

## Lesson 2 → Constitution of India

### 1) Skill Lotto Solution V. Union of India, 2020 SCC Online SC 990

#### Fact of the case

- The constitutional validity of levying of taxes on lottery, betting & gambling was challenged in the court.

#### Decision given by court

- The value of taxable supply is a matter of statutory Regulation & when the value is to be transaction value which is to be determined as per section 15 of CGST Act 2017, it is not permissible to compute the value of taxable supply by excluding prize which has been contemplated in the statutory scheme.
- The SC on 3<sup>rd</sup> Dec 2020, held that the levy of GST on lottery is not discriminatory.

### 2) Swapnil Tripathi & Ors Vs Supreme Court of India.

- Access to justice can never be complete without the litigant being able to see hear & understand the course of proceedings first hand.
- So, live-streaming of proceedings is crucial to the dissemination of knowledge abt judicial proceedings.

### 3. Municipal Corporation of Gr Mumbai Vs Ankita Sinha

#### Fact of the case

Whether the National Green Tribunal can exercise Suomotu jurisdiction or initiate Sumoto action.

#### Decision Given

- Tribunal may initiate Sua moto action, Same is Subject to opportunities of being heard if such decision is ~~aff~~ likely to affect the parties.

## Lesson 5. Administrative Laws

### 1) Rule of law

1) - Developed by British Jurist A. V. Dicey.

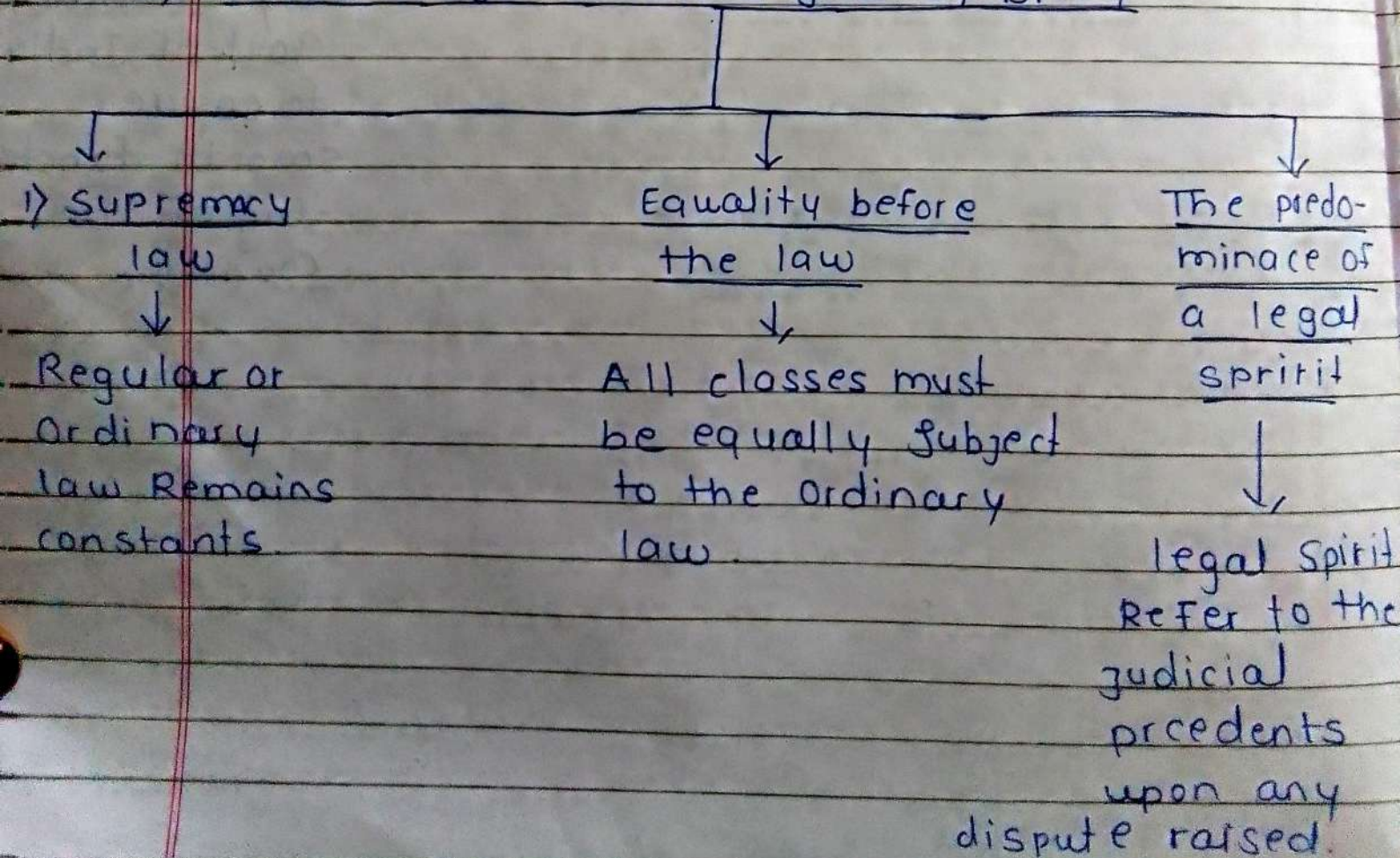
2) - Derived the term : 'La principle de legalite' means principle of legality.

3) - Means, The govt. should be governed by Rule OF law instead of Rule of individual.

4) - According to him.

Lawsuits against public servant for wrongdoing done in that capacity will be handled by a Special Court rather than a regular Court of law.

### 5) Three major principle given by Dicey



## Rule of law in India

- Rule of law is embedded in Constitution under multiple parts, important aspects are as under

↓  
 Preamble

↓  
 It talks about the justice, equality liberty & dignity to all individuals

↓  
 Fundamental Rights (Part III)

↓  
 They imply a duty on the state towards ensuring the welfare of its citizen

↓  
 Directive Principles of State Policy (DPSP)

↓  
 Basic guidelines to be followed by all special Govt of India to ensure smooth functioning of the country.

### Case law

Airport Authority of India Vs. Centre for Aviation Policy, Safety & Research & Ors.

### Fact of the case

- The Court wrongly interfering with the administration/policy decision of the tender making authority.

### Decision Given

- Supreme Court state that,
- Setting of terms & condition of invitation to tender are within the ambit of the administration of the tender making authority & as such are not open to judicial scrutiny unless they are arbitrary, discriminatory or mala fide.

## Lesson 7 : Limitation Act 1963

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### 1. Case law

S.M Ghogbhai Vs. Schedulers Logistics India Pvt.

#### Fact of the case

Appeal was filed against the order passed by NCLT.

#### Decision Given

Tribunal dismissed the appeal stating, As per section 9 of the limitation Act 1963, Time from which period begins to run is "When the right to apply accrues", This appeal is beyond the limitation period.

## Lesson 8 : Civil Procedure Code 1908

### 1. Jitendra kumar Khan & Ors Vs The Peerless General Finance & Investment Company Limited & Ors

The court

#### fact of the case

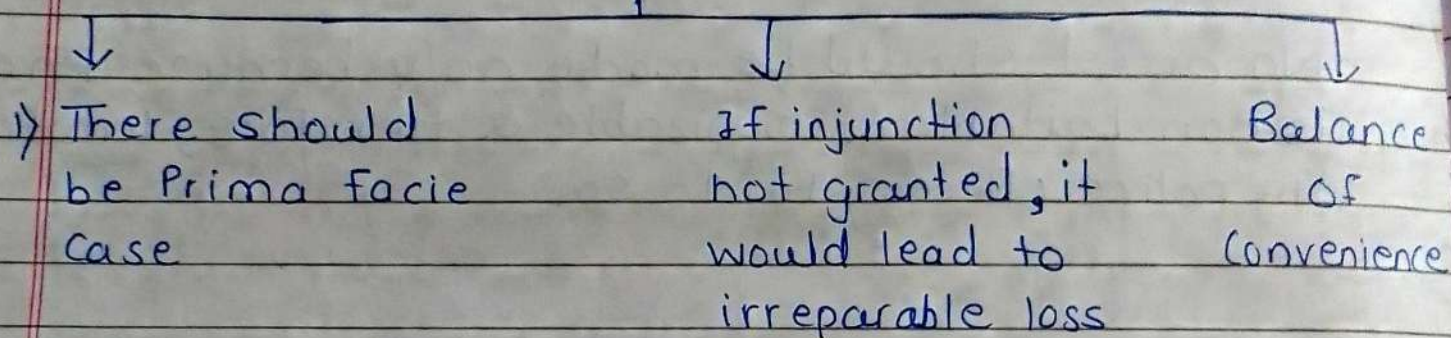
The court stated the equitable set-off is different from legal - set-off.

equitable set-off → Amount is not ascertained and it is discretion of the court.

set off → Amount is ascertainable.

## 2. Dalpat kumar & Ors Vs Prahlad Singh & Ors

Three main requirements while granting Temporary injunction



## 3. B.L Kashyap & Sons Ltd. Vs gms Steels and Power corporation & Ors

(In Summary suits)

- Supreme Court held that leave to defend should only be granted in exceptional cases.
- The leave to defend shall be denied only on the grounds that there is no fair or reasonable defence.

Lesson 10 : Criminal Procedure Code

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Case law

Armesh Kumar V. State of Bihar, (2014)

- The attitude to arrest first & then proceed with the rest is despicable.
- No arrest should be made only because the offence is non-bailable & cognizable & therefore, lawful for the police officers to do so.

Lesson 12 : Special Courts, Tribunal under Companies Act & Other legislation

- 1) Section 58 of Co's Act  
Constitution of Appellate Tribunal  
The word not exceeding eleven is omitted
- 2) Central Government may by notification, after consultation with chairperson establish such number of Benches of NCLAT
- 3) Punishment for wrongful withholding of property out of the jurisdiction of Special Courts

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Lesson 13: Arbitration & Conciliation Act 1996

case study

Brahmani River Pellets Ltd Vs. Kamachi Industries Ltd.

\* Fact of the case

- Disputes arise between the ~~arise~~ parties regarding the price & payment.
- The agreement between the parties contains an arbitration clause.
- The respondent invoked arbitration clause & the appellant did not agree for the appointment of arbitrator.
- The appellant contested the petition challenging the jurisdiction of the Madras High Court on the ground that the parties have agreed that seat of arbitration be Bhubaneswar.

\* Decision

- The Supreme Court observed that when the parties have agreed to have the venue of arbitration at Bhubaneswar.
- Since only Orissa high court will have the jurisdiction to entertain the petition not ~~Orissa Court~~ Madras Court.

#### 4 Oil and Natural Gas Corpn Ltd V. Saw Pipes Ltd

Public policy means

- Fundamental policy of Indian law
- the interests of India
- Justice or morality

#### 5 Union of India V. Om Vajarkaya Construction Co.

The court's ability to award costs within the meaning of Sec 31A of the Arbitration & Conciliation Act

#### 6. Chloro Controls (I) P Ltd V. Severn Trent Water Purification Inc & Ors.

Court observed rule: "kompetenz kompetenz" means

challenge to the existence or validity of the arbitration agreement will not prevent the arbitral tribunal from proceeding with hearing & ruling upon its jurisdiction

#### Other concepts

##### 1. Ad hoc arbitration

The procedural aspects should also be decided by the parties

##### 2. Domestic Arbitration

The arbitration in which the disputes are subject to

Indian laws & the cause of action is entirely based in India are called Domestic Arbitration.

### 3) International Arbitration

It is an arbitration relating to disputes where at least one of the parties is:

- i) An individual who is national, resident in any country other than India.
- ii) a body corporate which is incorporated in any country other than India.
- iii) An association or a body of individuals whose central management & control is exercised in any country other than India.
- iv) the Govt of a Foreign Country.

### 4) Institutional arbitration

The matter is to be administered by established arbitration institution.

## Lesson 14 - Indian Stamp Act 1899

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### Case law

3. Mr. Raj Kumar vs CPIO, Guru Teg Bahadur Hospital

#### Fact of the case

- The Complainant vide his RTI application sought information relating to salary records & DA implementation.
- CPIO furnished a pointwise reply to the Complainant but it is dissatisfied so, complaint filed first Appeal.
- Complainant absent during hearing.
- Respondant stated that the information sought in respect of point no 01, will be furnished in due course.

#### Decision Given

The Commission directs the Respondent to furnish complete & correct info. to the Complainant within a period of 21 days.

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## Lesson 17 - Information Technology Act 2000

The rules define personal data under the Rule 3 that the following types of data.

- password
- Bank Account details
- Credit/debit card details
- Present & past health records
- Sexual orientation
- Biometric data

### i) Privacy Policy

Rule 4 req. a Body Corporate provide a privacy policy on their website

### ii) Consent

Rule 5 the prior to the collection of Sensitive personal data, the body corporate must obtain Consent

### iii) collection limitation

Body corporate should only collect Sensitive personal data if it is connected to a lawful purpose.

### iv) Notice

Rule 5 requires, that while collecting information directly from an individual the BC provide

- The Fact
- Purpose
- intended recipient
- The name & address of the agency.

5. Retention limitation

Rules 5 req BC must retain sensitive personal data.

6. Purpose limitation

7. Right to Access & correct (Rule 5)

Body corporate give access to individual to Access & correct personal info.

8. Right to Opt out & withdraw consent

Individual must be provided with the option of Opting out of providing data sought by BC.

9) Grievance officer ↗

- Designated By BC ↗

10) Disclosure & consent, Prohibition on Publishing & further disclosure

BC must have consent before disclosure.

11) Req of Transfer of Sensitive Personal Data

BC can transfer sensitive Personal Data to another jurisdiction.

12) Security of information

BC must secure the info.

Case law

Sayed Asifuddin & Ors vs The state of Andhra Pradesh & Ors

Here, Section 65 of IT Act, is concerned, a telephone handset is not a computer nor a Computer System.