



LAWBY 26

Experience law effortlessly

JUDGEMENTOPEDIA

(Learning Judgements For A Living)

1

Can the High Court direct DNA test when the Commission for Women, which initially ordered the DNA test, had no authority to do so?

2

Need for Education on 'Virtual Touch' Alongside 'Good and Bad Touch'

3

Discretionary power of Courts in granting bail under Section 437(6) CrPC

4

Can a medical representative be treated as Workman under the Industrial Disputes Act, 1947?



Oct, 2024

Vol 14



JUDGEMENTOPEDIA

(Learning Judgements For A Living)

1

Bhabani Prasad Jena v. Convenor Secretary,
Orissa State Commission For Women And
Another

2

Kamlesh Devi v. State (NCT of Delhi)

3

Latabai v. State of Maharashtra

4

CEO Eris Life Sciences Ltd v. State of
Madhya Pradesh and Others



Can the High Court direct DNA test when the Commission for Women, which initially ordered the DNA test, had no authority to do so?

CONTEXT: The appellant challenged the order of the Orissa State Commission for Women directing the DNA test, through a writ petition filed before the High Court. The appellant took the position that he has not fathered the child in the womb of the 2nd respondent and there has been no relationship of husband and wife since 7.8.2007. On 7.8.2009, the High Court passed an order directing the DNA test of the child to be conducted by SCB Medical College and Hospital, Cuttack and directed the appellant to give his blood sample for the same. Hence, this SLP has been filed.

The Hon'ble Supreme Court held that "...the order of the High Court directing DNA test is not sustainable. Instead of correcting the void order of the State Commission directing the DNA test, the High Court exceeded its jurisdiction in passing the impugned order."

It further added that "...should an issue arise before the matrimonial court concerning the paternity of the child, obviously that court will be competent to pass an appropriate order at the relevant time in accordance with law."

PRECEDENTS:

- 1) GOUTAM KUNDU VS. STATE OF WEST BENGAL
[(1993) 3 SCC 418]
- 2) RAMKANYA BAI VS BHARATRAM
[(2010) 1 SCC 85]

BHABANI PRASAD
JENA VS
CONVENOR
SECRETARY,
ORISSA STATE
COMMISSION FOR
WOMEN AND
ANOTHER
[(2010) 8 SCC 633]

**SECTION 18 & 20 OF
THE HINDU ADOPTION
AND MAINTENANCE
ACT, 1956**

**SECTION 19, 24 & 25
OF THE HINDU
MARRIAGE ACT, 1955**

**SEC 10 OF THE ORISSA
STATE COMMISSION
FOR WOMEN ACT,
1993**

Need for Education on 'Virtual Touch' Alongside 'Good and Bad Touch'

CONTEXT: A mother reported her 16-year-old daughter missing. The victim was later found after a month in Madhya Pradesh, where she alleged that a man she met online had drugged and abducted her. She claimed to have been confined for 20-25 days, subjected to sexual assault, and forced into marriage with the 45-year-old abductor. Charges were filed against the accused under multiple sections of the IPC and POCSO Act for abduction and sexual offences.

“The need of the hour in this case is also to send a message through this order/judgment to the concerned stakeholders such as schools and colleges, Delhi State Legal Services Authority as well as Delhi Judicial Academy to hold programs, workshops, and conferences focusing not only on the traditional concepts of ‘Good’ and ‘Bad Touch’ but also on the emerging concept of ‘Virtual Touch’ and its potential dangers.”

“Educating minors about ‘Virtual Touch’ involves teaching them about appropriate online behaviour, recognizing warning signs of predatory behaviour, and understanding the importance of privacy settings and online boundaries. Just as children are taught to exercise caution in the physical world, efforts must be made to teach them to develop critical thinking skills to assess the credibility of online contacts and safeguard their personal information.”

KAMLESH DEVI V.
STATE (NCT OF
DELHI)
[2024 SCC ONLINE
DEL 3306]

INDIAN PENAL CODE,
1860

PROTECTION OF
CHILDREN FROM
SEXUAL OFFENCES
ACT, 2012

Discretionary power of Courts in granting bail under Section 437(6) CrPC

LATABAI V. STATE OF MAHARASHTRA

[2024:BHC-AUG:23008]

CONTEXT: The applicant sought bail in a case registered with Sillod City Police Station, Aurangabad, for multiple offences under the Indian Penal Code, 1860. The issue involved was whether bail could be granted under Section 437(6) of CrPC, 1973, as the trial had not concluded within 60 days from the first date fixed for taking evidence.

The Court held that, “Where the trial is not concluded within 60 days as prescribed under Section 437(6) of Cr.P.C. that does not give a

- 1 right to bail for default. The term “shall” in the said section is discretionary. The Court should exercise such powers judiciously and consider other circumstances as provided under Section 437 of the Code of Criminal Procedure.”

- 2 Considering the applicant's poor history and the risk of absconding, the Court dismissed the bail application.

SECTION 437(6) OF THE CRIMINAL PROCEDURE CODE, 1973

INDIAN PENAL CODE, 1860

Can a medical representative can be treated as Workman under the Industrial Disputes Act, 1947?

CONTEXT: Respondent no 4 was appointed as Regional Business Manager in the Bio Actives Division of the petitioner's company on a basic salary. Respondent no 4 was terminated on 28.01.2016, alleging gross misconduct. Respondent no 4 contended that termination was without following the provision of 25F of the Industrial Disputes Act, and the dispute was preferred before the Labour Court for adjudication. The proceedings before the labour court has been challenged.

1 It was mentioned that “Medical Representatives do not perform duties of ‘skilled’ or ‘technical’ nature and therefore, they are not ‘workmen’. The connotation of the word ‘skilled’ in the context in which it is used will not include the work of Sales Promotion Employees such as Medical Representatives. That word has to be construed ejusdem generis and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition.”

2 The petition before the labour court was quashed as they do not fall within the definition of workman under Section 2(s) of the Industrial Disputes Act, 1947.

CEO ERIS LIFE
SCIENCES LTD
VERSUS STATE OF
MADHYA PRADESH
AND OTHERS
[[2024] 3 LLJ 545]

**SECTION 2(s) OF
THE INDUSTRIAL
DISPUTES ACT,
1947**

**ARTICLE 226 OF
THE INDIAN
CONSTITUTION**