



June, 2024   
Vol 12

# LAWBY 26

FROM THE HOUSE OF ORIGIN LAW LABS

# LAWBY WRITES

Is there no labour law  
to save me from such  
working conditions?



Visit Us  
<https://lawby26.com/>



# EDITORIAL

## Let's Call the CBI



P. Arun Sugavaneshvar  
Founder

On Tuesday, the 19th of June 2024, the Central Government cancelled the UGC-NET exam, which was recently conducted after a report from the National Cyber Crime Threat Analytics Unit under the Ministry of Home Affairs. The integrity of the exam seems to have been compromised, and a CBI investigation has been ordered to probe and bring the miscreants to justice. Why should the CBI investigate? Any time we hear the CBI is involved, we know it is not a simple offence, and it is more or less certain that the criminals will be arrested. The Bofors scandal, Hawala scandal, and Priyadarshini Mattoo murder case, amongst many others, stand as testimony to the exceptional capacity of the CBI in solving difficult and politically sensitive cases.

The CBI's origins can be traced to the Special Police Establishment in 1941. It was originally formed to investigate cases of bribery and corruption in transactions of the War and Supply Department in India during World War II. At present, the CBI's powers emanate from the Delhi Special Police Establishment Act, 1946, and it currently comes under the **Ministry of Personnel, Public Grievances and Pensions**. The CBI has three significant divisions i) **Anti-corruption division** to investigate offences related to instances of corruption by government officials and any person holding a public office, ii) **Economic offences division** to investigate severe and major economic frauds and financial scams, iii) **Special crimes division** to investigate issues against national security and other major offences under the IPC.

The **CBI has the power to take suo moto cognizance offences only in Union territories**. With regard to the States, as per Section 6 of the DSPE Act, 1946, **CBI can investigate only with the consent of the respective State Government as Police and Public Order are State subjects under the Seventh Schedule of the Constitution**. The powers under Section 2 of the DSPE Act, 1946, vested with the CBI's investigating officer, are similar to those conferred under the Criminal Procedure Code to the State police. They include the power to summon any person to investigate, collect evidence, and record statements, as predominantly done under Sections 153 to 157 of the Cr.P.C. The CBI may take up investigations i) when specifically requested by the State Government to the Central Government and upon comments from the CBI, ii) when the State Government provides consent under Section 6 and the Central Government issues notification under Section 5 of the DSPE Act, 1946, or iii) when ordered by the Supreme Court or High Courts, as the case may be.

The Supreme Court, in the case of **State of West Bengal & Others versus Committee for Protection of Democratic Rights and Others (Civil Appeal Nos. 6249-6250)**, clearly stated that the High Courts and Supreme Court in India have the power to order a CBI investigation in a crime committed in a State even without the State's consent as mandated under Section 6 of the DSPE, Act 1946.

The role of the CBI is becoming more relevant as the volume and intellectual complexity of crimes increase yearly. Regarding the UGC issue, we will have to wait for the CBI to call back and update.





# LEGAL CRISPS

## Amazing Amazon, Amazing

*-Anoushka Samyuktha A*

Amazon is always in the news, but this time, it's for the wrong reason. Recently, the NHRC took suo moto cognisance of a report in the media about Amazon. The report mentioned that the working conditions in Amazon's warehouse in Haryana were stringent. There were clear violations of various labour laws, which grabbed the attention of the media and the NHRC.

A worker at the warehouse was asked to take a pledge that they would not take any restroom or water break until they finished a particular task assigned to them. This allegation, if proven true, will amount to serious human rights violations and the guidelines by the Ministry of Labour and Employment.

Further, there was yet another shocking allegation made by a female co-worker that there were no toilet facilities provided for them. It is also mentioned that workers lack sufficient payment for the amount of work done by them. They work for 50 hours per week and earn only around Rs. 10,000 per month. Women workers are required to stand continuously for 9 hours every day.

According to **Section 19 of the Factories Act of 1948**, in every factory, there must be sufficient latrine and urinal accommodation of prescribed types. These facilities must be accessible to the workers at all times while they are at the factory and must be washed and maintained well. **Section 92** states that if there is a violation of the laws of the Act, the occupier and the manager will face imprisonment for up to 2 years and a fine of up to 2 lakhs.

If the workers are respected, the employee will be benefitted, but in this scenario, Amazon needs to improve their standards and understand that the exploitation of workers has a limit.





# The Fight For “INFOSYS”

-Sri Sai Kamalini M.S

**Case: Infosys Ltd vs. Southern Infosys Ltd**

**Case Number: CS(COMM) 257/2024 & I.A. 6821/2024**

The plaintiff is a famous software company. They own the trademark “INFOSYS.” The trademark has also gained the status of a well-known trademark, and the plaintiff has been using it for over 29 years. They have registered trademarks in various classes, including classes 9 and 16. The defendant was using the trademark “Southern INFOSYS.”

The plaintiff contended that the trademark was deceptively and phonetically similar. The defendant contended that the term “INFOSYS” was a common one, a combination of the terms Information and systems, with reference to the circular issued in 1999 by the Department of Company Affairs, Central Government.

The defendant also contended that there was a delay in filing the case and that the delay was unjustified. The defendant also contended that a cease and desist notice was provided in 2020, which the plaintiff concealed.

The plaintiff has mentioned that it was an oversight due to the confusion and change of nature of work due to the pandemic, and it was not their objective of concealment. The Court accepted the contention and mentioned that **“minor procedural missteps that are adequately explained should not overshadow the case's merits.”**

The Delhi High Court granted an injunction to Infosys Ltd, restraining Southern Infosys Ltd from using the name "Infosys" or any other name likely to cause confusion as they both operate in the same industry.





# CASE CHRONICLE

## Father Can Also be a Primary Guardian

-Seethala B

The Supreme Court, in a 9-year child custody battle, overturned the Delhi High Court's decision and upheld the Family Court's order, granting custody of the minor children to the father while allowing visitation rights to the mother. The case ***Ramneesh Pal Singh v. Sugandhi Aggarwal [2024 SCC OnLine SC 847]*** involves a couple married in 2002 with two children. The mother lived with the children in New Delhi, while the father served in Jammu and Kashmir. Their relationship deteriorated, leading to a significant conflict in 2015. The mother temporarily left the marital home and, upon returning, found it locked. The mother filed a missing children's report. Subsequently, both parents filed for custody, resulting in the Family Court granting interim custody to the mother. However, the High Court later granted shared custody, prompting the father to appeal to the Supreme Court.

The Supreme Court emphasized the children's welfare as the paramount consideration under the Guardian and Wards Act 1890 and mentioned that they performed well in their education and co-curricular activities while living with their father. During an interaction on April 5, 2024, the children expressed a solid and unwavering desire to continue residing with the father. The Court observed that they were intelligent, confident and cognisant of the pros and cons of their decision.

The Court addressed concerns about the father's employment in the Indian Armed Forces, noting the robust support system provided to officers' families, including residential accommodation, schools, hospitals, healthcare facilities and various extracurricular activities that contribute to the children's overall development. The Court also dismissed the mother's allegations of Parental Alienation Syndrome (PAS) against the father, finding no evidence of alienating behaviour. The High Court's findings on PAS were on an unsubstantiated basis and failed to appreciate the complexities of the relationship between the parties.

Ultimately, the Supreme Court concluded that the father should retain custody of the children, affirming their well-being and rejecting the High Court's interference with the Family Court's well-considered order. The mother's visitation rights were upheld as initially granted by the Family Court.





# BEYOND THE OBVIOUS

## Is Liking Obscene Posts a Crime?

-Sowmiya R K

Allahabad High Court judgment in the case of ***Mohd Imran Kazi vs. State of U.P. and Another Neutral Citation No. – 2023: AHC:201882*** addresses a crucial question regarding the scope of **Section 67 of the Information Technology (Amendment) Act, 2008** and its application to social media interactions.

Mohd Imran Kazi was accused of posting provocative messages on social media that allegedly led to an unlawful assembly. The judgement clarifies several important legal points:

1. Section 67 of the IT Act specifically pertains to publishing or transmitting obscene material in electronic form. The court emphasized that this section is not applicable to general provocative content, but rather to material of a sexual nature that "appeals to the prurient interest."

2. The act of merely "liking" a post on social media does not constitute "publishing" or "transmitting" under Section 67. of the IT Act The court distinguishes this from forwarding or sharing a message, which could potentially attract liability.

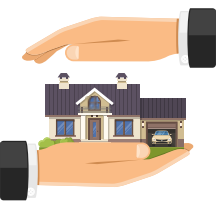
3.The judgment also made a reference to a Madras High Court decision, ***S.Ve.Shekher vs. Al.Gopalsamy Crl. O.P. (MD) No. 11494 of 2018***, which held that forwarding a message implies acknowledgement of its contents and can lead to responsibility for its dissemination.

4. While not directly related to Section 67 of the IT Act, the court cites a Supreme Court judgment, ***Kaushal Kishor vs. State of U.P (2023) 4 SCC 1***, emphasizing the need for responsible exercise of free speech rights, particularly when it may impact the dignity of fellow citizens.

5.The Court found no evidence of objectionable posts by the applicant on his social media accounts, leading to the quashing of proceedings against him.

This judgment sets a precedent that mere approval of content (through "likes") does not constitute an offence under Section 67 of the IT Act, while also reminding citizens of their responsibility to exercise free speech rights on digital platforms.





# Does the Government Own Unclaimed Properties?

-Nithyaparvathy R G

As absurd as it may sound, it is possible that someone forgot about the assets or abandoned them accidentally or willfully. It is much more likely that the persons have passed away, and their legal heirs and successors were unaware of these assets and, hence, unable to claim them. As a result, such assets often go unclaimed for an extended period. What happens to these unclaimed assets?

After a certain point, when no one steps forward to claim the assets, the government will take over such assets.

Escheat is the government's right to take possession of estate assets or unclaimed property. The doctrine of escheat holds that a property always has a recognised owner, which is the state or government if no alternative claimants to ownership exist.

**Section 29 of the Hindu Succession Act 1956** discusses the escheat doctrine. According to this doctrine, if an individual dies intestate and leaves no heirs competent to inherit the property, the property transfers to the government. However, the government acquires the property subject to all its duties and liabilities.

Similarly, **Section 34 of the Succession Act 1925** states that if the intestate leaves no widow, his property shall go to his lineal descendants or to those who are of kindred to him and if he has left none who are of kindred to him, it shall go to the Government.

In the case of ***State of Bihar v. Radha Krishna Singh( 1983) 3 SCC 118***, the Hon'ble Supreme Court underlined that when the government makes an escheat claim, the appellant has the burden of proving the absence of any respondent's heirs. The Court will not authorise the escheat of an estate unless all of the escheat prerequisites are met completely. The Court ruled that a public notice must be issued before an escheat plea may be considered. The government must issue a public notice so that any claimant, anywhere in the country or across the world, can come forward to oppose the state's claim.



---

# MEET THE TEAM



Anoushka  
Samyuktha A

Junior Legal  
Consultant



Nithyaparvathy R G

Junior Legal  
Consultant



Seethala B

Junior Legal  
Consultant



Sowmiya R K

Junior Legal  
Consultant



Sri Sai Kamalini M S

Junior Legal  
Consultant

---