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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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Can marks obtained in recruitment exams be disclosed under RTI?

CONTEXT: The petitioner, Shri Onkar Dattatray Kalmankar, participated in a recruitment process for the position of Junior Clerk at the Pune District Court. He was dissatisfied with the outcome and filed an RTI request seeking information regarding the marks he and other candidates obtained in various stages of the selection process. The Public Information Officer (PIO) declined to provide this information citing confidentiality under the Maharashtra District Courts Right to Information (Revised Rules), 2009. The petitioner appealed this decision, but both the first and second appellate authorities upheld the PIO's decision. The petitioner then filed a writ petition before the Bombay High Court.

1 The Bombay HC partly allowed the petition, setting aside the orders of the PIO and appellate authorities that denied the petitioner's access to the marks obtained by him and other candidates in the recruitment process.

2 The Court ordered the respondents to provide this information to the petitioner. The court also rejected the argument that Section 11 of the RTI Act, 2005 applied in this case because the marks obtained by candidates were not supplied by them or treated as confidential.

3 Additionally, the court held that disclosing the marks would not affect the confidentiality of the examination as envisaged under Rule 13(e) of the Maharashtra District Courts Right to Information (Revised Rules), 2009, as the examination had already concluded.

SHRI ONKAR
DATTATRAY
KALMANKAR VERSUS
PUBLIC INFORMATION
OFFICER AND
REGISTRAR, AND
OTHERS
[2024:BHC-
AS:43153-DB]

SECTION 8(1)(j), 11 OF
THE RIGHT TO
INFORMATION ACT,
2005

RULE 13(e) OF THE
MAHARASHTRA
DISTRICT COURTS
RIGHT TO
INFORMATION
(REVISED RULES),
2009

Can insolvency proceedings initiated under Part III of the Indian Bankruptcy Code, 2016 continue against the legal representatives of a deceased guarantor?

CONTEXT: Apogee Enterprises Private Limited initiated insolvency proceedings under Section 95 of the Insolvency and Bankruptcy Code (IBC), 2016 against Anil Nanda, a personal guarantor. However, Nanda passed away during the proceedings. Apogee Enterprises filed an application seeking the substitution of Nanda's legal heirs in his place.

The National Company Law Tribunal (NCLT) dismissed the application for substitution and

- 1 closed the insolvency proceedings against the deceased guarantor.

- 2 The NCLT held that there is no provision in the IBC that allows for legal heirs to step into the shoes of a deceased personal guarantor in insolvency proceedings.

- 3 The court relied on several precedents and the definition of "personal guarantor" under Section 5(22) of the IBC.

APOGEE
ENTERPRISES
PRIVATE LIMITED V.
ANIL NANDA
[2024 SCC ONLINE
NCLT 3562]

SECTION 5(22), 95
OF THE INSOLVENCY
BANKRUPTCY CODE,
2016

RULE 11, 53 OF THE
NATIONAL
COMPANY LAW
TRIBUNAL RULES,
2016

Supreme Court nullifies High Court decision on flawed tender process, upholds independent inquiry findings

CONTEXT: After an initial tender was awarded, two unsuccessful bidders filed writ petitions with the Himachal Pradesh High Court alleging irregularities. The High Court appointed an independent committee to investigate the matter. The committee concluded that the tender process was flawed and should be cancelled. The High Court accepted this finding, prompting HIMUDA to cancel the tender. However, the winning bidder filed a new writ petition, which the High Court ultimately decided in the bidder's favour, allowing the project to proceed under the original, cancelled tender. This decision was appealed to the Supreme Court of India.

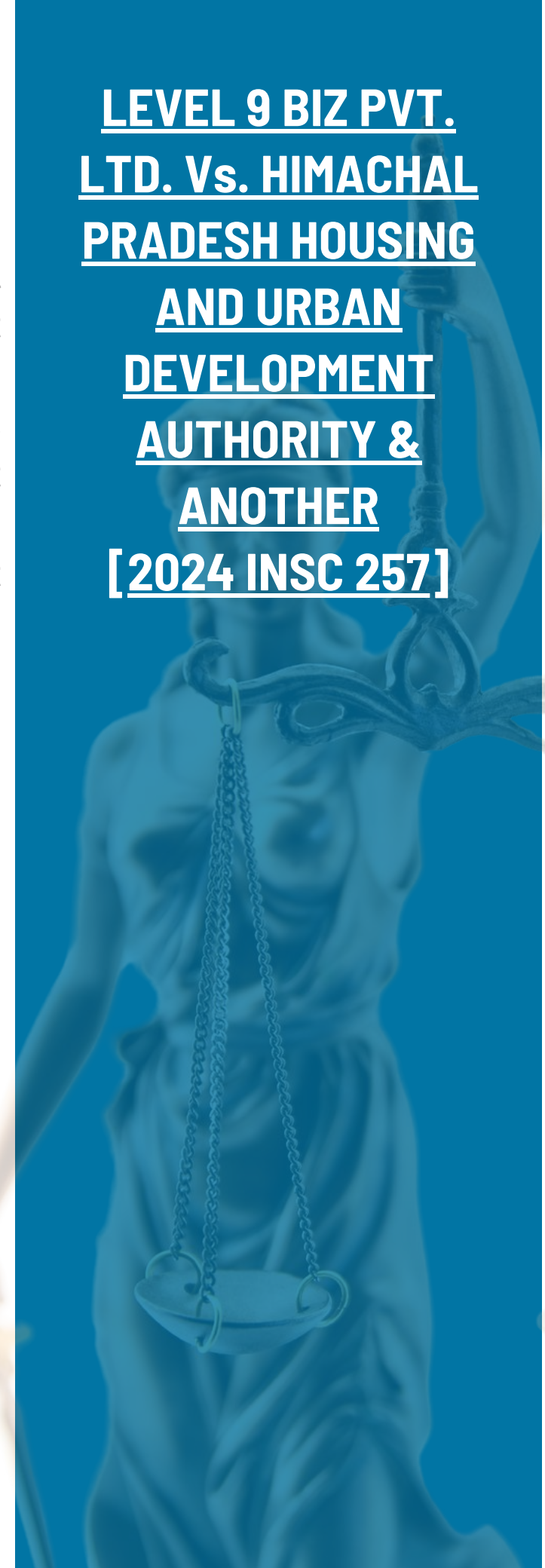
1 The Supreme Court of India set aside the High Court's decision, finding that the High Court erred in disposing of the petition based solely on the statements of the parties involved.

2 The Court held that the High Court should have considered the findings of the independent committee and the Single Bench's observations regarding the irregularities in the tender process.

3 The Supreme Court allowed the appeal and awarded costs to the appellant.

4 The Supreme Court also clarified that HIMUDA was free to initiate a new tender process in accordance with the law.

LEVEL 9 BIZ PVT.
LTD. Vs. HIMACHAL
PRADESH HOUSING
AND URBAN
DEVELOPMENT
AUTHORITY &
ANOTHER
[2024 INSC 257]



Whether the Appellant's request for information should be granted under the Right to Information Act, 2005?

CONTEXT: The Appellant, Dipak Ranjan Mukherjee, filed a Right to Information (RTI) application on 5 January 2023 seeking information about the Indian Performance Rights Society (IPRS) and its compliance with government inquiries and its registration as a copyright society. The Central Public Information Officer (CPIO) denied some of the requests, citing confidentiality and exemption from disclosure under Sections 8(1)(j) and 11 of the RTI Act. The Appellant filed appeals, but his requests were ultimately denied. The Appellant then approached the Commission with a Second Appeal.

The Commission upheld the decisions of the CPIO and First Appellate Authority, denying the Appellant's request for information.

The Commission reasoned that the information sought pertained to the personal information of a third party (IPRS) and would cause an unwarranted invasion of privacy.

Additionally, the Commission noted that the Appellant had not demonstrated any overriding public interest that would be served by disclosing the information and that an alternative remedy was available under the Copyright Act.

DIPAK RANJAN
MUKHERJEE VERSUS

CPIO
[CIC/MOCMI/A/2023/
633735]

SECTION 8(1)(j), 11 OF
THE RIGHT TO
INFORMATION ACT,
2005

Does a power of attorney deed executed by several people automatically terminate upon the death of one of the principals if the deed is not coupled with interest?

K.A. MEERAN
MOHIDEEN V. SHEIK
AMJAD AND OTHERS
[S.A.NO.1391 OF
2002]

CONTEXT: This appeal case involved a power of attorney deed executed by multiple principals. The legal issue arose concerning the impact of the death of one of the principals on the validity and continuation of the power of attorney.

The court determined that the termination of a power of attorney upon the death of one of the principals is not automatic when the power of attorney is not coupled with interest. The decision regarding termination hinges on the specific circumstances of each case, including:

- 1 The intentions of the parties at the time of the deed's execution, as evidenced by the document's contents and other relevant factors.

Whether the deceased principal's interest is distinct and separable from that of the surviving principal(s), in which case, the power of attorney might be terminated concerning the deceased principal's interest.

SECTION 201 & 202
OF THE INDIAN
CONTRACT ACT, 1872