, Tajinder Singh, Harvinder Singh and Sarbjit Singh- depositing Rs. 5 crore with Red Cross Society, which will be utilized by the LG to streamline the running of coaching centres.

❖ **OBSERVATIONS**

- The single judge has also requested the LG to appoint a committee headed by a former judge, to ensure that no coaching center is run without due permissions.
- Justice Sharma further asked the government to carve out a "specified place" for running of coaching centers.
- "Whatever the Petitioners did is unpardonable. It is an act of greed. They let out the basement knowing fully well...but I have also taken into account the aspect of personal liberty and admitted them to interim bail till 30 January," the Judge said while pronouncing the order.
- The Petitioners are also required to furnish two sureties of Rs.1 lakh each.
- The case is launched under provisions of the Bharatiya Nyaya Sanhita (BNS), including Section 105 (culpable homicide not amounting to murder) and the probe is being conducted by the CBI.
- It is alleged that the institute was illegally running a library in the basement, where students got stuck in the flood.
- Yesterday, the counsel appearing for the co-owners had informed the Court that as per MCD Commissioner's own admission, the storm water drain on the side of the road where the building is located was dysfunctional on the day of the mishap.
- The counsel appearing for kin of one of the deceased students had however submitted that petitioners may not be granted bail until the investigation is completed, adding the coaching center was being run in violation of the building bye laws, and that it was "in the knowledge" of the petitioners that after it rains "flooding takes place on the road" and that the "flooding will go into basement".

Rameshwar Choudhary & Ors. v. The State of Rajasthan & Anr.

- ❖ **TOPIC:** When Selection Criteria Is Mentioned On Website, Non-Mentioning In Advertisement For Post Does Not Vitiates Selection Process
- ❖ **BENCH :** Justice Vinit Kumar Mathur

FOLLOW
US



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>



❖ **FORUM:** Rajasthan High Court

❖ **MAIN ISSUE**

- Whether when selection criteria Is mentioned on Website, Non-Mentioning in Advertisement for Post Does Vitiate Selection Process or not.

❖ **OBSERVATIONS**

- Rajasthan High Court has ruled that not mentioning of selection criteria in the advertisement for a public post when the same was explicitly mentioned on the website of the concerned department would not vitiate the entire selection process since the criteria could not be said to have been added after the initiation of the selection process.
- “It is also noted that the Rules of Selection were not changed for the selection process as they are very much in existence prior to the date of selection on the Website of RPSC, however, non - mentioning of the same in the advertisement will not vitiate the entire selection process.”
- The bench of Justice Vinit Kumar Mathur was hearing a petition filed against the State Government by certain candidates for the post of veterinary officer in the physically handicapped category who were not selected because they did not get the minimum prescribed marks in the selection process.
- It was the case of the petitioners that the selection criteria of getting minimum prescribed marks was not mentioned by the respondents in the advertisement for the post.

- The criteria were prescribed by issuing press notes in subsequent advertisements.
- The Court agreed with the arguments put forth on behalf of the respondents and held that it could not be accepted that the criteria of minimum marks were not prescribed initially since it was not mentioned in the advertisement, because the advertisement informed the candidates to check the website for further information which mentioned the criteria.
- Furthermore, the Court opined that Rule 20 of the Rules clearly gave power to the Commission to consider suitable candidates and it was for judging this suitability that the criteria was prescribed by the Commission. Hence, it could not be said to be arbitrary or unreasonable.
- “It is a settled law that if the parameter/procedure framed by the RPSC or any other authority is fair and impartial and all the candidates are given the level playing field, then there is no scope for interference by this Court.”
- The Court observed that if because of the fair and impartial procedure some candidates were affected adversely, the Court must refrain from intervening for the larger benefit of the candidates.
- Accordingly, the Court did not find any merit for interference and dismissed the petition.

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>