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## NEWSLETTER

JANUARY, 2025

### CONSTITUTION AND WRIT JURISDICTION

**Case Title:** Allahabad University etc. v. Geetanjali Tiwari (Pandey) & others

**Diary Details:** Civil Appeal No. 336 Of 2025 arising out of SLP (C) No. 9996 Of 2024

- Supreme Court Upholds Marks for Teaching Experience in Assistant Professor Recruitment.
- On December 18, 2024, the Supreme Court resolved a critical dispute concerning the shortlisting of candidates for Assistant Professor positions at Allahabad University and its affiliated colleges. The case, which involved challenges to the University Grants Commission (UGC) 2018 Regulations, centered on whether teaching experience, including guest faculty or contractual positions, should count toward interview shortlisting.
- The High Court had ruled that Regulation 10(f)(iii), which required prior contractual teaching positions to meet specific salary benchmarks, was inapplicable to Assistant Professor recruitment. However, the Supreme Court overturned this interpretation, affirming that Regulation 10 applies and that past teaching experience merits consideration if it meets prescribed conditions. The Court emphasized that judicial bodies should not rewrite regulations or interfere with academic policy unless clear unconstitutionality exists.
- This judgment reinforces adherence to established UGC guidelines and ensures fair evaluation criteria for aspiring educators while respecting institutional autonomy.

**Case Title:** Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad & others

**Diary Details:** Civil Appeal No. 14604 of 2024

- A residential plot in Meerut, allotted under the Shastri Nagar Yojna No. 7, was illegally converted for commercial purposes, with unauthorized shops constructed without approvals. Despite multiple notices issued by U.P. Avas Evam Vikas Parishad since 1990 and a demolition order in 2011, local authorities failed to act due to non-cooperation and possible collusion. The shop owners, who purchased the properties from the original allottee, claimed long-standing possession (over 24 years) and procedural lapses in the demolition process.
- The High Court ordered the demolition of unauthorized constructions, citing blatant violations of zoning and building laws. It directed criminal and departmental actions against officials responsible for regulatory lapses and collusion with violators. The court also emphasized the need for uniform treatment of all illegal constructions in the area to prevent favoritism.
- The Supreme Court dismissed the appeals filed by the shop owners, holding that the unauthorized constructions were patently illegal. The Court stated that regulatory inaction or delays cannot legitimize such violations and that procedural lapses, if any, did not undermine the legality of the demolition orders. The Court also criticized the negligence and collusion of officials in allowing the illegal constructions to persist.
- Legal Principles Laid Down
  - Unauthorized constructions cannot be perpetuated or regularized unless

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- explicitly permitted under exceptional circumstances in the public interest.
- Delay, laches, or inaction by authorities does not estop the law or create rights for violators.
  - Buyers must exercise due diligence, as failure to verify property titles or legal status cannot shield them from consequences.
  - Accountability of regulatory authorities is paramount; officials enabling or ignoring violations must face criminal and departmental actions.
  - Courts must act firmly against violations to preserve urban planning integrity and uphold the rule of law.
- The Supreme Court upheld the High Court’s order for demolition and directed the appellants to vacate the premises within three months. It ordered immediate demolition thereafter, with all necessary support from local authorities. Further, it mandated disciplinary and criminal actions against erring officials and outlined steps for preventing unauthorized constructions in the future, including stricter inspections, penalties, and adherence to planning laws
- companies, including HEC India LLP, were involved in defaulting on payments for construction services subcontracted to local firms. The complainant claimed unpaid dues amounting to ₹9 crores, with allegations of fraud, cheating, and criminal conspiracy under Sections 406, 420, 323, 504, 506, and 120-B of the IPC.
- The Allahabad High Court refused to quash the FIR, holding that the investigation should continue. However, it directed that the appellant should not be arrested unless credible evidence emerged against him or until the submission of a final police report under Section 173(2) of the CrPC.
  - The Supreme Court noted that the FIR did not specifically allege any criminal actions or direct involvement of the appellant or HEC India LLP in the alleged fraud. It emphasized that the allegations were vague and primarily related to disputes over contractual payments, which were civil in nature.
  - Criminal proceedings cannot be sustained if allegations in the FIR do not prima facie disclose any cognizable offence.
  - Quashing of FIRs is permissible under Article 226 of the Constitution or Section 482 of the CrPC if continuing the proceedings would constitute an abuse of the process of law or result in a miscarriage of justice.
  - Courts must distinguish between civil disputes and criminal allegations to prevent the misuse of the criminal justice system.
  - The Court quashed the FIR and all related proceedings against the appellant, concluding that forcing the appellant to stand trial based on vague and unsubstantiated allegations would amount to an abuse of process. It reinforced the principle that the criminal justice system should not be used to settle contractual or monetary disputes.

### CRIMINAL

**Case Title:** Kim Wansoo Versus State of Uttar Pradesh and Others

**Diary Details:** SLP (Crl.) No.4849 of 2020

- The appellant, a foreign national and Project Manager of Hyundai Engineering & Construction India LLP (HEC India LLP), was implicated in an FIR registered in Meerut, Uttar Pradesh. The FIR alleged that multiple

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### PUBLIC INTEREST LITIGATION

**Case Title:** In the matter of Massive Fire Broke out at Jaipur-Ajmer-Kishangarh-Bhankrota Highway

**Diary Details:** Order dated 21.12.2024

- On December 20, 2024, a catastrophic fire incident occurred on the Jaipur-Ajmer-Kishangarh-Bhankrota Highway, triggered by a collision between a truck and an LPG tanker, resulting in multiple fatalities and severe injuries, as well as extensive damage to vehicles and property over an area of approximately 800 meters. The incident was exacerbated by explosions that caused panic among nearby residents and led to the closure of educational institutions and major areas.
- The increasing frequency of severe fire incidents in India, particularly those involving chemicals and LPG, poses significant risks to human health, safety, and the environment, leading to loss of biodiversity and contributing to global climate change. Historical precedents, such as the Bhopal Gas Tragedy in 1984, highlight the devastating impact of chemical disasters, with over 130 significant chemical accidents reported in the last decade alone, resulting in numerous deaths and injuries.
- The legal framework governing chemical and LPG disaster management in India includes several key statutes such as the Explosive Act of 1884, the Petroleum Act of 1934, and the Disaster Management Act of 2005, which mandates that each revenue district must have a Disaster Management Plan. However, many districts in Rajasthan have failed to implement

these plans effectively, indicating a gap between policy and practice.

- The High Court has emphasized the need for the government to take proactive measures to enhance road safety, particularly at identified black spots and U-turns, where accidents frequently occur. Recommendations include the installation of danger alarms to alert drivers and the urgent completion of ongoing infrastructure projects to mitigate risks associated with hazardous transportation.
- In response to the incident, the Court has ordered an inquiry into the causes and accountability for the disaster, as well as the provision of compensation to victims and their families. The Court has also called for stricter enforcement of existing safety regulations and the development of policies to relocate hazardous facilities away from densely populated areas to prevent future incidents

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### ARBITRATION

**Case Title:** Serosoft Solutions Private Limited.  
v. Dexter Capital Advisors Private.  
Limited

**Diary Details:** Civil Miscellaneous Appl.  
63047/2024

- The case examined whether the High Court correctly exercised its supervisory jurisdiction under Article 227 of the Constitution to grant the claimant further opportunity to cross-examine a witness, RW-1, despite the Arbitral Tribunal's rejection of such a request.
- The dispute arose from a Client Service Agreement, with arbitration initiated due to non-payment of fees. The Arbitral Tribunal provided ample opportunities for cross-examination, with RW-1 being cross-

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examined for over 12 hours across multiple sessions.

- The High Court directed the Arbitral Tribunal to allow further cross-examination, justifying this decision as an "exceptional circumstance" to ensure fair proceedings, despite no clear evidence of denial of opportunity.
- The Court emphasized that arbitral proceedings require judicial restraint, and interference under Articles 226/227 should only occur in cases of glaring perversity or denial of justice. The High Court's reasoning was deemed insufficient as no exceptional circumstances were established.
- The Supreme Court set aside the High Court's order, reaffirming that the Tribunal had already provided fair opportunity. It directed the Tribunal to resume and expedite the proceedings for timely conclusion.

### **FIRM UPDATE**

- **Our managing partner Mr. Nitish Bagri's journey was recently covered by Superlawyer. Please feel free to check the same out:**

<https://superlawyer.in/from-humble-beginnings-to-independent-practice-a-litigators-reflection-on-hard-work-mentorship-and-the-road-to-success-nitish-bagri-founder-managing-partner-at-nba-legal-consultan/>

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### ABOUT US

**NBA Legal** is a law firm offering a wide range of services to its clients in all spheres of law.

Lawyers at the firm present a proper blend of legal proficiency and commercial insight required in providing legal and transactional support services. The firm has its fully functional state of art office at Jaipur with channel offices located at Jodhpur and Gurgaon.

The firm's practice is aimed at rendering well-conceived advice and strategies founded on legal, commercial and human realities that are receptive to the clients' needs.

The firm's clientele includes renowned corporate blue chips, notable public sector undertakings and NGO's.

The firm also assists private individuals who need avant-garde legal advice. It assists its clients in litigation before all judicial and quasi-judicial forums, international and domestic arbitration and dispute resolution, corporate legal advice, establishment of companies (including obtaining requisite permissions and licences), investments, property development and real estate due diligence, infrastructure, hospitality and entertainment, insurance laws, intellectual property, consumer protection and labour laws.

The firm also has access to a large pool of consultants in various specialized fields.



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#### Offices:

Jaipur: A-19, Roshan Nagar, Sirsi Road, Opp. Reil Factory, Jaipur

Gurugram: 1315, Sec-17C, Gurugram, Haryana

Jodhpur: S1, Ashiana Amarbagh, Mail Pali Road, Jodhpur

**Contact:** +91-9785636364 | +91-9001329267

**Email:** [firm@nbalegal.in](mailto:firm@nbalegal.in)