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<b>Case Law</b>		
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>		

1. **Indian Medicines Pharmaceuticals Corpn. Ltd. v. Kerala Ayurvedic Coop. Society Ltd.**, 2023 SCC OnLine SC 5 [The court observed that if the purpose of allocation by the State is *not revenue maximization*, the State could award contracts through other methods, provided it is *non-arbitrary and meets the requirements of Article 14*. The court said: "Government contracts involve expenditure out of the public exchequer. Since they involve payment out of the public exchequer, the moneys expended must not be spent arbitrarily. The State does not have absolute discretion while spending public money. All government actions including government contracts awarded by the State must be tested on the touchstone of Article 14,"

The judgment summed up the discussion of the bench as follows:

"Government action must be just, fair and reasonable and in accordance with the principles of Article 14; and

While government can deviate from the route of tenders or public auctions for the grant of contracts, the deviation must not be discriminatory or arbitrary. The deviation from the tender route has to be justified and such a justification must comply with the requirements of **Article 14.**"

2. **State of Rajasthan v. Komal Lodha**, 2023 SCC OnLine SC 41 [The court observed that it is not open for the High Court to make any comment on the merits of the case when the conviction was confirmed by the Supreme Court. "When this Court earlier confirmed the conviction of the accused for the offence under Section 302 IPC and that too after hearing the learned Senior Advocate on behalf of the accused, thereafter, it was not open for the High Court to make comments upon the investigation and/or on the merits of the case," the Court observed. The Court also noted that the High Court should have limited itself to the aspect of sentencing for which the matter was remanded to it and not anything else. On this aspect, the Court observed: "Judicial Discipline requires that once the conviction was confirmed by this court that too after hearing the accused, the High Court should not have therefore made any comment on the merits of the case, more particularly, when the conviction was specifically confirmed by the Court and the matter was remitted to the High Court only for the purpose of considering the sentence, namely, whether death penalty and/or life sentence or any other appropriate sentence."
3. **People's Union for Civil Liberties v. Union of India**, (2003) 4 SCC 399 [Constitution of India, 1950 - Article 32, 19(1) (a) - Writ - Representation of People Act, 1951 - Sections 33A, 33B as amended by amending Act 2002 - Constitutional Validity of - Right to information of voter to know antecedents of candidate - Supreme Court directing in "Union of India Vs. Association for democratic reforms" that candidates to furnish information regarding involvement in criminal cases, educational qualifications and assets and liabilities - Amendment made inserting sections 33A and section 33B invalidating judicial decision in so far as sections requiring information with regard to past convictions of candidates and not offences cognizance of which have been taken by courts - Section 33B of Amendment Act requiring candidate to furnish information only under Act or Rule and not information required under any judicial decision - Validity - Held that, Although legislature can remove basis of a decision rendered by a competent court rendering that decision ineffective but legislature has no power to ask instrumentalities of state to disobey or disregard decisions given by courts - Section 33B providing that candidate to furnish information only under Act or Rule and not under any judicial dictum, being beyond legislative competence is illegal and constitutionally invalid, since voter has a fundamental right under Article 19(1) (A) to know antecedents of a candidate.]
4. **S.R. Chaudhuri v. State of Punjab**, (2001) 7 SCC 126 [Appointment - Article 164(4) of Constitution of India - Appellant filed Petition against Respondent No. 2 which stated that appointment of Respondent No. 2 for second time during term of same legislature, without being elected as a Member of Legislature was violative of constitutional provision - However, Division Bench of High Court dismissed Petition - Hence, this Appeal - Whether, person who was not member of either House of State Legislature could be appointed as a Minister of State - Held, Article 164(4) was of an exception to normal rule of only member of Legislature being Minister, restricted to short period of six consecutive months - This exception was essentially required to be used to meet very extraordinary situation and must be strictly construed and sparingly used - However, clear mandate of Article 164(4) that if an individual concerned was not able

*to get elected to legislature within grace period of six consecutive months, he should cease to be Minister, could not be allowed to be frustrated by giving a gap of few days and reappointed individual as a Minister, without his secured confidence of electorate in meanwhile - Democratic process which lies at core of Constitutional scheme could not be permitted to be flouted in this manner - Therefore, reappointment of Respondent, as a Minister during term of same Legislative Assembly, without getting elected in meanwhile was improper, undemocratic, invalid and unconstitutional. - Division Bench of High Court fell in error in dismissed Petition filed by Appellant in limine - Appeal allowed.]*

5. **State of Punjab v. Mohinder Singh Chawla**, (1997) 2 SCC 83 [Civil - Reimbursement - Civil Procedure Code, 1908 - Respondent filed Petition that he was entitled to reimbursement of room rent paid - Thus, Division Bench allowed Petition for payment of said amount - Hence, this Appeal - Whether, order of High Court for reimbursement was justified - Held, Respondent treatment was not available in Punjab Government hospitals was shown as Open Heart Surgery and name of private hospital was shown as Escorts Heart Institute, New Delhi was one of approved hospital/institution by Government of Punjab - When patient was admitted and had taken treatment in hospital and had incurred expenditure towards room charges, inevitably consequential rent paid for room during his stay was integral part of his expenditure incurred for treatment - Government was required to reimburse expenditure incurred for period during which patient stayed in approved hospital for treatment - Under these circumstances, contention of State Government was obviously untenable and incongruous - Therefore, Court held that High Court was right in giving direction for reimbursement incurred by Respondent towards room rent for his stay - Appeal disposed of.]

*"If Government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference where at Government servant had undergone such treatment it is but duty of State to bear expenditure incurred by Government servant."*

6. **S. R. Bommai v. Union of India**, AIR 1994 SC 1918 [Constitution - judicial review - Section 51 of Government of India Act, 1935 and Article 365 of Constitution of India - judicial review capable of exercise in testing invalidating proclamation - several States having controversy on ground that proclamation issued are justiciable - provision of Article 365 of Constitution of India is indication that cases falling within its ambit capable of judicial scrutiny by application of objective standards - Court observed that constitutional machinery failed to specified existence - Court capable to determine objective - Court observed that it is reasonable to held that cases falling under Article 365 justiciable and must be determined by Court.]
7. **Mohini Jain v. State of Karnataka**, (1992) 3 SCC 666 [Capitation-fee - Article 14 of Constitution of India and Section 3 of Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 - petitioner challenged notification of Government permitting private medical colleges in State to charge exorbitant tuition fees from students other than those admitted to 'Government seats' - charging capitation fee in consideration of admission to educational institutions is patent denial of citizen's right to education - State action permitting capitation-fee to be charged by State - recognised educational institutions is wholly arbitrary and violative of Article 14 - impugned notification provided for capitation-fee and not tuition fee and contrary to Section 3 - notification set aside - petition allowed.]
8. **Subhash Kumar v. State of Bihar**, (1991) 1 SCC 598 [Environment - River - Water pollution - Articles 32, 21 of Constitution - Present petition is under Article 32 of Constitution for issue of direction to stop forthwith discharge of slurry/sludge from industrial plant of respondent into Bokaro River - Whether petitioner has made out a case for grant of direction as prayed - Held, Article 32 is designed for enforcement of fundamental rights of a citizen by Supreme Court - It provides for an extraordinary procedure to safeguard fundamental rights of a citizen - Right to live is a fundamental right under Article 21 of Constitution and it includes right of enjoyment of pollution free water - If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Article 32 of Constitution for removing the pollution of water - Person invoking jurisdiction under Article 32 must approach for vindication of fundamental rights of affected persons - Present petition has been filed not in any public interest - Materials on record shows that petitioner filed present petition for personal

*interest - Petition dismissed.]*

- 9. *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520 [Property - Construction - Section 20 of Urban Land (Ceiling & Regulation) Act, 1976 - Present appeal deals with the permission to builders to escalate rates in respect of construction permitted on exempted land under provisions of Act - Held, as a working guideline Court direct that a 'means test' for identifying 'weaker sections of society shall be adopted and for present income of family of applicant must not exceed Rs. 18,000/- to come within meaning of term to qualify for allotment - Applicant shall be called upon to satisfy the Committee about limit of income and present prescription of Rs. 18,000/- may be varied from time to time by State Government taking into consideration the fall of value of rupee, general improvement in the income of people now within annual income limit or Rs. 18,000/- and other relevant factors - It shall be open to the State Government to prescribe appropriate guideline in the matter of identifying the 'weaker sections of the society' - Committee shall have powers to scrutinise all relevant documents and give appropriate directions to builders and applicants keeping requirements of schemes and Code in view - Bombay High Court shall take steps to ensure that in respect of schemes in every agglomeration undertaken and which State Government may in future undertake, the services of an efficient judicial officer not below rank of an Additional District Judge on such terms as State Government and High Court consider appropriate shall be made available for discharging duties indicated and/or as may be provided - State Government shall suitably modify its Code in the light of this judgment and recirculate same to all concerned within four weeks from today - Liberty is given to members of weaker sections residing in other States, builders and respective State Governments to ask for extension of Code with such modifications as may be necessary for other parts of country.]**
- 10. *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545 [Articles 14, 19, 21, 32, 37, 39 and 41 of Constitution of India and Sections 312, 313 and 314 of Bombay Municipal Corporation Act, 1888 - petition seeking direction against Government Order regarding demolition of dwelling units of petitioners - petitioners contended that provisions of Act of 1888 specially Section 314 ultra vires Constitution of India - Section 314 empowered Municipal Commissioner to cause to be removed encroachments on footpaths or pavements over which public have right of passage of access without notice to affected persons - Court observed that Section 314 cannot be read to mean that Commissioner must cause removal of encroachment without issuing previous notice - Section 314 or other provisions of Act of 1888 held not to be unreasonable or violative of Article 21 as no person has right to encroach on footpaths pavements or other place reserved for public purpose by erecting structure on it - State Government assured Court that alternative would be provided to slum dwellers who were caused to be evicted - Ordered accordingly.]**
- 11. *Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar*, 1979 AIR 1369 [Gave broader meaning to Article 21 and stated that everyone has the right to a prompt trial. It is the most well-known case involving the human rights of Indian inmates.]**
- 12. *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 [Constitution - amendment - Articles 13, 14, 19, 31-A, 31-B, 31-C, 32, 38, 132, 133, 134, 141, 226, 352 and 368 of Constitution of India - vires of Articles 368 (4) and 368 (5) introduced by Section 55 of Constitution of India (43rd Amendment) Act under challenge - Article 368 (5) conferred upon Parliament unlimited power to amend Constitution - Article 368 (4) deprived Courts of its power of judicial review over constitutional amendments - Article 368 (5) struck down as Parliament had only limited amending power - such limited power cannot be enlarged into absolute power - by expanding its amending powers Parliament cannot destroy its basic structure - donee of limited power cannot convert such power into unlimited one - Article 368 (4) prohibiting judicial review violates basic structure - held, Articles 368 (4) and 368 (5) unconstitutional.**

*Directive principles of State policy - whether directive principles can have supremacy over fundamental rights - merely because directive principles are non-justiciable it does not mean that they are subservient to fundamental rights - destroying fundamental rights in order to achieve goals of directive principles amounts to violation of basic structure - giving absolute primacy to one over another disturbs harmony - goals of directive principles should be achieved without abrogating fundamental rights - directive*

*principles enjoy high place in constitutional scheme - both fundamental rights and directive principles to be read in harmony - held, amendments in Article 31C introduced by Section 4 of 42nd Amendment Act unconstitutional.]*

- 13. Ramana Dayaram Shetty v. International Airport Authority of India**, (1979) 3 SCC 489 [*Commercial - Tender procedure - 4th Respondent was awarded contract by 1st Respondent state to run a IIInd class Restaurant and two Snack bars - However, 1st Respondent set aside requirement of 5 years' experience and proceeded with 4th Respondent - Appeal of Appellant was rejected by High Court - Hence, this Appeal - Whether, State was entitled to deal with its property in any manner it liked or award a contract to any person it chose, without any constitutional limitations upon it - Held, when 1st Respondent entertained tender of 4th Respondents despite their inexperience, then, others were denied equality of opportunity - Thus, acceptance of tender of 4th Respondents was, in circumstances invalid as being violative of equality clause of Constitution as also of rule of administrative law inhibiting arbitrary action - In view of peculiar facts and circumstances of case, it would not have been appropriate to upset High Court's decision and void contract - Moreover, Petition had been filed by Appellant after more than five months after tender of 4th Respondents had been accepted - During this period, 4th Respondent had incurred considerable expenditure in making arrangements for putting up restaurant and snack bars - Hence, It would have been most inequitable to set aside contracts of 4th Respondents at instance of Appellant - Appeal dismissed.*

*"Cause of action should be borne immediately after alleged grievance has taken place."*]

- 14. Mohinder Singh Gill v. Chief Election Commr.**, (1978) 1 SCC 405 [*Election - power and duty - Article 324 (1) of Constitution of India and Sections 14, 66 and 153 of Representation of The People Act, 1950 - Order of Election Commission in respect of counting of ballot papers and ordering re-poll under challenge in this appeal - question whether Election Commission ordering fresh poll was during course of process of election - election covers entire process from issue of notification under Section 14 to declaration of result under Section 66 - when any poll already taken place has been cancelled and fresh poll has been ordered then this order of fresh poll is integral part of electoral process - impugned order itself shows that it has been passed in exercise of powers under Article 324 (1) and Section 153 - impugned Order relating to election in accordance with law and cannot therefore be quashed.]*

- 15. Maneka Gandhi v. Union of India**, (1978) 1 SCC 248 [(i) *Constitution - validity of provision - Articles 14, 19 and 21 of Constitution of India and Section 10 (3) (c) of Passports Act, 1967 - validity of Section 10 (3) (c) challenged - procedure in Article 21 means procedure which conforms to principles of natural justice - power conferred under Section 10 (3) (c) not unguided and it is implied in it that rules of natural justice would be applicable - held, Section 10 (3) (c) not violative of Article 21.*

*(ii) Right of dignity - right to live is not merely confined to physical existence - it includes within its ambit right to live with human dignity.*

*(iii) Inter-relationship - principle of reasonableness provided under Article 14 must apply to procedure as contemplated under Article 21 - Article 21 controlled by Article 19 also - in case a law does not infringe Article 21 even then it has to meet challenges of Articles 14 and 19.*

*(iv) Post-decisional hearing - petitioner's passport impounded and not given pre-decisional notice and hearing - Government contended that rule audi alteram partem must be excluded because it may have frustrated very purpose of impounding passport - concept of post-decisional hearing developed to maintain balance between administrative efficiency and fairness to individual - Court stressed that fair opportunity of being heard following immediately Order impounding passport would satisfy mandate of natural justice.]*

- 16. Gobind v. State of Madhya Pradesh**, (1975) 2 SCC 148 [*Right to privacy - Article 21 of Constitution of India and Regulations 855 and 856 of Madhya Pradesh Police Regulations - petition challenged Regulations 855 and 856 authorizing police to make domiciliary surveillance visits as being violative of Article 21 - appellant contended such domiciliary visits encroachment upon right to privacy implied in Article 21 - right to privacy part of fundamental right to life - Constitution does not embody principle of*

*uncontrolled freedom - right under Article 21 can be taken away by procedure established by law - alleged regulations have force of law - object of regulations to keep surveillance on habitual criminals and to ensure public safety - petition dismissed.]*

- 17. E.P. Royappa v. State of T.N.**, (1974) 4 SCC 3 [*Service - enquiry - petition for directing respondents to withdraw and cancel Order and ask for direction to re-post petitioner to post of Chief Secretary - file pertaining to matter throughout in possession of Government - absence of file could not have stood in way of ordering an enquiry - suspicion cannot take place of proof - evidence generating judicial certitude in up-holding plea of mala fides not on record - petition dismissed.*]
- 18. Kesavananda Bharati v. State of Kerala**, (1973) 4 SCC 225 [*Basic structure of Constitution - Sections 2, 3, 6, 7, 8 (1), 18, 29 and 291 of Criminal Procedure Code, Constitution of India, Section 29 (1) of Indian Evidence Act and Indian Contract Act - batch of six writ petitions challenging validity of Twenty-fourth, Twenty-fifth and Twenty-ninth Amendments of Constitution - majority upheld validity of twenty-fourth Amendment which inserted Clauses (3) and (4) in Article 13 - all Judges opined that by virtue of Article 368 as amended by twenty-fourth Amendment Parliament had power to amend any or all provisions of Constitution including those relating to fundamental rights although the same was not unlimited - majority were of view that power of amendment under Article 368 was subject to certain implied and inherent limitations - in exercise of amending power Parliament cannot amend basic structure or framework of Constitution - right to property did not form part of basic structure - individual freedom secured to citizens was basic feature of Constitution - grant of power is always qualified by implications of context and considerations arising out of general scheme of statute - inherent limitations under unamended Article 368 would still hold true even after amendment of Article 368 - Sections 2 (a) and 2 (b) and first part of Section 3 of twenty-fifth Amendment held valid - majority invalidated second part of Article 31-C introduced by twenty-fifth Amendment which excluded jurisdiction of Courts to inquire whether law protected under that Article gave effect to policy of securing directive principles mentioned therein - validity of twenty-ninth Amendment which inserted Kerala Land Reforms (Amendment) Act, 1969 and Kerala Land Reforms (Amendment) Act, 1971 was upheld.]*]
- 19. Rustom Cavasjee Cooper v. Union of India**, (1970) 1 SCC 248 [(i) *Banking - banking business - Sections 4, 5, 6, 15(2) and 22 of Banking Companies (Acquisition and Transfer of Undertaking) Act, 1969, Banking Companies (Acquisition and Transfer of Undertaking) Ordinance, 1969, Sections 5, 6 (1) and 27 of Banking Regulation Act, 1949 and Articles 14, 19, 19 (1), 31 and 31 (2) of Constitution of India - petitioner held shares and had accounts in certain banks - petitioner was also Director in one of these banks - Banking Companies (Acquisition and Transfer of Undertaking) Ordinance, 1969 was promulgated on 19.06.1969 - Ordinance provided for acquisition and transfer of undertakings of certain banking companies - named banks after being acquired by new banks had no managerial, administrative or other staff and was incompetent to use word "Bank" in its name - named banks were liable to be dissolved by a notification of a Central Government - Banking Companies (Acquisition and Transfer of Undertaking) Act, 1969 was introduced subsequently which replaced Ordinance with certain modifications - under the Act named banks remained in existence and were not liable to be dissolved by Government Order - principles for determination of compensation of named banks and manner of payment was also modified - petitioner claims that Act and Ordinance impair his fundamental rights guaranteed under Articles 14, 19 and 31 and are invalid - petitioner challenged Ordinance on grounds that it was promulgated in exercise of powers under Article 123 and was invalid since conditions precedent to exercise power did not exist - petitioner contended that in enacting Act Parliament encroached upon State List in Seventh Schedule of Constitution so it was outside legislative competence of Parliament - petitioner also challenged Act on grounds that it violated freedom of trade guaranteed under Article 301 of Constitution of India - Counsel for respondents contended that petitions are not maintainable as no fundamental right of petitioner was directly impaired by enactment of Ordinance and Act - counsel also contended that petitioner was not owner of property of named bank to be acquired by new bank so he was incompetent to maintain petitions complaining that his fundamental rights were impaired - Apex Court held that there was nothing on record to suggest that petitions were not maintainable - restrictions imposed upon rights of named banks to carry on non-banking business is*]

*unreasonable - interests of named banks and shareholders vitally effected by reason of transfer of undertaking - in pre-decided cases it was held that shareholders of a company competent to challenge invalid provisions infringing fundamental rights or causing direct injury - jurisdiction of Court to grant relief cannot be denied when by state action right of individual shareholder are impaired - held, Banking Companies (Acquisition and Transfer of Undertaking) Ordinance, 1969 and Banking Companies (Acquisition and Transfer of Undertaking) Act invalid and action taken or deemed to be taken in exercise of powers under the Act declared unauthorized.*

*(ii) Infringement of fundamental rights - Articles 14, 19, 19 (1), 31 and 31 (2) of Constitution of India - validity of law authorizing compulsory acquisition of property challenged - object and form of state action and effect of laws on fundamental rights of individuals has to be adjudged in determining whether there was infringement of fundamental rights.*

*(iii) Compensation - Article 301 of Constitution of India - under scheme of determination of compensation total amount payable to banks was only a fraction of the value of their net assets and compensation was not immediately available to banks - compensation awarded to named banks under the Act was neither just nor proportionate - held, Act was liable to be struck down as there was infringement of guarantee of freedom of trade, commerce and intercourse under Article 301.*

**20. Union of India v. Metal Corpn. of India Ltd.,** AIR 1967 SC 637 [*The case discussed on the constitutional validity of the Metal Corporation of India (Acquisition of Undertaking) Act, 1965 - It was held that the Act had the provision for compulsory acquisition of property without laying down any principle for justified payment of compensation and the same had contravened the provisions of Article 31(2) of the Constitution of India - Thus the Act was void*]

**21. Golak Nath v. State of Punjab,** AIR 1967 SC 1643 [(i) *Constitutional amendment - Articles 13 (2), 14, 19, 31 (1), 31 (2), 2A, 31A (1), 32, 245, 246, 248 and 368 of Constitution of India, Constitution (Seventeenth Amendment) Act, 1964, Mysore Land Reforms Act, 1961 and Punjab Security of Land Tenures Act, 1953 - validity of Amendment Act challenged in writ petition before Supreme Court - by virtue of Amendment Act both Act of 1961 and Act of 1953 dealing with estates are placed beyond attack on grounds of inconsistency with or abridgement of rights conferred by Part 3 of Constitution - petitioners challenging validity of both Acts - rule of law an integral part of Constitution rule of law serves needs of people without unduly infringing their rights and every institution or political party functioning under Constitution to follow it fundamental rights are primordial rights necessary for development of human personality fundamental rights given a transcendental position under Constitution and kept beyond reach of Parliament immutability of fundamental rights is subject to social control Constitution itself provides for suspension or modification under special circumstance Constitution declares all laws infringing fundamental rights to be void amendments made under Articles 368 and 245 amounts to law within meaning provided in Article 13 (2) legislature incompetent to pass law in contravention of Article 13 (2) - Amendment Act void to the extent to which it takes away fundamental rights Amendment Act valid by virtue of earlier decision of Supreme Court earlier decision required to be retrospectively overruled retrospective effect would lead to chaos and unsettle country's conditions doctrine of 'prospective over-ruling' to be applied Apex Court held, present decision to only have prospective effect making Amendment Act to be valid and Acts of 1961 and 1953 not questionable Parliament to have no power from date of present decision to amend any provisions of Part 3 of Constitution so as to take away or abridge fundamental rights.*

*(ii) Prospective over-ruling - doctrine of prospective over-ruling to be invoked only in matters arising under Constitution only Apex Court having constitutional jurisdiction to declare law binding on all Courts doctrine to be apply to decision only by Apex Court scope of retroactive operation of law declared by Supreme Court superseding its earlier decisions left to its discretion to be molded in accordance with justice of cause or matter before it.]*

**22. Ishwari Khetan Sugar Mills (P) Ltd. and Ors. vs. State of Uttar Pradesh and Ors.** ( 1980 ) 4 SCC 136 [*Constitution - competence of State Legislature - Uttar Pradesh Sugar Undertakings (Acquisition) Act, 1971 - Governor promulgated Ordinance due to serious problem created by sugar mills which had*

*adverse impact on economy - subsequently by Act of 1971 Ordinance was replaced - on basis of majority judgment it was held that legislative competence of State legislature to enact Act of 1971 can be disposed of on ground that legislation falls within Entry 42 of List 3 and cannot be related to Entry 52 of List 1 or Entry 24 of List 2 - when enactment falls within Entry 42 there was reluctance to enter upon examination of claims of Entry 52 and Entry 24.]*

23. **Kavalappara Kottarathil Kochunni v. State of Madras**, AIR 1960 SC 1080 [*The case challenged the constitutional validity of the Madras Marumakkathayam (Removal of Doubts) Act, 1955, passed by the Madras Legislature soon after the Privy Council had declared the properties in possession of the Sthanee to be Sthanam properties in which the members of the tarwad had no interest- It was held that according to the principles of Marumakkathayam Law there could be no scope for doubt and as such not only not germane but extraneous to the object it sought to achieve, they were a device to deprive the Sthanam of its properties and vest them in the tarwad and as such directly hit by Article 19(1) (f) and could not be saved by Article 19(5) of the Constitution of India- Assuming that the Sthanam properties were held in janmam right and as such were estates within the meaning of Article 31 A, the impugned Act was immune from challenge.]*
24. **Sri Venkataramana Devaru v State of Mysore**, AIR 1958 SC 255 [*freedom of conscience - Sections 2 (2) and 3 of Madras Temple Entry Authorisation Act, 1947, Articles 25 (2) and 26 of Constitution of India and Section 92 of Code of Civil Procedure, 1908 - whether right of religious denomination to manage its own affairs in matters of religion guaranteed under Article 26 (b) is subject to and can be controlled by a law protected by Article 25 (2) (b) throwing open Hindu public temple to all classes and sections of Hindus - suit was to challenge Order of Government holding that all classes of Hindus are entitled to worship in suit temple - while action was pending Constitution came into force and as against right claimed by plaintiffs under Article 26 (b) Government put forward rights of Hindu public under Article 25 (2) (b) - decision has been given declaring rights of appellants and of public - appellants applied for leave to appeal to Apex Court - application was resisted by Government on ground that decree of High Court was proper decree recognising rights of all sections of public - application for special leave to appeal dismissed.]*
25. **State of W.B. v. Bela Banerjee**, AIR 1954 SC 170 [*Constitutional validity - Article 31 (2) of Constitution of India and Section 8 of West Bengal Land Development and Planning Act, 1948 - appeal before Supreme Court challenging Order of High Court which declared certain provisions of Act unconstitutional - Act passed in order to settle immigrants of East Bengal - dealing prominently with acquiring and developing land for public - owners of land involved in development filed suit before High Court as Act contravened Constitution - main issue concerning determination of compensation - value of land had increased due to industrialization - Act was unconstitutional to the extent such factor not given consideration - appeal dismissed.]*
26. **State of W.B. v. Anwar Ali Sarkar**, AIR 1952 SC 75 [*West Bengal Special Courts Act 1950, ss., 3, 5- Constitution of India, 1950 Art. 14-Act constituting special courts and empowering State Government to refer to such courts "cases" or "offences" or "classes of cases" or "classes of offences -Constitutional validity-Fundamental right to equality before the law and laws' protection-Construction of Act-Reference to preamble-Act does not classify cases or laying down standard for classification-How far material is Intention of legislature-Notification's validity under Act-Equality test before law-Essentials of reasonable classification-Whether necessity for speedier trial reasonable ground for discrimination.]*
27. **S. Krishnan v. State of Madras**, AIR 1951 SC 301 [*It was adjudged that the law enacted by the amendment statute was not the same law as was declared by the original statute and to that extent the amended statute was in the nature of a new and independent statute- The effect of Section 12 of the Preventive Detention (Amendment) Act, 1951 was to make the detention of the petitioners a fresh detention under the new law- There was nothing in the new law standing by itself which authorized detention of a person for more than three months without reference to an advisory board or for more than one year and there was thus no contravention of any of the provisions of Article 22(4) of the Constitution of India.]*



- 28. *Janardhan Reddy v. State of Hyderabad*, AIR 1951 SC 217 [(i) Criminal - Tribunal's jurisdiction - Sections 234, 340, 417 and 430 of Criminal Procedure Code, 1898 - trial and conviction of petitioner by Special Tribunal constituted by Military Governor by Enacting Special Tribunal Regulations - whether Tribunal had jurisdiction to try cases - cases transferred to Special Tribunal by Civil Administrator - reference made to charge-sheet numbers sufficient to particularize cases which were being transferred - charge sheets containing names of accused and other particulars to identify cases transferred - absence of specific Order for each case not a ground to challenge Tribunal's jurisdiction - mere non-compliance with Rules of procedure does not vitiate jurisdiction of Trial Court - held, sentence passed by Special Tribunal within jurisdiction.**
- (ii) Writ jurisdiction - Article 32 (2) of Constitution of India - wide powers granted to Supreme Court under Article 32 - power to be exercised in accordance with well-established principles - Order passed by High Court upholding conviction of Tribunal at date when Supreme Court not in existence - High Court not an inferior Court as on such date - writ of certiorari and prohibition cannot be passed by Supreme Court against High Court's Order passed before such date.
- (iii) Mode of execution - amendments made regarding mode of execution of life sentence not affecting any substantive rights of parties - amendments not substantive law - amendments to be given retrospective effect.
- (iv) Right to defend - provisions of Section 340 of Criminal Procedure Code to be construed liberally in favour of accused - provisions to be read along with Rules made by High Court - where in capital cases accused has no means to defend himself counsel has to be provided to accused to defend himself.]
- 29. *Ashwani Kumar v. Union on India* [2020] 13SCC 585 [Custodial torture - Denial of guidelines - Article 21 of Constitution of India - Present application had been filed for effective and purposive legislative framework/law based upon Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by United Nations General Assembly - Applicant predicating his case on right to life and liberty and judgments of this Court had argued that custodial torture being crime against humanity which directly infract and violate Article 21 of Constitution - Whether guidelines should be framed with regard to issue of custodial torture.]**

<b>SESSION 2</b>		
<b>DEVELOPMENT OF CONSTITUTIONAL MORALITY: ADHERING TO THE CONSTITUTIONAL NORMS &amp; ETHOS</b>		
1.	Jeremy Waldron, <i>Judges As Moral Reasoners</i> , Oxford University Press and New York University School of Law, 7 (1) I.Con, 1–24 (2009).	170
2.	William D. Guthrie, <i>Constitutional Morality</i> , 196 (681) The North American Review, 154-173 (Aug., 1912)	194
3.	K. K. Venugopal, <i>Constitutional Morality</i> in THE CONSTITUTION OF INDIA CELEBRATING AND CALIBRATING 70 YEARS, edited by Dr. Lalit Bhasin, Law & Justice Publishing Co. (2020)	216
4.	S.S. Naganand, <i>Tests of Constitutional Morality &amp; Manifest Arbitrariness – Judicial Innovation</i> in THE CONSTITUTION OF INDIA CELEBRATING AND CALIBRATING 70 YEARS , edited by Dr. Lalit Bhasin, Law & Justice Publishing Co. (2020)	226
5.	Arvind Narrain, <i>A New Language of Morality: From the Trial of Nowshirwan to the Judgment in Naz Foundation</i> , Transformative Constitutionalism: Comparing the apex courts of Brazil, Indian and South Africa, Published by, Pretoria University Law Press (PULP), (2013)	236

6.	Gopal Subramaniam, <i>Constitutional Morality: Is it a Dilemma for State, Courts and Citizens?</i> , 1st D.V. Subba Rao Memorial Lecture delivered on April 24, 2016, Centre for Policy Studies	258
7.	Dr. Abhinav Chandrachud, <i>The Many Meanings of Constitutional Morality</i> , (January 18, 2020). Available at <a href="http://dx.doi.org/10.2139/ssrn.3521665">http://dx.doi.org/10.2139/ssrn.3521665</a>	337

**Additional Readings:**

- Tony Honoré, *The Necessary Connection between Law and Morality*, *Oxford Journal of Legal Studies*, Autumn, 2002, Vol. 22, No. 3 (Autumn, 2002), pp. 489-495
- L. C. Green, *Law and Morality in a Changing Society*, *The University of Toronto Law Journal*, Autumn, 1970, Vol. 20, No. 4 (Autumn, 1970), pp. 422-447
- Dana Patton, *The Supreme Court and Morality Policy Adoption in the American States: The Impact of Constitutional Context*, *Political Research Quarterly*, Sep., 2007, Vol. 60, No. 3 (Sep., 2007), pp. 468-488

**Case Law**

*(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)*

1. ***Kaushal Kishor v. State of U.P.***, 2023 SCC OnLine SC 6 [ruled that ministers, Members of Parliament (MPs) and Members of Legislative Assembly (MLAs) enjoy freedom of speech in equal measure as other citizens under Article 19(1)(a) of the Constitution and greater/ additional restrictions cannot be imposed on the fundamental right of free speech of such public functionaries. The Court also held that statement made by a minister related to the government or its affairs cannot be vicariously attributed to the government. Importantly, the Court held that the right to freedom of speech lies not only against the State but also against non-State actors.]
2. ***Kantaru Rajeevaru v. Indian Young Lawyers Association***, (2020) 3 SCC 52 [Constitutional Morality in a secular polity would imply the harmonisation of the Fundamental Rights, which include the right of every individual, religious denomination, or sect, to practise their faith and belief in accordance with the tenets of their religion, irrespective of whether the practise is rational or logical.] [As has been explained in some of our judgments, “constitutional morality” is nothing but the values inculcated by the Constitution, which are contained in the Preamble read with various other parts, in particular, Parts III and IV thereof.]
3. ***Shrimat Balasaheb Patil v Speaker, Karnataka Legislative Assembly***, (2020) 2 SCC 595 [constitutional morality should never be replaced by political morality, in deciding what the Constitution mandates.]
4. ***Indian Young Lawyers Association & Ors v. The State of Kerala***, (2019) 11 SCC 1 [The term „morality” occurring in Article 25(1) of the Constitution cannot be viewed with a narrow lens so as to confine the sphere of definition of morality to what an individual, a section or religious sect may perceive the term to mean. We must remember that when there is a violation of the fundamental rights, the term „morality” naturally implies constitutional morality and any view that is ultimately taken by the Constitutional Courts must be in conformity with the principles and basic tenets of the concept of this constitutional morality that gets support from the Constitution.] [Hon’ble Justice Chandrachud observed: “Constitutional morality is not subject to fleeting fancies of every time and age but is deeply rooted in fundamental postulates of human liberty, equality, fraternity and dignity. Freedom of religion and, likewise, the freedom to manage the affairs of a religious denomination is subject to and must yield to these fundamental notions of constitutional morality.]
5. ***K. S. Puttaswamy (Aadhaar) v. Union of India***, (2019) 1 SCC 1 [Para 1525 - The importance of the existence of courts in the eyes of citizens has been highlighted in Harper Lee’s classic *To Kill a*

*Mockingbird: “But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal.”]*

6. **Manoj Narula v. Union of India**, 2014 SCC OnLine SC 640 [*Constitutional morality is not a natural sentiment. It has to be cultivated. We must realise that our people have yet to learn it...*] [*Democracy, which has been best defined as the government of the people, by the people and for the people, expects prevalence of genuine orderliness, positive propriety, dedicated discipline and sanguine sanctity by constant affirmance of constitutional morality which is the pillar stone of good governance.*]

*The Court heavily relied upon the background of the Constitution of India and the History of the country with the intent to plug some of the bleeding points in the working of the Constitution so that the high Constitutional functionaries may work it well. Taking into consideration that a question might arise regarding marking a distinction between an accused or convicted minister, the Court was of the opinion that there can be no dispute over the proposition that unless a person is convicted, he is presumed to be innocent but the presumption of innocence in criminal jurisprudence is something altogether different, and not to be considered for being chosen as a Minister to the Council of Ministers because framing of charge in a criminal case is totally another thing and that framing of charge in a trial has its own significance and consequence.]*

7. **State (NCT of Delhi) v. Union of India**, (2018) 8 SCC 501 [*Constitutional morality in its strictest sense of the term implies strict and complete adherence to the constitutional principles as enshrined in various segments of the document. When a country is endowed with a Constitution, there is an accompanying promise which stipulates that every member of the country right from its citizens to the high constitutional functionaries must idolize the constitutional fundamentals. This duty imposed by the Constitution stems from the fact that the Constitution is the indispensable foundational base that functions as the guiding force to protect and ensure that the democratic setup promised to the citizenry remains unperturbed.*]

8. **Navtej Singh Johar v. Union of India**, (2018) 10 SCC 1 [*The concept of constitutional morality is not limited to the mere observance of the core principles of constitutionalism as the magnitude and sweep of constitutional morality is not confined to the provisions and literal text which a Constitution contains, rather it embraces within itself virtues of a wide magnitude such as that of ushering a pluralistic and inclusive society, while at the same time adhering to the other principles of constitutionalism. It is further the result of embodying constitutional morality that the values of constitutionalism trickle down and percolate through the apparatus of the State for the betterment of each and every individual citizen of the State.*]

9. **Joseph Shine v. Union of India**, (2018) 2 SCC 189 [*It is not the “common morality” of the State at any time in history, but rather constitutional morality, which must guide the law. In any democracy, constitutional morality requires the assurance of certain rights that are indispensable for the free, equal, and dignified existence of all members of society. A commitment to constitutional morality requires us to enforce the constitutional guarantees of equality before law, non-discrimination on account of sex, and dignity,*] [*The fundamental rights chapter is like the north star in the universe of constitutionalism in India. Constitutional morality always trumps any imposition of a particular view of social morality by shifting and different majoritarian regimes.*]

10. **Shayara Bano v. Union of India**, (2017) 9 SCC 1 [*held that Triple Talaq is “manifestly arbitrary” in the sense that the marital tie can be broken “capriciously and whimsically” by a Muslim man without any attempt at reconciliation, which is against the fundamental tenets of the Shariat.*]

11. **Independent Thought v. Union of India**, AIR 2017 SC 4904 [*In this case, the principle of constitutional morality was applied to counter the prevailing societal norms, which consider women the property of men with no sexual and bodily autonomy. “Constitutional morality forbids us from giving an*

*interpretation to Exception 2 to Section 375 IPC that sanctifies a tradition or custom that is no longer sustainable.”]*

12. **Naz Foundation v Government of NCT and Ors.**, (2009 SCC OnLine Del 1762 [The Court differentiated public morality and constitutional morality - *Popular morality, as distinct from a constitutional morality derived from constitutional values, is based on shifting and subjecting notions of right and wrong. If there is any type of "morality" that can pass the test of compelling state interest, it must be "constitutional" morality and not public morality.*] [In our scheme of things, constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view.]
13. **Nashirwar Etc v. The State of Madhya Pradesh**, 1975 AIR 360 [Central Provinces Excise Act, 1915 and Section 18A of Abkari Act - whether permissible for State to auction licenses for carrying on business of selling foreign liquor which neither manufactured nor imported by State - Act of 1915 and Abkari Act states that citizen cannot have right to carry on trade in liquor except to extent and subject to such conditions as may be imposed by Legislature under its regulatory powers - State Legislature authorised to make provision for public auction by reason of power contained in Entry 8 List 2 of Constitution which empowers State to legislate with regard to intoxicating liquor - State has exclusive right or privilege of manufacturing and selling liquor - State grant such right or privilege in shape of license or lease - State has power to hold public auction for grant of such right or privilege and except payment of sum in consideration of grant of lease.]
14. **Mr. 'X' v. Hospital 'Z'**, 1998 Supp (1) SCR 723 overruled by Mr. X vs. Hospital Z, (2003) 1 SCC 500
15. **S.P Gupta v. Union of India**, AIR 1982 SC 149 [The Supreme Court of India recognized the public's right to information as being included in rights to freedom of speech and expression. It also further narrowed the scope of protection from disclosure afforded government documents.]
16. **State of Haryana v. Faridabad Industries Association**, CM-936-CWP-2022 in/and CWP-24967-2021 [Stay of legislation can only be when the Court is of the opinion that it is manifestly unjust or glaringly unconstitutional - Sufficient reasons should be given for staying legislations.]
17. **Jayalakshmi and Others v. State of Tamil Nadu**, 2021 SCC Online Mad 16513 [Relevant Paras 16-23] [...where the Constitutional values themselves become the nursery of morality for the cultivation of an invisible binder for holding the Constitution and its institutions together, it transcends beyond the conceptual morality which is normative to the natural law.... Constitutional morality may not be considered as a reference material for appreciating the issues concerning the fundamental rights (where its efficacy may be doubted and debated as a dependable tool of interpretation by the puritans of positivist school) but is extendable to every aspects in energizing the working of the Constitution – from the orderliness of the citizens to the discipline of the judiciary.
18. **Dobbs, State Health Officer of the Mississippi Department of Health, Et Al. v. Jackson Women's Health Organization Et Al.**, 597 U. S. \_\_\_\_ (2022), [The Court overruled *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147, and *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 as the Constitution did not reference abortion, and the right was neither implicitly protected by a constitutional provision, deeply rooted in Nation's history and tradition, implicit in ordered liberty concept, nor justified as component of broader entrenched right. According to the Court, *stare decisis* did not compel continued acceptance where, *inter alia*, *Roe* usurped power to address a profound, important moral and social question unequivocally left to the people, the reasoning was exceptionally weak, precise lines as to permissible restrictions were impossible, and courts could not evaluate the social and economic beliefs. The Court further held that the constitutional challenge to Miss. Code Ann. 41-41-191 (2018) failed given the State's legitimate interest in protecting the life of the unborn.]

**Manifest Arbitrariness:**

19. **Hindustan Construction Company Ltd. v. Union of India**, 2019 SCC OnLine SC 1520 [Arbitration -

*Applicability of provision - Delay in proceedings - Section 87 of Arbitration and Conciliation Act, 1996 - Present petition challenging constitutional validity of Section 87 of Arbitration and Conciliation Act, 1996 as inserted by Section 13 of Arbitration and Conciliation (Amendment) Act, 2019 which states that amendments made to 1996 Act by Arbitration and Conciliation (Amendment) Act, 2015 would not apply to court proceedings arising out of or in relation to such arbitral proceedings irrespective of whether such court proceedings were commenced prior to or after commencement of Arbitration and Conciliation (Amendment) Act, 2015 - Whether insertion of Section 87 into Arbitration Act, 1996 by 2019 Amendment Act, was struck down as being manifestly arbitrary under Article 14 of Constitution of India.]*

20. **Union of India v. N.S. Rathnam and Sons**, (2015) 10 SCC 681 [*Customs - Benefit of notification - Entitlement thereto - Respondent challenged validity of Notification in issue, whereby whole duty of excise was exempted in respect of iron and steel scrap obtained by breaking ship subject to certain conditions - However, such class of persons who also paid custom duty Under Section 3 of Customs Tariff Act, 1975, albeit at lesser rate, was excluded - Division Bench of High Court held that excluded class was also entitled to benefit of Notification in issue - Hence, present appeal - Whether class of persons who also paid custom duty Under Section 3 of Act, 1975 were rightly excluded from claiming exemption under Notification.*]
21. **Asha Sharma v. Chandigarh Administration**, (2011) 10 SCC 86 [Where the procedure of decision making is followed but reasons are not recorded, such actions fall under “arbitrariness”.]
22. **Mardia Chemicals Ltd v. Union of India**, (2004) 4 SCC 311 [*Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002- The court held that the borrowers would get a reasonably fair deal and opportunity to get the matter adjudicated upon before the Debt Recovery Tribunal. The effect of some of the provisions may be a bit harsh for some of the borrowers but on that ground the impugned provisions of the Act cannot be said to be unconstitutional in view of the fact that the object of the Act is to achieve speedier recovery of the dues declared as NPAs and better availability of capital liquidity and resources to help in growth of economy of the country and welfare of the people in general which would subserve the public interest. The court upheld the validity of the Act and its provisions except that of sub-section (2) of Section 17 of the Act, which was declared ultra vires of Article 14 of the Constitution of India.*]
23. **Malpe Vishwanath Acharya & Ors v. State of Maharashtra**, (1998) 2 SCC 1 [*Tenancy - constitutional validity - Sections 5, 11 and 12 of Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 - appeal challenging constitutional validity of Sections 5 (10) (b), 11 (1) and 12 (3) in so far as it provides that landlords cannot charge rent in excess of standard rent - said provisions relate to fixation of standard rent - law ought not to be unjust to one and give disproportionate benefit or protection to another section of society - no statutory provisions which entitle landlord to move Court for increase in standard rent - scheme of Act negatives any such right - reports of different committees placed on record show that increase in rents was called for - no provision in Act for reasonable increase in rent with passage of time had lead to arbitrary results - existing provisions of Act relating to determination and fixation of standard rent could not be considered to be reasonable.*]
24. **State of Andhra Pradesh v. McDowell & Co.**, (1996) 3 SCC 709 [*The power of Parliament or State legislature can be restricted in two ways. A legislation can be struck down on the grounds of - Lack of legislative competence and violation of any of the fundamental rights in Part III of the Constitution of India. Further, it was held that no enactment could be struck down only on the ground of arbitrariness. Some other constitutional infirmity has to be found along with arbitrariness in order to invalidate an enactment which has come through the parliamentary route.*]
25. **Dr. K.R. Lakshmanan v. State of Tamil Nadu & Ors**, (1996) 2 SCC 226 [*the Supreme Court of India recognised that horse racing, football, chess, rummy, golf and baseball are games of skill. It further held that betting on horse racing was a game of skill as it involved judging the form of the horse and jockey, and the nature of the race, among other variables.*]
26. **Kumari Srilekha Vidyarthi v. State of U.P.**, (1991) 1 SCC 212, [*Legislative enactments must be*

*based on discernible principles and the impugned act must be reasonable in order to satisfy the test of "arbitrariness".]*

27. **Indian Express Newspaper Pvt. Ltd. & Ors. v. Union of India**, (1985) 1 SCC 641 [*The Apex Court held that the Government is at liberty to impose taxes affecting the publication of newspapers. The newspaper is no less than an industry, so it must be subjected to taxes like other businesses. On the issue of division of the newspaper, the Court held that such division into small, medium and big could be sanctioned only if it is based on economic considerations, having a reasonable nexus with the objective of taxation and free from arbitrariness. The power of levying tax must not infringe Freedom of Speech and Expression, and the flexibility must be within reasonable limits. These limits are embarked under Article 19 (2) of the Indian Constitution, which is solely based on 'public interest'.*]
28. **Ajay Hasia & Ors v. Khalid Mujib Sehravardi & Ors**, (1981) 1 SCC 722 [*Petitioner challenged validity of admissions made to Regional Engineering College for academic year 1979-80 - Hence, this Appeal - Held, marks secured by them at qualifying examination were much less than marks obtained by Petitioners - However, successful candidates succeeded in obtaining admission to college by virtue of very high marks obtained at viva voce examination - It was clear from chart submitted on behalf of Petitioners that marks awarded at interview was in inverse proportion to marks obtained by other candidates and also not commensurate with marks obtained in written test - Such chart also not create a strong suspicion that Committee deliberately manipulated marks at viva voce examination with a view to favouring other candidates as against Petitioners - therefore, selection for academic year 1979-80 could not be interfered - Petitions dismissed. Ratio Decidendi: "Person shall entitle for admission as per qualification in each and every test held by authority in institute."]*

**SESSION 3**  
**AFFIRMATIVE ACTION, EQUAL OPPORTUNITY & DIVERSITY: THE COURT'S**  
**ADOPTION AND JURISPRUDENTIAL EVOLUTION**

1.	Jagannath Ambagudia, <i>Democracy and Political Marginality: Reading Invisible Resistance to Political Reservation in India</i> , 32 NAT'L L. Sch. INDIA REV. 211 (2020).	353
2.	V. K. Dixit, <i>Cast, Class &amp; Constitutional Reservations</i> , Paperback Issue, The National Law Institute University, Bhopal, (2009)	372
3.	Sawinder Singh, <i>Transforming Affirmative Action Jurisprudence: Applying Eidelson's Theory on the Supreme Court of India</i> , Research Paper No. 2022-02	415
4.	Surendrakumar Bagde, Dennis Epple and Lowell Taylor, <i>Does Affirmative Action Work? Caste, Gender, College Quality, and Academic Success in India</i> , 106(6) The American Economic Review, 1495-1521 (JUNE 2016)	448
5.	Amarnath Mohanty, <i>Affirmative Action in India: An Alternative Perspective</i> , Economic and Political Weekly, Jul. Vol. 42, No. 30 (Jul. 28 - Aug. 3, 2007), pp. 3151-3157	476
6.	J. Laxmi Narasimha Rao, <i>Affirmative Action in India: Emerging Contours</i> , 69 (3) The Indian Journal of Political Science, 483-492, (July - Sept., 2008)	484

**Additional Readings:**

- Dr Durga Das Basu, COMMENTARY ON THE CONSTITUTION OF INDIA, Vol. 3 (Article 15-19), LexisNexis, Ninth Edition (2014)
- Dharma Kumar, *The Affirmative Action Debate in India*, Asian Survey, Vol. 32, No. 3 (Mar., 1992), pp. 290-302
- Dipankar Gupta, *Towards Affirmative Action*, India International Centre Quarterly, Vol. 33, No. 3/4, India 60 (Winter 2006-Spring 2007), pp. 150-161
- Ashwini Deshpande, *Quest for Equality: Affirmative Action in India*, Indian Journal of Industrial Relations, Oct., 2008, Vol. 44, No. 2 (Oct., 2008), pp. 154-163

#### Case Law

*(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)*

1. **Neil Aurelio Nunes v. Union of India**, 2022 SCC OnLine SC 75 [*the court upheld the Constitutional validity of the reservation for OBC candidates in the AIQ seats for PG and UG medical and dental courses and noticed that while an open competitive exam may ensure formal equality where everyone has an equal opportunity to participate, however, widespread inequalities in the availability of and access to educational facilities will result in the deprivation of certain classes of people who would be unable to effectively compete in such a system.*]
2. **State of Punjab v. Anshika Goyal** 2022 SCC OnLine SC 86 [*held that the State Government's action taking a policy decision to prescribe a particular percentage of reservation/quota for a particular category of persons, cannot be interfered with by issuance of a writ of mandamus, directing the State Government to provide for a particular percentage of reservation for a particular category of persons other than what has been provided in the policy decision taken by the State Government. The court held that "The High Court has exceeded its jurisdiction while issuing a writ of mandamus directing the State to provide a particular percentage of reservation for sports persons, namely, in the present case, 3% reservation instead of 1% provided by the State Government, while exercising powers under Article 226 of the Constitution of India."*]
3. **Janhit Abhiyan v Union of India**, 2022 SCC OnLine SC 1540 [*In a 3-2 majority, the Supreme Court upheld the 103rd Constitutional Amendment providing EWS reservation. With this, the Court extended the net of reservation benefits to include solely economic backwardness. 10% in addition to the existing reservations does not result in violation of any essential feature of the Constitution and does not cause any damage to the basic structure of the Constitution of India on account of breach of the ceiling limit of 50%*]
4. **Kshetrimayum Maheshkumar Singh v. Manipur University**, 2022 SCC OnLine SC 12 [*the court held that the formulae for fixing the percentage of reservation for the SC and ST candidates and for determining the percentage of seats to be reserved for OBC candidates under the second proviso of Section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006, ought to be gathered from the same source and any other interpretation would lead to uncertainty.*]
5. **Dr. Jaishri Laxmanrao Patil v. The Chief Minister**, 2021 SCC OnLine SC 362 [*The Supreme Court struck down Maharashtra's Socially and Educationally Backward Classes Act, 2018, which grants reservations to the Maratha community for violating the 50% limit on reservations and the 102nd Amendment of the Constitution.*]
6. **Saurav Yadav v. State of Uttar Pradesh**, 2020 SCC OnLine SC 1034 [*the court held that the groups considered under the reserved categories cannot be excluded from the available seats for the open category or general category, just because they belong to the reserved category. If they qualify the merit they can be appointed under the open category. The opportunities to the public employment and selection of candidates must be purely based on merit, be it under the social or special reservation. The women of all the categories are entitled to be considered under the open category or general category.*]

*The Supreme Court, opposing the judgement of Uttar Pradesh government said that while excluding the reserved category women under the open category seats, the UP government is itself reserving the open category seats for the candidates of unreserved category. The court also clarified the intersection between the Vertical (social) and Horizontal (special) reservations.]*

7. **B.K. Pavitra v. Union of India**, (2019) 16 SCC 129 [*upholding the constitutional validity of the Karnataka Extension of Consequential Seniority to Government Servants Promoted on the Basis of Reservations (to the Posts in the Civil Services of the State) Act 2018. The court said that - "The object of the Reservation Act 2018 is to accord consequential seniority to promotees against roster points. In this view of the matter, we find no reason to hold that the provisions in regard to retrospectivity in the Ratna Prabha Committee report are either arbitrary or unconstitutional."*]
8. **Jarnail Singh v. Lachhmi Narain Gupta**, 2018 SCC OnLine SC 1641 [*the Supreme Court refused to lay down a yardstick and to dilute conditions for reservations in the promotion of Scheduled Castes (SCs) and Scheduled Tribes (STs) in government jobs.]*
9. **Sunita Singh v. State of U.P.**, (2018) 2 SCC 493 [*There cannot be any dispute that the caste is determined by birth and the caste cannot be changed by marriage with a person of scheduled caste. Undoubtedly, the Appellant was born in "Agarwal" family, which falls in general category and not in scheduled caste. Merely because her husband is belonging to a scheduled caste category, the Appellant should not have been issued with a caste certificate showing her caste as scheduled caste. In that regard, the orders of the authorities as well as the judgment of the High Court cannot be faulted.]*
10. **Suresh Chand Gautaum v. State of Uttar Pradesh**, (2016) 11 SCC 113 [*Service - Appointment - Section 4(2)(b) of Uttar Pradesh Higher Education Services Commission Act, 1980 - Writ Petition filed for issuance of writ of quo warranto in regard to appointment of Respondent No. 3 as chairperson of commission - Whether appointment of Respondent No. 3 as chairperson of commission was contrary to statutory provisions contained in Section 4(2)(b) of Act - Held, requirement of following a procedure which was fair and reasonable ensures that a selection was made in accordance with norms of objectivity and fairness - It was not case of State Government that post of Collector and District Magistrate had been declared as or that it was equivalent to post of Secretary to State Government - Post which was occupied by Respondent No. 3 was not equivalent to that of Secretary to State Government - Appointment of Respondent No. 3 was without following any norm or procedure - Respondent No. 3 did not fulfill statutory requirements of eligibility to hold post of a chairperson of commission - Writ Petition allowed.]*
11. **Union of India v. National Federation of the Blind**, (2013) 10 SCC 772 [*In order to ensure proper implementation of the reservation policy for the disabled and to protect their rights, it is necessary to issue the following directions- (i) The appellant herein to issue an appropriate order modifying the O.M. dated 29.12.2005 and the subsequent O.Ms. consistent with this court's Order within three months from the date of passing of this judgment. (ii) The "appropriate Government" to compute the number of vacancies available in all the "establishments" and further identify the posts for disabled persons within a period of three months from today and implement the same without default. (iii) The appellant herein shall issue instructions to all the departments/public sector undertakings/Government companies declaring that the non-observance of the scheme of reservation for persons with disabilities should be considered as an act of non-obedience and Nodal Officer in department/public sector undertakings/Government companies, responsible for the proper strict implementation of reservation for person with disabilities, be departmentally proceeded against for the default.]*
12. **Faculty Assn. of AIIMS v. Union of India**, (2013) 11 SCC 246 [*Constitution of India - Articles 16(4) and 335--All India Institute of Medical Sciences Act, 1956--Sections 5, 13 and 14--Employment--Appointment to speciality and super-speciality faculty posts in All India Institute of Medical Sciences (A.I.I.M.S.)--Whether reservation inapplicable to speciality and super-speciality faculty posts in A.I.I.M.S.?--Held, "yes"--A.I.I.M.S. Act not empower Governing Body to impose reservation at any stage, much less at level of super-speciality disciplines--No compromise with merit at super-speciality stage for recruitment to faculty posts--Reservation policy inapplicable for making appointments to faculty posts--Application of rule of reservation not advisable to posts in super-specialities in medicine, engineering*



*and other scientific and technical posts--Concept of reservation implies mediocrity--Concept of reservation at all stages including at super-speciality stage--Not tenable--Views expressed by Nine-Judge Bench in Indra Sawhney's case, (1992) Supp (3) SCC 225--Approved--Central and State Governments to take appropriate steps in accordance with views expressed in Indra Sawhney's, Jagdish Saran's, (1980) 2 SCR 831. Dr. Pradeep Jain, (1984) 3 SCR 942, Dr. Preeti Srivastava, (1999) 7 SCC 120 : 1999 (4) AWC 2853 (SC) and in present case, keeping in view provisions of Article 335 of the Constitution.]*

**13. Kailas v. State of Maharashtra**, (2011) 1 SCC 793 [*Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989--Section 3--Conviction and sentence--Set aside--Validity-- Held--Because of caste certificate was not produced or investigation by a police officer of rank of Deputy Superintendent was not done are the technicalities and hardly a ground for acquittal.*]

**14. Ravinder Kumar v. State of Haryana**, AIR 2010 SC 2128 [*Service - Appointment - Present appeal filed against order whereby High Court dismissed petition for appointment as Constable - Held, it is evident that in ex-servicemen (general category) last two candidates had scored only 25 marks each - Said candidates selected in ex-servicemen BC(B) category had however scored more marks Said candidates could ought to have been selected against vacancies in ex-servicemen (General) category as per their merit - Such exercise long after selection process was completed may unsettle settled position and lead to removal of candidates who have been serving for long time after undergoing prescribed training - Therefore it would be sufficiently served if directed appointment of appellant against ex-servicemen BC(B) vacancy - If no such vacancy is available against ex-servicemen (General Category) vacancy - Appointment shall for all purposes be treated as first appointment subject to condition that competent authority shall be free to direct that appellant shall undergo training afresh - Hence, appeal allowed but to extent that appellant shall be appointed as constable against any vacancy in ex-Servicemen (General Category) and impugned order modified.*]

**15. Union of India v. Ramesh Ram**, AIR 2010 SC 2691 [*"Articles 14, 15 and 16 including Articles 16(4), 16(4A) must be applied in such a manner so that the balance is struck in the matter of appointments by creating reasonable opportunities for the reserved classes and also for the other members of the community who do not belong to reserved classes."*

*"Criteria for any form of differential treatment should bear a rational correlation with a legitimate governmental objective."*]

**16. Union of India v. Rakesh Kumar**, AIR 2010 SC 3244 [*Validity of Provision - Sections 21 (B), 40(B) and 55(B) of Jharkhand Panchayat Raj Act, 2001, Article 243M(4)(b) of Constitution of India and Section 4(2)(g) of Panchayats (Extension to Scheduled Areas) Act, 1996 - Present appeal filed against order whereby High Court hold that provisions Section 4(2)(g) of Act, 1996 and Sections 21 (B), 40(B) and 55(B) of Act, 2001 declared unconstitutional - Held, High Court had erred in striking down Sections 21(B), 40(B) and 55(B) of Act,2001 which give effect to Section 4(2)(g) of Act, 1996 - Panchayats located in Scheduled Areas, exclusive representation of Scheduled Tribes in Chairperson positions of same bodies is constitutionally permissible - Because Article 243M(4)(b) of Constitution expressly empowers Parliament to provide for 'exceptions and modifications' in application of Part IX to Scheduled Areas - Provisos of Act, 1996 contemplate certain exceptions to norm of proportionate representation and same exceptional treatment was incorporated in impugned provisions of Act, 2001 - Identification of Scheduled Areas is done on basis of census data and same is collected after intervals of 10 years - Data indicates that while Scheduled Tribes are indeed in majority in some Scheduled Areas, same is not true for some other Scheduled Areas - Court must re-emphasize Committee's recommendation that persons belonging to Scheduled Tribes should occupy at least half of seats in Panchayats located in Scheduled Areas, irrespective of whether ST population was in relative minority in concerned area - This recommendation is in line with larger objective of safeguarding interests of Scheduled Tribes - Hence, appeals allowed and Section 4(g)(2) of Act, 1996 and Sections 21(B), 40(B) and 55(B) of Act, 2001 are held to be constitutionally valid]*

**17. Gulshan Prakash v. State of Haryana**, AIR 2010 SC 288 [*Constitution of India - Article 15 (4)--*

*Reservation for S.Cs. and S.Ts.--Article 15 (4) is enabling provision without mandatory texture--Reservation in admission to P.G. Medical courses for S.Cs./S.Ts.--State Government took decision not to extend benefit of reservation to S.Cs./S.Ts. in P.G. Medical courses--Whether any interference warranted? --Held, "no"--No merit in appeal and writ petition.*

*Article 15 (4) is an enabling provision and the State Government is the best Judge to grant reservation for S.C./S.T./Backward Class categories at Post-Graduate level in admission and the decision of the State of Haryana not to make any provision for reservation at the Post-Graduate level suffers no infirmity. Every State can take its own decision with regard to reservation depending on various factors. Since the Government of Haryana has decided to grant reservation for S.C./S.T. categories/ Backward Class candidates in admission at M.B.B.S. level, i.e., under graduate level, then it does not mean that it is bound to grant reservation at the Post-Graduate level also.]*

- 18. AP Public Services Commission v. Balaji Badhavath**, (2009) 5 SCC 1 ["Unless the procedure adopted by the Service Commission is held to be arbitrary or against the known principles of fair play, the superior Courts would not ordinarily interfere."]
- 19. Subhash Chandra v. Delhi Subordinate Services Selection Committee**, (2009) 15 SCC 458 ["Caste or tribe notified in terms of Scheduled Caste Order or Scheduled Tribe Order must be in accordance to Articles 341(1) and 342 of Constitution of India"]
- 20. Ashoka Kumar Thakur v. Union of India**, (2008) 6 SCC 1 [Reservation for Admission in educational institutions or for public employment - Challenge thereto - Validity of Constitution (Ninety-Third) Amendment Act, 2005 and the enactment of Act 5 of 2007 giving reservation to Other Backward Classes (OBCs), Scheduled Castes (SCs) and Scheduled Tribes (STs) questioned as being destructive of basic structure of the Constitution and were sought to be declared ultra vires the Constitution. The court held that-
- ✓ "Principle of "creamy layer" is applied not as a general principle of reservation but for the purpose of identifying the socially and educationally backward class."
  - ✓ "Legislation cannot be challenged simply on the ground of unreasonableness because that by itself does not constitute a ground."
  - ✓ "Validity of a constitutional amendment and the validity of plenary legislation have to be decided purely as questions of constitutional law."
  - ✓ "Establishment and running of an educational institution falls under the right to an occupation and right to select students on the basis of merit is an essential feature of the right to establish and run an unaided institution, reservation is an unreasonable restriction that infringes this right by destroying the autonomy and essence of an unaided institution."
  - ✓ "Once a candidate graduates from a university, is said to be educationally forward and is ineligible for special benefits under Article 15(5) of the Constitution for post graduate and any further studies thereafter."
  - ✓ "For the benefit of the 93rd Amendment the recipients should be educationally backward as per the text of the Article 15(5) of the constitution."
  - ✓ "If reservation in education is to stay, it should adhere to a basic tenet of Secularism: it should not take caste into account, as long as caste is a criterion, a casteless society will never be achieved."]
- 21. Nair Services Society v. State of Kerala**, AIR 2007 SC 2891["Despite Article 38 of the Constitution of India, the Courts are bound to interpret a law which seeks to achieve the said purpose not only on the anvil of the Articles 14 and 16 but also having regard to the International law."]
- 22. Mahesh Gupta v. Yashwant Kumar Ahirwar**, AIR 2007 SC 3136 [Reservation - Disabled person - A disabled constitute a special class among and thus there should be not further reservation for disabled person on the basis of caste, creed or religion. Constitution provides for horizontal reservation for

*disabled persons.]*

23. **M. Nagaraj v. Union of India**, (2006) 8 SCC 212 [*The Court upheld Parliament's decision to expand SC/ST reservations should include promotions (reservation in promotion). Furthermore, the Court imposed requirements that made granting such reservations difficult for the federal and state governments.]*
24. **E.V. Chinnaiah v. State of A.P.**, (2005) 1 SCC 394 [*Article 14, 16(4) and 341 of Constitution of India - Whether impugned enactment creates sub-classification or micro classification of Scheduled Castes so as to violate Article 14 of Constitution? - Held, pious object for issuing presidential notification is to afford them special protection having regard to social and educational backwardness - Presidential Notification under Article 341 of Constitution as well as benefits of reservation of appointments or posts which in opinion of State, is not adequately represented in services under State, is afforded to class of persons specified in Presidential Notification under Article 341 of Constitution - Backward class of citizens enshrined in Article 16(4) of Constitution includes Scheduled Castes and Scheduled Tribes - Whole basis of reservation is to provide additional protection to members of Scheduled Castes and Scheduled Tribes as class of persons who have been suffering since considerable length of time due to social and educational backwardness - Protection and reservation is afforded to homogeneous group - Further classification and/or regrouping homogeneous groups by State Legislature would tinker with Presidential Notification issued under Article 341, which is constitutionally impermissible - By impugned legislation, State has sought to re-group homogeneous group specified in Presidential Notification for purposes of reservation and appointments - It would tantamount to discrimination in reverse and would attract wrath of Article 14 of Constitution - It is a trite law that justice must be equitable - Justice to one group at costs of injustice to other group is another way of perpetuating injustice - Accordingly appeal is allowed.]*
25. **S. Pushpa v. Sivachanmugavelu**, AIR 2005 SC 1038 [*Employment--Reservation for SC candidates--Union territory of Pondicherry adopting policy of Central Government for making reservation for all SC/ST candidates irrespective of their State--No legal infirmity can be ascribed to such policy--Hence, no violation of any constitutional provision or any other legal provision in making selection and appointment of migrant SC candidates against quota reserved for SC candidates--Contrary view taken by Tribunal unsustainable--And set aside.*

*Article 16 (4) of the Constitution of India is not controlled by a Presidential Order issued under Article 341 (1) or Article 342 (1) of the Constitution in the sense that reservation in the matter of appointment on posts may be made in a State or Union territory only for such Scheduled Castes and Scheduled Tribes which are mentioned in the scheduled appended to the Presidential Order for that particular State or Union territory. This Article does not say that only such Scheduled Castes and Schedules Tribes, which are mentioned in the Presidential Order issued for a particular State alone, would be recognized as backward classes of citizens and none else. If a State or Union territory makes a provision whereunder the benefit of reservation is extended only to such Scheduled Castes or Scheduled Tribes which are recognized as such, in relation to that State or Union territory, then such a provision would be perfectly valid. However, there would be no infraction of clause (4) of Article 16 if a Union territory, by virtue of its peculiar position being governed by the President as laid down in Article 239, extends the benefit of reservation even to such migrant Scheduled Castes or Scheduled Tribes, who are not mentioned in the scheduled to the Presidential Order issued for such Union territory. The U.T. of Pondicherry having adopted a policy of Central Government whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law.]*

26. **Islamic Academy of Education v. State of Karnataka**, AIR 2003 SC 3724 [*The Supreme Court interpreted the T M A Pai judgment as having declared that: Unaided professional institutions are entitled to autonomy in their administration, but at the same time they should not forgo or discard the principle of merit. Secondly, it held that in unaided non-minority professional colleges a certain*

*percentage of seats could be reserved by the management for students who had passed the Common Entrance Test held by itself or by the state/University, while the rest of the seats might be filled up on the basis of counselling by the state agency. Thirdly, the Bench suggested that unaided professional colleges should also make provisions for students from the poorer and backward sections of society.]*

27. **Indra Sawhney II v. Union of India**, AIR 2000 SC 498 [*the court went to the extent of determining the 'creamy layer' among backward classes. The judgment held that persons from backward classes who occupied posts in higher services such as IAS, IPS and All India Services had reached a higher level of social advancement and economic status, and therefore, were not entitled to be treated as backward. Such persons were to be treated as 'creamy layer' without any further inquiry. Likewise, people with sufficient income who were in a position to provide employment to others should also be taken to have reached a higher social status and treated as "outside the backward class". Other categories included persons with higher agricultural holdings or income from property.*]
28. **Indra Sawhney v. Union of India**, 1992 Supp (3) SCC 217 [*the court laid down the limits of the state's powers: it upheld the ceiling of 50 per cent quotas, emphasized the concept of "social backwardness", and prescribed 11 indicators to ascertain backwardness. The nine-Judge Bench judgement also established the concept of qualitative exclusion, such as "creamy layer"*]
29. **Jagdish Negi v. State of Uttar Pradesh**, (1997) 7 SCC 203 [*Articles 15 (4) and 16 (4) of Constitution of India and U.P. Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 - whether residents of Uttarakhand region are recognised as socially and educationally backward classes and whether entitled to benefit of Articles 15 (4) and 16 (4) - residents of Uttarakhand given status of educationally and socially backward classes from 1974 onwards - such status may cease at any future point of time - State cannot be forced to treat residents of Uttarakhand as socially and educationally backward classes of citizens - petition partly allowed.*]
30. **State of Kerala v. N.M. Thomas**, AIR 1976 SC 490 [*"Reservation is to be made within permissible limitation at the cost of efficiency which is the prime consideration."*]
31. **Keshav Mills Co. Ltd. v. CIT**, (1965) 2 SCR 908 [*The seven-Judge Constitution Bench unanimously held that before reviewing and revising its earlier decision the Court must itself satisfy whether it is necessary to do so in the interest of public good or for any other compelling reason and the Court must endeavour to maintain a certainty and continuity in the interpretation of the law in the country.*]
32. **Fisher v. University of Texas at Austin**, also called **Fisher II**, 579 U.S. 365 (2016), [*legal case, decided on June 23, 2016, in which the U.S. Supreme Court affirmed (4–3) a ruling of the Fifth Circuit Court of Appeals that had upheld the undergraduate admissions policy of the University of Texas at Austin, which incorporated a limited program of affirmative action with the aim of increasing racial and ethnic diversity among its students. The Court held that universities may use race as one factor in a holistic admissions review process, but such deference is not without boundaries. The Court provides guidance: data should be used to scrutinize the fairness of admissions programs; there should be an assessment as to whether changing demographics have undermined the need for a race-conscious policy; and there should be an assessment, both positive and negative, of the affirmative action measures it deems necessary. Lastly, the Court admonishes that there is a "continuing obligation to satisfy the strict scrutiny burden."*]
33. **Fisher v. University of Texas at Austin (Fisher I)**, 570 U.S. 297 (2013) [*the Supreme Court had vacated and remanded (7–1) the Fifth Circuit's endorsement of the admissions policy on the ground that the appeals court had failed to apply the standard of strict scrutiny (the most-demanding form of judicial review) in its determination that the policy was "narrowly tailored" to serve the state's compelling interest in "the educational benefits that flow from a diverse student body." Specifically, the Supreme Court ruled, the Fifth Circuit had misinterpreted Grutter v. Bollinger (2003; see Bollinger decisions) in giving deference to the university's judgment that each applicant was evaluated as an individual and that its consideration of race was "necessary" to achieve the educational benefits of diversity. After the Fifth Circuit reexamined the policy in keeping with the Supreme Court's ruling and again found it to*

<i>be constitutional, the plaintiff, Abigail Fisher, a white student who had been denied admission to the University of Texas at Austin in 2008, again appealed to the Supreme Court, which agreed in June 2015 to rehear the case, thereafter known as “Fisher II.”]</i>		
<b>SESSION 4 - JUDICIAL REVIEW OF LEGISLATIVE &amp; ADMINISTRATIVE ACTIONS</b>		
1.	Justice A.K. Sikri, <i>Judicial Review and the Principle of Proportionality</i> in CONSTITUTIONALISM AND THE RULE OF LAW, EBC 2023	497
2.	Justice A.K. Sikri, <i>Judicial Review – The Indian Experience</i> in CONSTITUTIONALISM AND THE RULE OF LAW, EBC 2023	526
3.	C.K. Thakker, <i>Administrative Discretion and Judicial Review</i> (excerpt - Chapter 9), ADMINISTRATIVE LAW, 2nd Ed., Eastern book Co.(2022) Pp. 710-733	560
4.	Balram K. Gupta, <i>Judicial Review – A Tool to Shape Constitutional</i> in JUDICIAL REVIEW – PROCESS, POWERS, AND PROBLEMS by Salman Khurshid, et.al.(ed.), Cambridge University Press (2020), pp. 127-144	587
5.	V. Sudhish Pai, <i>The Quicksands of ‘Manifest Arbitrariness’ as a Ground to Invalidate Legislation</i> in CONSTITUTIONAL SUPREMACY: A REVISIT, pp.249 - 264(Oakbridge,Gurugram,2019)	607
6.	Jaideep Gupta, <i>Judicial Review of Legislation under the Indian Constitution: The First 70 Years</i> in THE CONSTITUTION OF INDIA: CALIBRATING AND CALIBRATING 70 YEARS by Lalit Bhasin (Ed.), Law & Justice Publishing Co. (2020), pp. 175-186	615
7.	V. Sudhish Pai, <i>Administrative Law: Some Fundamentals</i> in CONSTITUTIONAL SUPREMACY: A REVISIT, pp.249 -264(Oakbridge,Gurugram,2019)	629
8.	Santanu Sabhapandit, <i>Article 12 and Judicial Review of Administrative Action: An Analysis</i> , Indian Law Review, (2018)	645
9.	Prateek Jalan and Ritin Rai, <i>Review of Administrative Action</i> in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION, Sudhir Choudhary et.al. (Ed.), Oxford University Press (2016), pp. 432-447	666
<b>Additional Readings</b>		
1.	Dr. Justice B.S. Chauhan, <i>Judicial Review</i> (Seminar for Principal District and Sessions Judges on Constitutional and Administrative Law, Bhopal, September 15, 2018)	
2.	Tarunabh Khaitan, <i>Equality – Legislative Review under Article 14</i> in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION, Sudhir Choudhary et.al. (Ed.), Oxford University Press (2016), pp. 699-719	
3.	V. Sudhish Pai, <i>Is Wednesbury on the Terminal Decline?</i> , (2008) 2 SCC (J)	
4.	Santosh Hegde, <i>Limits of Judicial Review — After Kesavananda Bharati</i> , (2001) 3 LW (JS) 1 (1)	
5.	George C. Christie, <i>A Model of Judicial Review of Legislation</i> , Souther California Law Review (1975), Vol. 48:1306	
6.	Michael Kirby, <i>Effective Review of Administrative Acts: The Hallmark of a Free and Fair Society</i> , 5 S. Afr. J. On Hum. Rts. 321 (1989)	
7.	T. R. S. Allan, <i>Deference, Defiance, and Doctrine: Defining the Limits of Judicial Review</i> , 60(1)	

The University of Toronto Law Journal pp. 41-59 (2010)	
<b>Case Law</b>	
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>	
1.	<b><i>Baharul Islam v. Indian Medical Assn., 2023 SCC OnLine SC 79</i></b> [The power of the sovereign legislature to legislate within its field, both prospectively and retrospectively cannot be questioned. It would be permissible for the legislature to remove a defect in earlier legislation pointed out by a constitutional court in exercise of its powers by way of judicial review. This defect can be removed both retrospectively and prospectively by a legislative process and the previous actions can also be validated.]
2.	<b><i>Vivek Narayan Sharma v. Union of India, 2023 SCC OnLine SC 1</i></b> [The court upheld the Centre's 2016 demonetisation scheme in a 4:1 majority and held that demonetisation was proportionate to the Union's stated objectives and was implemented in a reasonable manner.]
3.	<b><i>Nandini Sharma v. Supreme Court of India, (2023) 3 SCC 523</i></b> [The matter is put beyond the pale of any doubt, that the authority to make rules with the Supreme Court, to provide for the persons who can act or plead in the supreme Court, is beyond challenge. Further, when the court is invited in its power of judicial review of legislation which would include, undoubtedly, subordinate legislation, it is elementary that the court is not sitting as an appellant forum seeking to pronounce on the wisdom of the legislation.]
4.	<b><i>Union of India v. Sunil Kumar, 2023 SCC OnLine SC 56</i></b> [Judicial Review of Disciplinary Proceedings - In exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate - Only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review - Even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority.]
5.	<b><i>Sivanandan C.T. v. High Court of Kerala, 2023 SCC OnLine SC 994</i></b> [It is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law. The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements based on an existing promise or practice of a public authority. However, it is important to clarify that the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of decisions taken by public authorities]
6.	<b><i>Jaya Thakur v. Union of India, 2023 SCC OnLine SC 813</i></b> [It could thus be seen that this Court has held that the statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. To do so, the Court must be able to hold beyond any doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. It has been held that unless there is flagrant violation of the constitutional provisions, on the law made by Parliament or a State Legislature cannot be declared bad.]
7.	<b><i>Jacob Puliyel v. Union of India, 2022 SCC OnLine SC 533</i></b> [It is well settled that the Courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or

	<i>whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary.]</i>
8.	<b>Sk. Nausad Rahaman v. Union of India, (2022) 12 SCC 1</b> [The realm of policy making while determining the conditions of service of its employees is entrusted to the Union for persons belonging to the Central Civil Services and to the States for persons belonging to their civil services. This Court in the exercise of judicial review cannot direct the executive to frame a particular policy. Yet, the legitimacy of a policy can be assessed on the touchstone of constitutional parameters. Moreover, short of testing the validity of a policy on constitutional parameters, judicial review can certainly extend to requiring the State to take into consideration constitutional values when it frames policies. The State, consistent with the mandate of Part III of the Constitution, must take into consideration constitutional values while designing its policy in a manner which enforces and implements those values.]
9.	<b>Satya Dev Bhagaur v. State of Rajasthan, (2022) 5 SCC 314</b> [It is trite that the Courts would be slow in interfering in the policy matters, unless the policy is found to be palpably discriminatory and arbitrary. This Court would not interfere with the policy decision when a State is in a position to point out that there is intelligible differentia in application of policy and that such intelligible differentia has a nexus with the object sought to be achieved.]
10.	<b>National High Speed Rail Corpn. Ltd. v. Montecarlo Ltd., (2022) 6 SCC 401</b> [The scope of judicial review in such foreign funded contract should be far much less than the ordinary Government funded contracts funded from Consolidated Fund of India. The scope of judicial review in such foreign funded contracts/projects would be restricted and minimal. In such foreign funded contracts, the only ground for judicial review ought to be on a limited aspect i.e. the action of the executing authority does not suffer from favouritism or nepotism and based on the grounds which have been concealed from the foreign financing authority, if disclosed, would have persuaded the financing authority to cancel the contract.]
11.	<b>Punjab State Power Corpn. Ltd. v. Emta Coal Ltd., (2022) 2 SCC 1</b> [It could thus be seen that while exercising powers of judicial review, the Court is not concerned with the ultimate decision but the decision-making process. The limited areas in which the Court can enquire are as to whether a decision-making authority has exceeded its powers, committed an error of law or committed breach of principle of natural justice. It can examine as to whether an authority has reached a decision which no reasonable tribunal would have reached or has abused its powers. It is not for the Court to determine whether a particular policy or a particular decision taken in the fulfilment of that policy is fair. The Court will examine as to whether the decision of an authority is vitiated by illegality, irrationality or procedural impropriety. While examining the question of irrationality, the Court will be guided by the principle of <i>Wednesbury</i> [ <i>Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 (CA)</i> ] . While applying the <i>Wednesbury</i> principle [ <i>Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 (CA)</i> ] , the Court will examine as to whether the decision of an authority is such that no authority properly directing itself on the relevant law and acting reasonably could have reached it.]
12.	<b>Uflex Ltd. v. State of T.N., (2022) 1 SCC 165</b> [We must begin by noticing that we are examining the case, as already stated above, on the parameters discussed at the inception. In commercial tender matters there is obviously an aspect of commercial competitiveness. For every succeeding party who gets a tender there may be a couple or more parties who are not awarded the tender as there can be only one L-1. The question is should the judicial process be resorted to for downplaying

	<i>the freedom which a tendering party has, merely because it is a State or a public authority, making the said process even more cumbersome. We have already noted that element of transparency is always required in such tenders because of the nature of economic activity carried on by the State, but the contours under which they are to be examined are restricted as set out in Tata Cellular [Tata Cellular v. Union of India, (1994) 6 SCC 651] and other cases. The objective is not to make the Court an appellate authority for scrutinising as to whom the tender should be awarded. Economics must be permitted to play its role for which the tendering authority knows best as to what is suited in terms of technology and price for them.]</i>
13.	<b>Madras Bar Assn. v. Union of India, (2022) 12 SCC 455</b> [ <i>Independence of tribunals is a core and essential part of the independence of Judiciary and the courts and tribunals have to be treated in parity in this regard. Any violation of this principle will result in violation of the concept of independence of the judiciary which is a part of the basic structure of the constitution and will result in violation of Article 14 of the constitution as well.</i> ]
14.	<b>Mohd. Mustafa v. Union of India, 2021 SCC Online SC 1063</b> [ <i>Grounds for judicial review: illegality, irrationality and procedural impropriety, held, not attracted in this case. Courts in exercise of power under judicial review, held, cannot interfere with selections made by expert bodies, as in this case, by reassessing comparative merits of candidates, unless vitiated by bias, mala fides or contrary to statutory provisions. None of these vitiating factors were found present in this case. Hence, validity of appointment of R-4 as DGP (HoPF), thus affirmed]</i>
15.	<b>Punjab State Power Corporation Limited and Another v. Emta Coal Limited, 2021 SCC OnLine SC 766</b> [ <i>while exercising powers of judicial review, the Court is not concerned with the ultimate decision but the decision-making process. The limited areas in which the court can enquire are as to whether a decision-making authority has exceeded its powers, committed an error of law or committed breach of principle of natural justice. It can examine as to whether an authority has reached a decision which no reasonable Tribunal would have reached or has abused its powers. It is not for the court to determine whether a particular policy or a particular decision taken in the fulfilment of that policy is fair. The court will examine as to whether the decision of an authority is vitiated by illegality, irrationality or procedural impropriety.]</i>
16.	<b>State v. Raj Kumar, (2021) 8 SCC 347</b> [ <i>Courts exercising judicial review cannot second guess the suitability of a candidate for any public office or post. Absent evidence of malice or mindlessness (to the materials), or illegality by the public employer, an intense scrutiny on why a candidate is excluded as unsuitable renders the courts' decision suspect to the charge of trespass into executive power of determining suitability of an individual for appointment.</i> <i>Public service — like any other, presupposes that the State employer has an element of latitude or choice on who should enter its service. Norms, based on principles, govern essential aspects such as qualification, experience, age, number of attempts permitted to a candidate, etc. These, broadly constitute eligibility conditions required of each candidate or applicant aspiring to enter public service. Judicial review, under the Constitution, is permissible to ensure that those norms are fair and reasonable, and applied fairly, in a non-discriminatory manner. However, suitability is entirely different; the autonomy or choice of the public employer, is greatest, as long as the process of decision-making is neither illegal, unfair, or lacking in bona fides.]</i>
17.	<b>Lt Col. Nitisha v. Union of India, (2021) 15 SCC 125</b> [ <i>With respect to the medical criteria prescribed by the Army, we are cognizant that there can be no judicial review of the standards adopted by the Army, unless they are manifestly arbitrary and bear no rational nexus to the objects of the organisation. The Shape criterion is per se not arbitrary.]</i>
18.	<b>Small Scale Industrial Manufactures Assn. v. Union of India, (2021) 8 SCC 511</b> [ <i>In catena of decisions and time and again this Court has considered the limited scope of judicial review in economic policy matters. From various decisions of this Court, this Court has consistently observed and held as under:</i>



	<p><i>The Court will not debate academic matters or concern itself with intricacies of trade and commerce</i></p> <p><i>It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Wisdom and advisability of economic policy are ordinarily not amenable to judicial review</i></p> <p><i>Economic and fiscal regulatory measures are a field where Judges should encroach upon very warily as Judges are not experts in these matters.]</i></p>
19.	<p><b>Shivraj Singh Chouhan v. M.P. Legislative Assembly, (2020) 17 SCC 1</b> [<i>The issue involved is political in nature, whether it is amenable to judicial review.</i>]</p>
20.	<p><b>Pyare Lal v. State of Haryana, (2020) 8 SCC 680</b> [<i>Difference between such constitutional powers under Arts. 72 and 161 on the one hand, and similar powers under CrPC or other statutes on the other available to the appropriate executive Government, explained. Principles summarised regarding scope of judicial review of order of President or Governor under Art. 72 or Art. 161. Principles under S. 433-A CrPC are not applicable to exercise of constitutional power either under Art. 72 or under Art. 161.</i>]</p>
21.	<p><b>Ghanshyam Upadhyay v. The State of Uttar Pradesh, (2020) 16 SCC 811</b> [<i>The Court held that to sustain a plea of reasonable apprehension of bias, (i) there must be cogent, uncontroverted and undisputed material, and (ii) the court cannot go by vague, whimsical and capricious suspicion</i>]</p>
22.	<p><b>Vasavi Engineering College Parents Assn. v. State of Telangana &amp; ors. (2019) 7 SCC 172</b> [<i>The crux of the controversy is the jurisdiction and the extent to which the court can examine the determination of the fee structure by TAFRC and approved by the State Government, in exercise of the powers of judicial review. TAFRC, a statutory body headed by a retired High Court Judge, consists of domain experts from various fields including two from the finance sector, one of which is from the Government.</i></p> <p><i>Judicial review, as is well known, lies against the decision-making process and not the merits of the decision itself.]</i></p>
23.	<p><b>Ramakrishna Mission v. Kago Kunya, (2019) 16 SCC 303 (1)</b> [<i>The test of whether a body is performing a public function, and is hence amenable to judicial review, may not depend upon the source of its power or whether the body is ostensibly a ‘public’ or a ‘private’ body.</i></p> <p><i>(2) The principles of judicial review prima facie govern the activities of bodies performing public functions.” (2001) 1 SCC 298 “(3) ...In the following two situations judicial review will not normally be appropriate even though the body may be performing a public function.]</i></p>
24.	<p><b>Municipal Council, Neemuch v. Mahadeo Real Estate &amp; ors (2019) 10 SCC 738</b></p>
25.	<p><b>Municipal Corporation, Ujjain v. BVG India Ltd. &amp; ors., (2018) 5 SCC 462</b> [<i>(a) Whether under the scope of judicial review, the High Court could ordinarily question the judgment of the expert consultant on the issue of technical qualifications of a bidder when the consultant takes into consideration various factors including the basis of non-performance of the bidder?</i></p> <p><i>The judicial review of administrative action is intended to prevent arbitrariness. The purpose of judicial review of administrative action is to check whether the choice or decision is made lawfully and not to check whether the choice or decision is sound.]</i></p>
26.	<p><b>M/s Kalinga Mining Corp. v. Union of India, (2013) 5 SCC 252</b> [<i>It is by now well settled that judicial review of the administrative action/quasi-judicial orders passed by the Government is limited only to correcting the errors of law or fundamental procedural requirements which may lead to manifest injustice. When the conclusions of the authority are based on evidence, the same</i></p>

	<i>cannot be re-appreciated by the Court in exercise of its powers of judicial review.]</i>
<b>Additional Case References</b>	
1.	<i>M/S Kranti Asso. Pvt. Ltd. &amp; Anr v. Masood Ahmed Khan &amp; Ors, (2010) 9 SCC 496</i>
2.	<i>Mansingh v. State of Haryana, (2008) 12 SCC 331</i>
3.	<i>Raja Ram Pal v. Hon'ble Speaker, Lok Sabha, (2007) 3 SCC 184</i>
4.	<i>Jagdish Mandal v. State of Orissa And Others, (2007) 14 SCC 517</i>
5.	<i>Noble Resources Ltd v. State of Orissa and Anr, (2006) 10 SCC 236</i>
6.	<i>Epuru Sudhakar And Another v. Government of A.P. And Others, (2006) 8 SCC 161</i>
7.	<i>V. Ramana v. A.P. SRTC and Others, (2005) 7 SCC 338</i>
8.	<i>Bikas Chatterjee v. Union of India and Others, (2004) 7 SCC 634</i>
9.	<i>Common Cause v. Union of India, (2003) 8 SCC 250].</i>
10.	<i>Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441 [ambit of judicial review.] [Para 311]</i>
11.	<i>A.K. Kraipak v. Union of India, (1969) 2 SCC 262 (Para 20)</i>
12.	<i>P. Sambamurthy And Others v. State of A.P., (1987) 1 SCC 362</i>
13.	<i>Commissioner of Income Tax v. Godavari Devi Saraf, 1977 SCC Online Bom 215</i>
14.	<i>Haryana Financial Corporation v. Jagdamba Oil Mills and Another, (2002) 3 SCC 496</i>
15.	<i>Om Kumar and Others v. Union of India, (2001) 2 SCC 386</i>
16.	<i>Sterling Computers Ltd. v. M/s M &amp; N Publications Ltd. and Others, (1993) 1 SCC 445</i>
17.	<i>Union of India v. Ganayutham, (1997) 7 SCC 463</i>
18.	<i>L. Chandra Kumar vs Union Of India And Others, [AIR 1997 SC 1125] [paras 36, 90]</i>
19.	<i>Tata Cellular v. Union of India, (1994) 6 SCC 651</i>
20.	<i>Council Of Civil Service Unions And Others Appellants and Minister for the Civil Service Respondent, [1985] A.C. 374</i>
21.	<i>Maru Ram v. Union of India and Ors, 1981 SCC (Cri) 112</i>
22.	<i>A.K. Kraipak v. Union of India, (1969) 2 SCC 262 (Para 20).</i>
23.	<i>William Marbury v. James Madison, 5 US 137 (1803)</i>
24.	<i>Associated Provincial Picture Houses v. Wednesbury Corpn.,</i>
<b>SESSION 5 - JUDICIAL ACTIVISM VERSUS JUDICIAL RESTRAINT: EVOLVING JURISPRUDENCE</b>	

1.	Dr. Justice B.S. Chauhan, <i>Judicial Restraint, Activism and Overreach: Evolving Jurisprudence</i> , (Unpublished, prepared for and delivered at NJA on 27th August 2023).	701
2.	R. Hari Krishnan and Anurag Bhaskar, <i>Article 142 of the Indian Constitution: On the Thin Line Between Judicial Activism and Restraint</i> in JUDICIAL REVIEW – PROCESS, POWERS, AND PROBLEMS by Salman Khurshid, <i>et.al.</i> (ed.), Cambridge University Press (2020), pp. 341-364	718
3.	V. Sudhish Pai, <i>Separation of Powers and the Judiciary in ‘Constitutional Supremacy: A Revisit’</i> pp. 129-146 (Oakbridge; 2019)	742
4.	C. Herman Prichett, <i>Activism versus Self –Restraint</i> in THE ROOSEVELT COURT: A STUDY IN JUDICIAL POLITICS AND VALUE 1937-1947, Quid Pro Books (2014), pp.214-222	759
5.	Michael Kirby, <i>The Necessities and Limitations of Judicial Activism</i> , (2013) 8 SCC J-5	770
6.	Justice Kurian Joseph, <i>Judicial Legislation</i> , (2016) 2 SCC J-19	787
7.	Justice Ruma Pal, <i>Judicial Oversight or Overreach: The Role of the Judiciary in Contemporary India</i> , (2008) 7 SCC J-9	797
8.	Soli J. Sorabjee, <i>Judicial Activism - Boon or Bane?</i> , (2008) 3 SCC J-24	817

#### Additional Readings

1. Marc Galanter, *Snakes and Ladders: Suo Moto Intervention and the Indian Judiciary*, 10 FIU L. Rev. 69 (2014)
2. Ariel L. Bendor, *The Relevance of the Judicial Activism vs. Judicial Restraint Discourse*, 47 Tulsa L. Rev. 331 2011-2012
3. A.S. Anand, *JUDICIAL REVIEW - JUDICIAL ACTIVISM - NEED FOR CAUTION*, Journal of the Indian Law Institute , April-December 2000, Vol. 42, No. 2/4, Constitutional Law Special Issue (April-December 2000), pp. 149-159
4. R Shunmugasundaram, *Judicial activism and overreach in India*, Amicus Curiae Issue 72 Winter 2007
5. P. N. Bhagwati, *Judicial Activism and Public Interest Litigation*, 23 COLUM. J. Transnat'l L. 561 (1985).

#### Case Law

(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

1.	<b>Cardinal Mar George Alencherry v. State of Kerala, 2023 SCC OnLine SC 286</b> [The jurisprudential enthusiasm and wisdom for doing the substantial justice has to be applied by the courts within the permissible limits - judicial restraint is a virtue, and the predilections of individual judges].
2.	<b>State of U.P. v. Anil Kumar Sharma, (2015) 6 SCC 716</b> [Judicial restraint and discipline are necessary to the orderly administration of justice. This duty of restraint and humility has to be the constant theme for a judge.]
3.	<b>Janhit Abhiyan v. Union of India (EWS Reservation), (2023) 5 SCC 1</b> [The case was a case of under classification because it is alleged that SCs, STs and OBCs have

	<i>been excluded from the impugned Article 15(6), and 16(6) – “who should be brought in”, the court should leave it to the wisdom of the legislature because it is essentially a stage where there should be an element of practicability. Therefore the court should exercise judicial restraint.]</i>
4.	<b><i>Manoj v. State of M.P., (2023) 2 SCC 353</i></b> <i>[The public opinion can neither be an objective circumstance relating to crime, nor the criminal, and the courts must exercise judicial restraint and play a balancing role.]</i>
5.	<b><i>State of Punjab v. Mehar Din, (2022) 5 SCC 648</i></b> <i>[High Court is not supposed to interfere with decision of the competent authority, unless decision is totally arbitrary or unreasonable. The court must exercise judicial restraint.]</i>
6.	<b><i>Ebix Singapore (P) Ltd. v. Educomp Solutions Ltd. (CoC), (2022) 2 SCC 401</i></b> <i>[Judicial restraint must be exercised as a matter of prudence, since the court neither has the necessary expertise nor the power to hold consultations with stakeholders or expert to decide the direction of economic policy.]</i>
7.	<b><i>Swami Samarth Sugars &amp; Agro Industries Ltd. v. Loknete Marutrao Ghule Patil Dnyaneshwar Sahakari Sakhar Karkhana Ltd., 2022 SCC OnLine SC 871</i></b> <i>[The modern trend points out to Judicial Restraint in administrative action. The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.]</i>
8.	<b><i>CIT v. Laljibhai Kanjibhai Mandalia, 2022 SCC OnLine SC 872</i></b> <i>[The significance of the rationale behind forming a belief is evaluated through judicial restraint, similar to the approach taken in administrative actions. In this context, the Court doesn't function as an appellate body but rather assesses the process by which the decision was arrived at. The Court refrains from scrutinizing the adequacy or completeness of the reasons provided.]</i>
9.	<b><i>Neil Aurelio Nunes (OBC Reservation) v. Union of India, (2022) 4 SCC 1</i></b> <i>[Interpreting the order to mean that the union of India sought the permission of this court before providing reservation would amount to aiding an interpretation that would foster judicial overreach]</i>
10.	<b><i>Sushil Kumar v. The State Of Haryana &amp; Ors. Civil Appeal No. 401 OF 2022 (Arising Out of SLP(Civil) No. 30370 OF 2017) –</i></b> <i>[The Single Judge as well as the Division Bench for good reasons refrained from going into the individual comparative merit. In judicial review proceedings, the Courts are concerned with the decision-making process and not the decision itself.]</i>
11.	<b><i>Saregama (India) Ltd. v. Next Radio Ltd., (2022) 1 SCC 701</i></b> <i>[The court is entrusted by the Constitution of the power of judicial review. In the discharge of its mandate, the court may evaluate the validity of a legislation or Rules made under it. A statute may be invalidated if is ultra vires constitutional guarantees or transgresses the legislative domain entrusted to the enacting legislature. Delegated legislation can, if it results in a constitutional infraction or is contrary to the ambit of the enacting statute be invalidated. However, the court in the exercise of judicial review cannot supplant the terms of the provision through judicial interpretation by re-writing statutory language. An exercise of judicial re-drafting of Rule 29(4) was unwarranted, particularly at the interlocutory stage. ]</i>
12.	<b><i>Neeraj Garg v. Sarita Rani, (2021) 9 SCC 92</i></b> <i>[While it is of fundamental importance in realm of administration of justice to allow judges to discharge their functions freely and fearlessly without interference from anyone, it is equally important for judges to exercise restraint and avoid unnecessary remarks on conduct of counsel which has no bearing on adjudication of dispute.]</i>

13.	<b><i>Election Commission of India v. M.R. Vijayabhaskar, (2021) 9 SCC 770</i></b> [Judges should maintain caution and circumspection in use of language while making oral remarks in open court as unrestrained language risks losing court's symbolism as a protector of human dignity.]
14.	<b><i>Utkal Suppliers v. Maa Kanak Durga Enterprises, (2021) 14 SCC 612</i></b> [Judicial review in matters of government contractors and tenders are equal to judicial restraint. What is reviewed is not decision itself but manner in which it was made. Writ court does not have expertise to correct such decisions by substituting its own decision for decision of authority. ]
15.	<b><i>Ravuri Krishna Murthy v. State of Telangana, 2021 SCC OnLine SC 388</i></b> [In cases where Section 438 of the Code of Criminal Procedure remains in effect, the High Court is advised to exercise caution when considering petitions under Article 226 of the Constitution or Section 482 of the Code of Criminal Procedure. The Courts should exercise restraint and discourage opportunistic litigants from readily resorting to the court's inherent jurisdiction in order to seek relief through interim orders, particularly for quashing FIRs or investigations. The Court bears the responsibility of preventing such dishonest and unethical litigants from exploiting these provisions.]
16.	<b><i>Manish Kumar v. Union of India, (2021) 5 SCC 1</i></b> [The court upheld the validity of several provisions of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, albeit with directions given in exercise of powers under Article 142 of the Constitution of India. While so upholding the impugned amendments, the Bench expressed an observation that: "There is nothing like a perfect law and as with all human institutions, there are bound to be imperfections. What is significant is however for the court ruling on constitutionality, the law must present a clear departure from constitutional limits."]
17.	<b><i>Rajeev Suri v. Delhi Development Authority and Others, 2021 SCC OnLine SC 7</i></b> [Central Vista case, conducted a comprehensive judicial assessment of the legality of the Central Vista Project of the Government of India. The Supreme Court ruled that the Central Vista Committee's (CVC) decision of "no protest" and "endorsement" by the Delhi Urban Art Commission (DUAC) and "earlier endorsement" by the Heritage Conservation Committee (HCC) of the Central Vista Project]
18.	<b><i>Jaishri Laxmanrao Patil v. State of Maharashtra, (2021) 2 SCC 785</i></b> [There is always a presumption in favour of the constitutional validity of a legislation. Unless the provision is manifestly unjust or glaringly unconstitutional, the courts do show judicial restraint in staying the applicability of the same.]
19.	<b><i>Mohd. Ali Imam v. State of Bihar, (2020) 5 SCC 685</i></b> [Need for exercising judicial restraint in matters of fixation of cut-off date emphasized.]
20.	<b><i>Internet &amp; Mobile Assn. of India v. RBI, (2020) 10 SCC 274</i></b> [The court struck down the curb on trading in virtual currency, cryptocurrency and bitcoins in India. It was held, "When the consistent stand of RBI is that they have not banned Virtual currencies (VCs) and when the Government of India is unable to take a call despite several committees coming up with several proposals including two draft bills, both of which advocated exactly opposite positions, it is not possible for us to hold that the impugned measure is proportionate."]

21.	<b>Gujarat Mazdoor Sabha v. The state of Gujarat, (2020) 10 SCC 459</b> [The court quashed the Notification dated July 20, 2020 issued by the Labour and Employment Department of State of Gujarat under Section 5 of the Factories Act to exempt all factories registered under the Act “from various provisions relating to weekly hours, daily hours, intervals for rest etc. for adult workers” under Sections 51, 54, 55 and 56 till October 19, 2020. “This Court is cognizant that the State of Gujarat aimed to ameliorate the financial exigencies that were caused due to the pandemic and the subsequent lockdown. However, financial losses cannot be offset on the weary shoulders of the laboring worker, who provides the backbone of the economy.” The Court, hence, directed that overtime wages shall be paid, in accordance with the provisions of Section 59 of the Factories Act to all eligible workers who have been working since the issuance of the notifications.]
22.	<b>Vasavi Engg. College Parents Assn. v. State of Telangana, (2019) 7 SCC 172</b> [There is a need for judicial restraint with regard to recommendation of Expert committee, more particularly in matters relating to finance and economics.]
23.	<b>Indian Young Lawyers Assn. v. State of Kerala, (2019) 11 SCC 1</b> [Sabarimala Case- The Supreme Court declared unconstitutional the Sabarimala Temple's custom of prohibiting women in their 'menstruating years' from entering.]
24.	<b>Joseph Shine v. Union of India, (2019)3 SCC 39</b> [Decriminalization of Adultery- The Court decriminalised adultery, striking down Section 497 of the Indian Penal Code, 1860 (IPC) ]
25.	<b>Kalpna Mehta v. Union of India, (2018) 7 SCC 1</b> [The duty of judicial review which the constitution has bestowed upon the judiciary is not unfettered; it comes within the conception of judicial restraint. The principle of judicial restraint requires that judges ought to decide cases while being within their defined limits of power. Judges are expected to interpret any law or any provision of the constitution as per the limits laid down by the constitution.]
26.	<b>Supreme Court Advocates-on-Record Assn. v. Union of India, (2016) 5 SCC 1</b> [The only rational course is to interpret the law as it is and if it is constitutional valid or invalid so be it. It is not advisable or possible to rewrite the law when the language of the statute is express and this would clearly amount to judicial overreach.]
<b>Additional Cases</b>	
1.	<b>Competition Commission of India v. Steel Authority of India Limited 2010 (10) SCC 744</b>
2.	<b>Reliance Airport Developers (P) Ltd. v. Airport Authority of India and Ors, (2006) 10 SCC 1</b>
3.	<b>Zahira Habibullah Sheikh &amp; Anr v. State of Gujarat &amp; Ors, (2004) 4 SCC 158</b>
4.	<b>Pradeep Kumar Biswas v. Indian Institute of Chemical [(2002) 5 SCC 111]</b>
5.	<b>Vishaka &amp; Ors v. State of Rajasthan &amp; Ors, (1997) 6 SCC 241</b>
6.	<b>MC Mehta v. Union of India, (1997) 2 SCC 353</b>
7.	<b>Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647</b>
8.	<b>S.R. Bommai v. Union of India [1994 AIR 1918]</b>
9.	<b>Unni Krishnan, J.P. &amp; Ors. v. State of Andhra Pradesh &amp; Ors. 1993 SCC (1) 645</b>
10.	<b>Anandi Mukta Sadguru... v. V.R. Rudani and others [(1989) 2 SCC 691]</b>
11.	<b>A.R. Antulay v. R.S. Nayak &amp; Anr, 1988 AIR 1531</b>
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13. *Minerva Mills Ltd. & Ors vs Union of India & Ors AIR 1980 SC 1789*
14. *Siemens Engineering & Manufacturing Co of India Ltd. V. UOI and Ors (1976) 2 SCC 981*
15. *Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225*
16. *Rai Sahib Ram Jawaya Kapur And Ors. vs The State of Punjab AIR 1955 SC 549*
17. *State of Madras v. V.G. Row, AIR 1952 SC 196*
18. *A.K. Gopalan v. State of Madras, AIR 1950 SC 27*
19. *Harbajan Singh and Minister of Employment and Immigration, 1985*
20. *Council Of Civil Service Unions And Others v. and Minister For The Civil Service, [1985] A.C. 374*
21. *William Marbury v. James r, 5 US 137 (1803)*
22. *Seaford Court Estates LD. v Asher, [1949] 2 K.B. 481*
23. *Associated Provincial Picture Houses, Limited v. Wednesbury Corporation, [1948] 1 K.B. 223*

***Additional Suggested Readings (Books)***

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2. THE CONSTITUTION OF INDIA CELEBRATING AND CALIBRATING 70 YEARS: COMPENDIUM OF ARTICLES, edited by Dr. Lalit Bhasin, Law & Justice Publishing Co. (2020)
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6. H.R. Khanna, MAKINGS OF INDIA'S CONSTITUTION, Eastern Book Co., reprint (2009)
7. Laurence H. Tribe, CONSTITUTIONAL CHOICES, Universal Law Publishing Co. Pvt. Ltd. (2000)
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9. Prof. (Dr) Balram K. Gupta, MY JOURNEY WITH LAW & JUSTICE, Law & Justice Publishing Co. (2022)
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16. Harry Woolf, Jeffrey Jowell, Andrew Le Sueur., *De Smith's Judicial Review*, Sixth Ed., Sweet & Maxwell 2007 (Chapter 11, Pp. 543-608)