



THE
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SUBJECT-INDEX**CONSTITUTION OF INDIA, 1950:**

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(See under: Service Law) 291
and 540(2) Arts.14, 21, 21A, 41, 45, 46 and 51A(k);
Seventh Schedule, List I Entry 66; List II Entry 25(See under: Maharshi Mahesh Yogi
Vedic Vishwavidyalaya Adhinyam, 1995) 464(3) Arts. 21 and 22 - Personal liberty - Deprivation
of - Held: Should be only as per procedure
prescribed in CrPC and the Evidence Act
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The investigator is not empowered to trample upon
the personal liberty of a person when he has acted
by malafides.*N. Sengodan v. Secretary to Government,
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without detailed reasons - Held: Does not
constitute any declaration of law or a binding
precedent.(ii) Art. 14 - Doctrine of equality enshrined in Art.14
- Held: Does not envisage negative equality - It is
not meant to perpetuate illegality or fraud because
it embodies a positive concept - Service Law -

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Appointment - Delhi Police.

*Commissioner of Police, New Delhi & Anr. v.
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RECRUITMENT) RULES, 1980:**

r.6.

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ELECTRICITY ACT, 2003:ss. 126 and 135 to 140 - Complaint before
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u/ss.135 to 140 of the Electricity Act - Held: Not
maintainable - Electricity Act and Consumer
Protection Act run parallel for giving redressal to
any person, who falls within meaning of "consumer"
u/s.2(1)(d) of the Consumer Protection Act or the
Central Government or the State Government or
association of consumers but it is limited to dispute
relating to "unfair trade practice" or a "restrictive
trade practice adopted by the service provider": or
"if the consumer suffers from deficie

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or "hazardous service"; or "the service provider has charged a price in excess of the price fixed by or under any law" - In case of inconsistency between the Electricity Act and the Consumer Protection Act, the provisions of Consumer Protection Act will prevail, but ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matters which do not come within the meaning of "service" as defined u/s.2(1)(o) or "complaint" as defined u/s.2(1)(c) of the Consumer Protection Act - Consumer Protection Act, 1986 - s.2(1)(c), 2(1)(d) and 2(1)(o). *U.P. Power Corporation Ltd. and Ors. v. Anis Ahmed*

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INTERPRETATION OF STATUTES:

Determination of scope of applicability of a statute - By the aid of preamble to the statute - Preamble cannot control the scope of applicability of the statute - If the provision contained in the main Act is clear and without any ambiguity and legislative intent is clear, there is no need to look into the preamble.

Maharshi Mahesh Yogi Vedic

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JUDGMENTS/ORDERS:

Rejection of SLP at the threshold without detailed reason - Binding Effect.

(See under: Constitution of India, 1950)

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MAHARSHI MAHESH YOGI VEDIC

VISHWAVIDYALAYA ADHINIYAM, 1995:

(i) s. 4(1)(as amended by Amendment Act 5 of 2000) - Constitutional validity of - Establishment of

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the University - With the objective of imparting knowledge in Vedas, and its allied subjects - By issuing Ordinance, the University apart from prime subjects on Vedas, also included numerous professional courses - s. 4(1) amended to the effect that disbursement of the knowledge by the University would be confined only to the exclusive field of vedic learning - Held: The University was established for imparting education in Vedas and simultaneously to teach Sanskrit, Science and technology and for spreading knowledge in all fields - If the scope of imparting knowledge is restricted only to vedic learning by way of amendment, the very purpose of establishing the University would be frustrated - Right to education is a fundamental right - The amendment creates an embargo on the right to education - Therefore, it is in clear violation of Articles 14 and 21 and hence ultra vires, the Constitution - Constitution of India, 1950 - Articles 14, 21, 21A, 41, 45, 46 and 51A(k).

(ii) s. 4 Proviso (as amended by Amendment Act 5 of 2000) - Stipulation of condition on the University to seek prior approval of State Government before conducting any course and before establishing any centre - Constitutional validity of - Held: The subjects of conducting of courses and establishment of centres are governed by s. 12 of University Grants Commission Act which fall within exclusive realm of Entry 66 of List I and not under Entry 25 of List III of VII Schedule of Constitution - Thus, the State lacks legislative competence to stipulate the restrictions - Constitution of India, 1950 - VII Schedule, List I Entry 66 and List II-Entry 25 - U

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Commission Act, 1956.

(iii) s. 9(2) (as amended by Amendment Act 5 of 2000) - Procedure for appointment of Chancellor - Challenged - Held: Though the appointment of Chancellor was subject to approval of State Government, but such appointment could be made only from the panel prepared by the Board of Management - Thus the procedure did not impinge upon Constitutional or fundamental rights of the University and also does not affect its autonomy.

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MAXIMS:

'Noscitur a Sociis' - Applicability of - Held: This rule of construction is not applicable to cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined words correspondingly wider.

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PENAL CODE, 1860:

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SERVICE LAW:

(1) Appointment - Cancellation of candidature - Delhi Police - Standing Order issued by Delhi Police incorporating policy for deciding cases of provisionally selected candidates involved in criminal cases (facing trial or acquitted) - Screening Committee constituted as per Standing Order - Opinion formed by Screening Committee and endorsed by the Deputy Commissioner of Police (Recruitment), Delhi, that both the respondents, who were subsequently acquitted /discharged in a criminal case, were not suitable for being appointed in the Delhi Police Force - Screening Committee was entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they were acquitted or discharged if it felt that the acquittal or discharge was

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grounds or not honourable - While deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future - This decision can only be taken by the Screening Committee created for that purpose by the Delhi Police - If the Screening Committee's decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned - Delhi Police (Appointment and Recruitment) Rules, 1980 - r.6.

(Also See under: Constitution of India, 1950)
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(2) Promotion/Seniority - Merger/integration of the posts under different Schemes into 'Multipurpose Health Workers' - The posts of Health Workers were subsequently categorized into 'Health Inspector Grade I' and 'Health Inspector Grade II' - Health Inspector Grade II promoted as Health Inspector Grade I by upgradation of the posts as a one time measure - By G.O. No. 320 on integration of 'Leprosy Eradication Scheme' with 'Multipurpose Health Workers Scheme', the 'Leprosy Inspectors' were re-designated as 'Health Inspector Grade IB' and the existing 'Health Inspectors Grade I' were re-designated as 'Health Inspectors Grade IA' - By

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G.O. No. 382 the post of Health Inspectors Grade IA and IB were re-designated as 'Health Inspector Grade I' and the Health Inspectors of Grade IB were en-block placed below the Health Inspectors Grade IA in the seniority list - Denial of seniority to the re-designated Health Inspectors Grade IB - Held: Was violative of Articles 14 and 16 of the Constitution - The birth mark of Leprosy Inspector got obliterated with its initial integration - Hence there could not have been further distinction in the cadre of Health Inspector Grade I - The erstwhile Leprosy Inspectors/Health Inspectors Grade IB/Health Inspector Grade I are entitled to their seniority from the date of initial integration.

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(3)(i) Seniority - Weightage of service for purposes of seniority - Andhra Pradesh Engineering Service - Grant of retrospective seniority benefits to Supervisors on their appointment as Junior Engineers - Challenged - Held: Retrospective operation can be given to statutory rules - But, retroactivity must still meet the test of Arts.14 and 16 of the Constitution and must not adversely trench upon the entitlement of seniority of others - Retrospective seniority cannot be given to an employee from a date when he was not even born in the cadre - So also, seniority cannot be given with retrospective effect so as to adversely affect others - On facts, grant of retrospective seniority to Supervisors adversely impacted on the promotion chances of existing Junior Engineers by bringing them down in seniority - This was impermissible - Constitution of India, 1950 - Arts.

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(ii) Seniority - Weightage of service for purposes of promotion and weightage of service for purposes of seniority in a grade - Distinction between.

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TAMIL NADU PREVENTION OF DANGEROUS ACTIVITIES OF BOOTLEGGERS, DRUG-OFFENDERS, FOREST OFFENDERS, GOONDAS, IMMORAL TRAFFIC OFFENDERS AND SLUM-GRABBERS ACT, 1982:

s.3(2) - Detention of appellant under the 1982 Act - Advisory Board constituted held that there was no sufficient cause for detention of appellant - State Government subsequently revoked the order of detention - Appellant, if entitled to damages for being in detention for more than two months - Held: Respondents failed to bring on record evidence to show that appellant was engaged, or was making preparations for engaging, in any of his activities as a 'Goonda' which may affect or are likely to affect adversely the maintenance of public order - Nothing to suggest that appellant, either by himself or as a member of or leader of a gang habitually committed, or attempted to commit or abetted the commission of offence punishable under Chapter XVI or Chapter XVII or Chapter XXII of IPC - Appellant had to remain in custody for more than two months on the basis of opinion given by the respondents based on facts which were not in existence - Respondent-State and its officers grossly abused legal power to punish appellant to destroy his reputation in a manner non-oriented by

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law by detaining him under the 1982 Act in lodging a criminal case u/s.3 of the 1992 Act and u/s.505(1)(b) IPC based on wrong statements which were fully unwarranted - Consequently, cost of Rs.2 lacs imposed on the State of Tamil Nadu for payment in favour of appellant - Police (Incitement to Disaffection) Act, 1922 - s. 3 - Penal Code, 1860 - s. 505 - Preventive Detention.

N. Sengodan v. Secretary to Government, Home (Prohibition & Excise) Department, Chennai and Others

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UNIVERSITY GRANTS COMMISSION ACT, 1956:

(See under: Maharshi Mahesh Yogi

Vedic Vishwavidyalaya Adhiniyam, 1995)

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WORDS AND PHRASES:

(i) Dissemination of knowledge' - Meaning of.

(ii) Expression 'Gyan-Vigyan' - In the context of Maharshi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995 - Connotation of.

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