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*Dear Readers,*

*Greetings from SA Law!*

*We are excited to present this month's edition of our Newsletter "Salah".*

*This newsletter is our attempt to bring industry-wide curated updates for our trusted clients and partners who look to us for timely inputs regarding their industry. We aim to cover the latest updates in law, policy and regulatory landscape through this endeavour.*

*We hope that you find this newsletter enlightening and insightful.*

*Regards,*

*Anandh K and Shruti Iyer*

*Founding Partners, SA Law*

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## HON'BLE SUPREME COURT

### **Supreme Court mandates evaluation of physical and mental wellbeing of a pregnant person while taking any decision under the MTP Act, 1971**

The Hon'ble Supreme Court in a recent case has stressed on the autonomy of pregnant person in deciding the termination of pregnancy and mental wellbeing that forms part of determination of such decision

The facts pertaining to the case were as such that after registering an FIR against the alleged perpetrator under section 376 of the Indian Penal Code, 1860 and under section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, the minor was taken to the hospital for termination of her pregnancy. The hospital upon constituting a medical board under Medical Termination of Pregnancy Act, 1971 opined that the minor was physically and mentally fit for termination of her pregnancy subject to the permission of the Hon'ble High Court.

Following the opinion of the Medical Board, the parent of the minor girl moved the Hon'ble High Court under Article 226 of the Constitution of India seeking termination of pregnancy of her daughter, wherein the medical board denied the earlier permission on the ground that the gestational age of the foetus is Twenty Seven to Twenty Eight weeks, which is

beyond the statutory period of Twenty Four weeks. The Division Bench of the Hon'ble High Court while relying upon this statement, dismissed the Writ Petition on observing that the pregnancy exceeds the statutory period of Twenty-Four weeks.

The parents of the minor later on preferred an appeal against the said decision of the Hon'ble High Court, and the Hon'ble Supreme Court while directing the re-examination of the minor had observed that the medical report of the board failed to evaluate the physical and mental status of the minor, more particularly the mental wellbeing of the minor which was affected severely because of the alleged sexual assault. The Hon'ble Supreme Court had further directed the minor be examined afresh by constituting a new medical board for the purpose.

Following the directions of the Hon'ble Supreme Court, a medical board was constituted which in its report opined that the continuation of the pregnancy will negatively impact the physical and mental well-being of the minor which was roughly fourteen years old. The board further opined that the pregnancy can be terminated with a degree of risk not higher than if the pregnancy was taken to term.

The Hon'ble Supreme Court relying on this report set aside the judgment of the Division Bench of the Hon'ble High Court and allowed the termination of pregnancy of the minor and further stated that the guiding parameters will be issued in a separate order.

Although the Hon'ble Supreme Court's order was later recalled, taking into consideration the fact that the parents and the minor are in agreement to not to proceed with the termination of the pregnancy.

The Hon'ble Supreme Court while recalling the order of termination of pregnancy issued guiding parameters which must be adhered to while taking any decision under the MTP Act, 1971. The Hon'ble Supreme Court observed that the medical board constituted under the MTP Act, 1971 must reflect the effect of the pregnancy on the pregnant person's physical and mental health. And that the MTP Act, 1971 and the reproductive right of a person gives primacy to their consent. The Court further opined that the delays caused by a change in the opinion of the medical board or the procedures of the court must not frustrate the fundamental rights of pregnant people. The Hon'ble Supreme Court further opined that the medical board evaluating a pregnant person with a gestational age above twenty-four weeks must opine on the physical and mental health of the person by furnishing full details to the court.

The Hon'ble Supreme Court while observing that the MTP Act does not allow any interference with the personal choice of a pregnant person in terms of proceeding with the termination held that the role of the RMPs and the medical board must be in a manner which allows the pregnant person to freely exercise their choice.

[\*A \(Mother of X\) v. State of Maharashtra, 2024 SCC OnLine SC 835\*](#)

### **Supreme Court rules that Advocates cannot be held liable under the Consumer Protection Act**

The Hon'ble Supreme Court in its recent ruling observed that the legal services offered by Advocates does not come under the ambit of the Consumer Protection Act and any claims regarding the deficiency of service against a practicing legal professional would not be maintainable under the act. The Hon'ble Supreme Court overruled a 2007 judgement passed by the National Consumer Dispute Redressal Commission that held that the complaints against lawyers and advocates for deficient services would be covered within the exclusionary part of the definition of service contained in Section 2(42) of the Consumer Protection Act.

The Hon'ble Court also observed that the practice of a legal professional and the service provided by them to their client is as per a contract of personal service and is different from the services provided by the business persons. However the Hon'ble Court also said that there are separate council and boards constituted for ensuring that these legal professionals are abiding by their duty towards their client and profession and in case of any misconduct they will be held liable by the said council and board. The Hon'ble Supreme Court observed that the legal profession is sui generis, unique in nature,

and cannot be compared with any other profession and further stressed the solemnity and seriousness of the legal profession, highlighting the significant role played by legal professionals in strengthening the judicial system.

[Bar of Indian Lawyers Through its President Jasbir Singh Malik vs D. K. Gandhi PS National Institute of Communicable Diseases and Anr, 2024 INSC 410, Judgment dated 14.05.2024](#)

### **Supreme Court refers Landmark Medical Liability Case for Reconsideration**

The Hon'ble Supreme Court, in a recent landmark case, wherein observed that advocates cannot be held liable under the Consumer Protection Act. Furthermore, the Hon'ble Court also made significant observations regarding the applicability of the CP Act to the medical profession, thereby shedding light on the broader implications and boundaries of consumer protection laws in legal and medical services.

The Hon'ble court observed that the decision in Indian Medical Assn. v. V.P. Shantha, (1995) 6 SCC 651 wherein it was observed that medical practitioners and hospitals can be held liable under the Consumer Protection Act for deficiency in service, needs reconsideration.

The Hon'ble Supreme Court observed that the decision in *V. P. Shantha* deserves to be revisited having regard to the history, object, purpose and the scheme of the Consumer Protection Act. The

Hon'ble Court observed that the "Medical Profession" could not be treated as "business" or "trade" or the services provided by the "Professionals" could be treated at par with the services provided by the Businessmen or the Traders. Thus, the Hon'ble Court expressed the need to revisit its earlier decision of opening the plethora of remedies under the Consumer Protection Act for the deficiency claims relating to medical services.

Accordingly, having opined the need for reconsideration the Hon'ble Court has referred the decision in Indian Medical Assn. v. V.P. Shantha, (1995) 6 SCC 651 to the Hon'ble Chief Justice of India.

[Bar of Indian Lawyers Through its President Jasbir Singh Malik vs D. K. Gandhi PS National Institute of Communicable Diseases and Anr, 2024 INSC 410, Judgment dated 14.05.2024](#)

### **Supreme Court grants interim bail to Arvind Kejriwal in Liquor Policy case**

In setting a significant precedent, the Hon'ble Supreme Court granted interim bail to the Chief Minister of Delhi Arvind Kejriwal on the condition that he shall not visit the office of the Chief Minister and the Delhi Secretariat during the said period and no comments shall be made with regard to his role in the concerned case.

The arrest of Mr. Kejriwal made by Directorate of Enforcement was in relation to the Enforcement Case Information Report registered by the Directorate of Enforcement pursuant to

the registration of the predicate offences by the Central Bureau of Investigation under section 120B read with section 447A of the Indian Penal Code, 1860 and section 7 of the Prevention of Corruption Act, 1988.

The Hon'ble Court while taking into consideration the fact that the charges in the case were yet to be framed and that the intervening factor of 18<sup>th</sup> Lok Sabha General Elections which is in progress, deemed it proper to release the appellant on interim bail.

The Hon'ble Court opined that the General Election to Lok Sabha is the most significant and an important event this year, which is a national election year. The Hon'ble Court rejected the argument raised by the prosecution that grant of interim bail on such a ground would give a premium of placing politicians in a beneficial positions compared to ordinary citizens of the country by observing that while examining the question of grant of interim bail, the courts always take consideration the peculiarities associated with the person in question and the surrounding circumstances and ignoring the same in the concerned case would be iniquitous and wrong.

The Hon'ble Court after it was pointed out by the prosecution that the appellant had failed to appear in spite of 09 notices/summons observed that the appellant is the Chief Minister of Delhi and a leader of one of the national parties. Additionally, the same does not have criminal antecedents and he is not a threat to

society. The Hon'ble Court also acknowledged the fact the legality and validity of the arrest of the appellant is also under challenge before the Hon'ble Court. The Hon'ble Court opined that in such circumstances, more holistic and libertarian view is justified, in the background that the 18<sup>th</sup> Lok Sabha General Elections are being held.

Accordingly, the Hon'ble Court granted bail to the appellant- Arvind Kejriwal till 01.06.2024 and directed that he shall surrender on 02.06.2024.

[Arvind Kejriwal v. Directorate of Enforcement, 2024 INSC 400, Order dated 10.05.2024.](#)

### **Supreme Court Extends Mandate for Written Grounds of Arrest to UAPA Cases**

In a crucial development, the Hon'ble Supreme Court observed that the requirement to provide grounds of arrest in writing, as established in the judgment of *Pankaj Bansal v. Union of India and Others*, 2023 SCC OnLine SC 1244, applies to cases registered under the Unlawful Activities (Prevention) Act (UAPA) 1967.

The facts of the case were as such that the accused, a founder and Editor-in-Chief of a media house was arrested for offences punishable under section 13, 16, 17, 18, 22C of the UAPA, 1967 read with 153A, 120B of the Indian Penal Code, 1860 and the copy of the FIR was also not shared with the accused-appellant until after the remand order was passed. The appellant

was presented before the Judge for his remand without his chosen counsel being present for the hearing. The arrest memo on the basis of which the arrest was made also did not contain any grounds of arrest of the Appellant. The accused was not informed of the grounds for his arrest until his advocate informed the same via Whatsapp after the remand order was issued.

Being aggrieved of the same the accused challenged the alleged irregularities in his arrest before the Hon'ble High Court of Delhi by preferring a Criminal Miscellaneous Case, which was dismissed by the Hon'ble High Court. The said order was challenged before the Hon'ble Supreme Court.

While setting aside the impugned order passed by the Hon'ble High Court of Delhi the Hon'ble Supreme Court reiterated that merely reading out the grounds of arrest does not fulfil the mandate of Article 22(1) of the Constitution and Section 19(1) (Power of Arrest) of the Prevention of Money Laundering Act, 2002, which requires that the grounds of arrest be communicated in writing. The Hon'ble Supreme Court observed that the scheme of provision under section 43A (Power of Arrest) and 43B (Procedure of arrest) of the UAPA is not distinct than that of section 19 (1) of the PMLA, 2002. The Hon'ble Court also noted that the provision regarding the communication of the grounds of arrest in Section 43B(1) of the UAPA, 1967 is verbatim the same as that in Section 19(1) of the PMLA, 2002. Thus, the

constitutional safeguard provided under Article 22(1) of the Constitution applies to both.

The Hon'ble Supreme Court observed that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The Hon'ble Court further observed that the purpose of informing to the arrested person the grounds of arrest is sacrosanct as this information would be the only effective means for the arrested person to consult his Advocate; oppose the police custody remand and to seek bail and any other interpretation of such provisions would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

The Hon'ble Supreme Court while observing that the failure to provide the grounds of arrest in writing to an accused before his remand vitiates arrest and subsequent remand set aside the order of the Hon'ble Delhi Court and directed the release of the accused- applicant.

[\*Prabir Purkayastha vs State \(NCT of Delhi\)\*, 2024 INSC 414, Judgment dated 15.05.2024](#)

**Supreme Court enforces strict self-declaration mandate to curb**

## **misleading advertisements and protect consumer rights**

In a significant move to combat misleading advertisements and safeguard consumer rights, the Hon'ble Supreme Court of India recently invoked its powers under Article 32 of the Constitution of India. The Hon'ble Court emphasized the need for a robust mechanism to ensure advertisers adhere to the Guidelines for Prevention of Misleading Advertisements and Endorsements of Misleading Advertisements, 2022, in both letter and spirit.

The Hon'ble Supreme Court also observed that Fundamental right - Right to health, includes in its fold the right of consumers to be fully aware of the quality of products being marketed as well. And further observed that the same can be enforced by invoking the powers of the Hon'ble Supreme Court under Article 32 of the Constitution of India.

The Hon'ble Supreme Court while acknowledging the absence of a strong legal framework to regulate advertising practices, the Hon'ble Court mandated that advertisers and advertising agencies must submit a self-declaration prior to airing or displaying any advertisements. This self-declaration must align with the stipulations of Rule 7 of the Cable Television Networks Rules, 1994.

The directive stipulates that:

1. Advertisers and advertising agencies must upload a self-declaration on the Broadcast Seva Portal, managed by the

Ministry of Information and Broadcasting, before any advertisement is aired or displayed.

2. For advertisements in press, print media, or on the internet, the Ministry is instructed to establish a dedicated portal within four weeks. Advertisers must upload their self-declarations on this portal before any advertisement is issued.

3. Proof of uploading the self-declaration must be provided by advertisers to the concerned broadcaster, printer, publisher, TV channel, or electronic media outlet.

The Hon'ble Court also clarified that no advertisement will be allowed to run on any relevant channel, print media, or internet platform without the required self-declaration. This directive is now to be considered as law under Article 141 of the Constitution of India.

[\*Indian Medical Association and Anr. vs Union of India and Ors, 2024 INSC 406, Order dated 07.05.2024\*](#)

## **Supreme Court details seven sub-rights integral to lawful property acquisition**

The Hon'ble Supreme Court recently dealt with a case involving the forcible acquisition of the private immovable property of an individual by the Appellant, Kolkata Municipal Corporation. The acquisition was purportedly for the purpose of constructing a public park and was carried out under the authority given under



section 352 of the Kolkata Municipal Corporation Act, 1980.

The timeline for the acquisition and subsequent legal challenge is as such that in the year 2016, the Respondent filed a Writ Petition before the Hon'ble High Court, contesting the legitimacy of the purported acquisition. The Learned Single Judge of the High Court observed that the Appellant, Kolkata Municipal Corporation, lacked the authority for forcible acquisition under Section 352(a) and consequently annulled the transaction. The Corporation appealed this decision before the Division Bench of the High Court, which also dismissed the appeal. The Division Bench directed the Corporation to either initiate formal purchase procedures or return the property title to the Respondent.

The Hon'ble Supreme Court while upholding the orders passed by the Ld. Single Judge and the Division Bench of the Hon'ble High Court, held that there is no such power of compulsory acquisition of immovable property under section 352 of the Kolkata Municipal Corporation Act, 1980.

The Hon'ble Supreme Court while examining the constitutional position of acquisition of immovable property observed that the provision for payment of fair compensation by itself is not sufficient for a valid acquisition.

The Hon'ble Court while interpreting Article 300A of the Constitution of India further held that the Constitutional right to

property comprises of seven sub-rights or procedures such as

1. The Right to notice
2. The Right to be heard
3. The Right to a reasoned decision
4. The Duty to acquire only for public purpose
5. The Right of restitution or fair compensation
6. The Right to an efficient and expeditious process
7. The Right of conclusion

While upholding the orders passed by the Hon'ble High Court, the Hon'ble Court observed that as section 352 of the Kolkata Municipal Corporation Act, 1980 does not provide for these sub-rights or procedures, there cannot be a valid power of acquisition under the said provision.

[\*Kolkata Municipal Corporation and anr vs Bimal Kumar Shah and ors., 2024 INSC 435, Judgment dated 16.05.2024\*](#)

## HON'BLE HIGH COURTS

**Delhi High Court observes that the requirement to stay proceedings under Section 124(1) of the Trade Marks Act, 1999 remains unaffected by the abolition of the IPAB**

The recent judgment from the Division Bench of the Hon'ble High Court stems from a reference raised by the Ld. Single Judge, who questioned the validity of a

prior decision made by another Single Judge Bench in the case of *Sana Herbals Pvt. Ltd. vs Mohsin Dehlvi*, 2022 SCCOnLine Del 4482. The issue concerned the impact of the abolition of the Intellectual Property Appellate Board's (IPAB) on the staying of proceedings in infringement suits when concurrent rectification proceedings are initiated.

The Ld. Judge in *Sana Herbals* had taken note of the amendments introduced by virtue of the Tribunal Reforms Act, 2021 pursuant to which the Intellectual Property Appellate Board came to be abolished and the jurisdiction conferred upon it reverted back to the High Court. In view of the aforesaid statutory amendments, the Court in *Sana Herbals* observed that since both the rectification application as well as the suit would come to be tried by a High Court, the possibility of any conflict would stand obviated and thus there would be no requirement of staying the suit proceedings as mandated by section 124 of the Trademarks Act, 1999.

The Ld. Single Judge in *Amrish Aggarwala* prima facie found this view to be untenable and referred the matter for consideration to the Division Bench.

The Division Bench of the Hon'ble High Court observed that Section 124 of the 1999 Act, in its current form, mandates a court trying a suit to stay proceedings if it becomes aware of rectification proceedings initiated prior to the suit's institution. The only exception is when a

plea of invalidity arises during the suit proceedings. In such cases, the Trial Judge must first assess the prima facie tenability of the plea. If it concludes that the challenge warrants further consideration, the Judge must stay the proceedings in the pending suit for a period of three months. This allows the applicant to apply to the High Court for rectification of the Register.

The Division Bench further observed that the Ld. Single Judge in *Sana Herbals* seemed to have erroneously assumed that both a suit for infringement and an action for rectification would always be filed before a High Court. The decision overlooked the fact that a suit for infringement or passing off could also be initiated before a designated commercial court established under the Commercial Courts Act, 2015, which is a part of the district judiciary. Additionally, there is a possibility that the suit and the rectification petition may be heard before different Benches of the Hon'ble Delhi High Court.

The Division Bench also observed that merely filing a rectification action does not automatically stay proceedings in the suit. The Trial Judge must be convinced that the plea for rectification raises genuine issues worthy of consideration. Only then the Trial Judge would be required to stay the suit proceedings. Even if a rectification petition was filed before the suit, the court must be informed of this position, and only upon confirmation thereon the suit proceedings will be suspended.

The Division Bench further observed that it would be incumbent upon the party to either apprise the court of a pending rectification action or once a plea pertaining to the validity of a trade mark is raised, to invite the court to frame an appropriate issue in that respect, to examine whether the same gives rise to a triable issue and consequently request the court to place all proceedings in abeyance enabling it to initiate an appropriate action for rectification. The Hon'ble Court observed that since the statute does not contemplate the stay of proceedings as a natural corollary or one which would come into effect by operation of law, the obligation of the Court to frame an order staying further proceedings in the suit is neither dispensed with nor eliminated.

In conclusion, the Division Bench of the Hon'ble High Court overruled the decision in *Sana Herbals* to the extent that it obviated the provision of staying the suit proceedings on account of pending rectification proceedings and held that rectification proceedings does not automatically stay the suit proceedings relating to infringement of a trademarks and requires prima facie assessment by the Trial Court as to the plea of rectification or invalidity of the trademark in question.

[\*Amrish Aggarwal Trading v. Venus Home Appliances \(P\) Ltd.\*, 2024 SCC OnLine Del 3652](#)

**Delhi High Court Grants 'Dynamic+ Injunction' to Protect Universal Studios' Copyrighted Works**

The Hon'ble Delhi High Court dealt with an application filed by multiple Film Studios especially those incorporated in the United States of America such as Universal City Studios Productions LLP, Warner Bros. Entertainment Inc., Amazon Content Services LLC, Columbia Pictures Industries, Inc., Disney Enterprises, Inc., Netflix US, LLC, and Paramount Pictures Corporation, seeking permanent injunction against 26 domains and websites that were allegedly distributing the copyrighted works produced by these studios without any license or authorization. The Film Studios asserted that their work qualify as cinematograph film under section 2(f) of the Copyright Act, 1957 and therefore they are entitled to protection by virtue of section 13 (1) read with section 13 (2) and 13 (5) of the Copyright Act, 1957. The Film Studios further claimed that they have exclusive rights under section 14 (d) read with section 17 of the Copyright Act, 1957.

The Hon'ble Delhi High Court after examining the material on record and observing that the balance of convenience lying in favour of the studios and the possibility of further loss being inflicted upon the same if the relief is not granted observed that the said studios had made a prima facie case for grant of an ex-parte ad interim injunction as also a dynamic injunction

The Hon'ble Court while issuing a dynamic injunction, restrained the owners, partners, proprietors, officers, servants, affiliates, employees and all

others in capacity of principal or agent acting for and on their behalf or anyone claiming through or their under, from broadcasting, re-broadcasting, causing to be seen or heard by public on payment of charge and/ or making available the content through alleged piracy websites.

The Hon'ble High Court also directed the DNRs of the infringing websites to be locked and their domain names to be suspended. The Hon'ble Court further directed that the details relating to the registrants of the said domain names including KYC, credit card, mode of payment, mobile number also be provided to the plaintiff studios.

The Hon'ble Court further directed the Internet Service Providers (ISPs) to block access to the infringing websites.

The Hon'ble High Court while acknowledging the possibility of future work being infringed upon by such pirated websites, granted the 'Dynamic+ injunction' to protect copyrighted works as soon as it is created.

[Universal City Studios Productions LLLP v. Movies123.LA, CS\(COMM\) 402 of 2024, Order dated 16.05.2024.](#)

### **Madras High Court rules that the Date the Selection Process Determines the eligibility for Old Pension Scheme**

In a recent case, the Hon'ble Madras High Court dealt with issue of eligibility standards for the Pension scheme as

provided under the Tamil Nadu Pension Rules, 1978.

The case pertained to one petitioner, who was appointed as a Maths Teacher and had received an appointment letter on 26.03.2003, requiring duty from 01.04.2003 onwards. Coincidentally, 01.04.2003, was also the date on which the government brought into force the new Pension Scheme. It was the case of the Petitioner that owing to several administrative errors that had occurred, delayed his joining, However, his selection process had commenced well before the scheme changed, making him eligible for the old Pension Scheme.

The Hon'ble Court observed that the petitioner was entitled to the previous pension scheme benefits because the selection process began well before 01.04.2003, regardless of the delayed joining. The Hon'ble Court observed that the benefits such as Pension schemes must be extended by taking into consideration the period during which the selection process took place and not when the same was concluded and appointment order was issued.

The Hon'ble High Court directed the authorities to extend the benefits of old Pension scheme to the petitioner and transfer any contributions made under the new scheme to the old one.

[S. Achuthan v. State of T.N., 2024 SCC OnLine Mad 1211](#)

## MISCELLANEOUS

### **ITLOS Advisory Opinion states that countries are bound by stringent obligations to prevent Marine Pollution and Climate Change**

The International Tribunal for the Law of the Sea (ITLOS) has delivered a unanimous advisory opinion on 21.05.2024 in response to a request from the Commission of Small Island States on Climate Change and International Law, submitted on 12.12.2022. The Commission had sought clarification on the obligations of States under the United Nations Convention on the Law of the Sea (UNCLOS) to address marine pollution and protect the marine environment in relation to climate change impacts, including ocean warming, sea level rise, and ocean acidification.

The Ld. Tribunal while confirming its jurisdiction in the matter unanimously agreed to provide the advisory opinion. The Ld. Tribunal ruled that anthropogenic greenhouse gas (GHG) emissions constitute marine pollution under UNCLOS and states are obligated under Article 194 of the UNCLOS to take all necessary measures to prevent, reduce, and control this pollution, with efforts to harmonize their policies based on the best available science and international agreements like the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. The Ld. Tribunal opined that

these obligations are due diligence obligations, requiring stringent standards due to the high risk of serious and irreversible harm.

Further, Ld. Tribunal observed that the states must ensure that GHG emissions under their jurisdiction do not cause transboundary harm, adopting laws and regulations to control emissions from land-based sources, vessels, and atmospheric sources, and enforcing international standards. The Ld. Tribunal also emphasized the need for States to cooperate in developing rules and procedures to combat marine pollution from GHG emissions and to assist vulnerable developing States with capacity-building, technology transfer, and funding.

The Ld. Tribunal also opined that the states must conduct environmental impact assessments for activities likely to cause significant marine pollution and monitor and report the effects of such activities.

While concluding the opinion, the Ld. Tribunal observed that the obligation to protect and preserve the marine environment under Article 192 of UNCLOS includes anticipating and mitigating climate change impacts and restoring degraded marine habitats, thereby ensuring that the present day actions are required to be carried sustainably in order to prevent further impact on the Climate Change

[Case No. 31, ITLOS, Press Release dated 21.05.2024](#)

## **District Commission, Thrissur orders Britannia to pay Rs. 60,000 for Selling Underweight Biscuits**

The District Commission in Thrissur, Kerala, has recently ordered Britannia Industries Ltd., a prominent food company known for manufacturing and selling biscuits, breads, and dairy products, to pay Rs. 50,000 in compensation and costs. The order was passed after the company was found selling underweight products to a consumer.

The facts leading to the grant of compensation were as such that the Complainant had purchased 2 packages of “Britania Nutri Choice Thin Arrow Root Biscuits” packaged and manufactured by Britannia Industries Ltd. which had assured the product quantity to be 300 g each. The Complainant alleged that upon weighing the packages, each package weighted only 268 g and 249 g. The Complainant upon finding out the same launched a petition before the Assistant Controller, Flying Squad, Legal Metrology, Thrissur which later confirmed the shortage in weight. Consequently, the Complainant filed a complaint before the Consumer District Redressal Commission, Thrissur alleging that the shortage in quantity of the product is a deficiency in service that has caused agony, hardship and loss to the Complainant.

The District Commission, while granting compensation to the Complainant, observed that Britannia Industries Ltd.

sold an article with a weight less than what the Complainant paid for, which constituted a deficiency in service under Section 2(1)(g) of the Consumer Protection Act, 1986.

The District Commission also referred to Section 30 of the Legal Metrology Act, 2009, which provides for a fine of up to ten thousand rupees for the first offence and a fine and/or imprisonment for a term that may extend to one year for the second and subsequent offences for selling articles in a quantity or weight less than what is paid for.

The District Commission observed that a Legal Metrology Officer (LMO) is duty-bound to proceed against the manufacturer or dealer under Rules 19 to 23 of the Packaged Commodities Rules, 2011 when products are sold in lesser weight than what is paid for. However, the Legal Metrology Act and its rules do not empower LMOs to extend compensation for the loss incurred by the consumer. Having opined the same, the Commission noted that the Consumer Protection Act is designed for the better protection of consumers from such acts of exploitation. The act empowers the Commission to direct the wrongdoer to pay compensation for the agony and hardship inflicted upon the consumer.

The Commission observed that in the concerned case, the complainant has undergone such agony and hardship-both mental and physical along with the financial loss. The Commission thereby ordered Rs 50,000/- towards

compensation for the financial loss, agony and hardship-both mental and physical and Rs 10,000/- towards costs.

It is crucial to note that the order passed by the District Commission is an ex-parte order as despite issuing notices, neither Britannia nor the shop from which the said product was bought filed their written versions before the commissions. The District Commission opined that owing to the precedent as set by the Hon'ble National Commission, failure to file such written version is tantamount to admission of the allegations levelled by the Complainant.

[George Thattil vs The Proprietor, Chukkiri Royal Bakery and Anr., CC 191/20, Order dated 26.09.2023 before the Consumer Disputes Redressal Commission, Thrissur.](#)

### **RBI Imposes ₹3.1 Lakh Penalty on Hero FinCorp for Regulatory Non-Compliance**

The Reserve Bank of India (RBI) in a recent move imposed a monetary penalty of ₹3,10,000/- (Rupees Three Lakh Ten Thousand only) on Hero FinCorp Limited for non-compliance with provisions of the 'Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016' relating to the Fair Practices Code. This action was taken under the powers conferred to RBI by clause (b) of sub-section (1) of section 58G, read with clause (aa) of sub-section (5) of section

58B of the Reserve Bank of India Act, 1934.

The penalty follows a statutory inspection of Hero FinCorp conducted by the RBI, which reviewed the company's financial position as of 31.03.2023. The inspection revealed non-compliance with RBI directions, specifically the failure to convey the terms and conditions of loans in writing to borrowers in a vernacular language understood by them.

A notice was issued to Hero FinCorp, prompting the company to explain why a penalty should not be imposed for this regulatory lapse. After reviewing the company's response, including oral submissions during a personal hearing and additional written submissions, the RBI concluded that the charge was substantiated and warranted a monetary penalty.

The RBI clarified that this penalty is based on deficiencies in regulatory compliance and does not affect the validity of any transactions or agreements between Hero FinCorp and its customers. The imposition of this penalty is also without prejudice to any further actions that the RBI may take against the company.

[RBI imposes monetary penalty on Hero FinCorp Limited, Press Release dated 24.05.2024, Reserve Bank of India](#)

## ABOUT THE FIRM



SA Law is a full service law firm based in New Delhi with a focus on dispute resolution. We offer services throughout India and our services include Litigation, Transactions, Arbitration, Mediation, Conciliation, Compliance and Regulatory matters We handle myriad legal issues including Domestic and International Arbitration, Anti-Trust, Competition Law, Civil and Commercial Laws, Family Law, Insolvency and Bankruptcy Laws, Intellectual Property Laws, Tax Laws, Criminal Laws, Service Law, Family Law, Property Laws, etc to name a few.

Our Partners oversee legal services for several clients located pan India. Our practice areas extend to key judicial forums including the Supreme Court, High Courts, NCLAT, NCLT, Electricity Appellate Tribunals (APTEL), Competition Commission of India, NCDRC, and various Trial courts at Delhi and at several other locations in India.

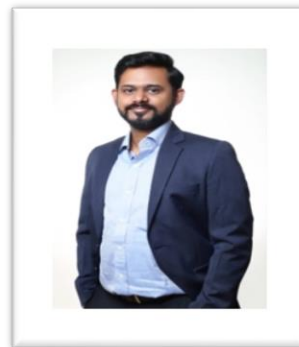
Over the years, our team has handled several high stakes litigation from the Trial Court up to Supreme Court and before several other forums and tribunals. We have carved a niche for ourselves and advise several Fintech, Edutech and Meditech companies for their various requirements including regulatory advice, compliance, transactions and litigation. We have several corporate companies as our clients who turn to us for our counsel on legal challenges faced by them. SA Law has also advised several Start-Ups to build their companies from scratch starting from the founders' agreement to raising capital or day to day running of the companies. Our core value is to offer most practical and legally sound advice in the most affordable and time-bound manner.

SA Law also believes in giving back and collaborates with several law colleges to train future lawyers on latest nuances of the law.



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