

# LAWBY WRITES



The Wrong Counsel- How hiring mistakes haunt the Indian legal field

Impeachment of President in India and USA

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# EDITORIAL

WE ARE  
HIRING

## The Wrong Counsel- How hiring mistakes haunt the Indian legal field



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Founder

“The right person for the job”- we have heard this phrase many times only to believe that it is a mark of appreciation for someone doing their job well. What if it is a statement of reality that is spoken by a master hirer who understands the labour market very well? Every job is different. Every talent is different. Even the best talent fails. Even the ones written off excel at something. Bottomline, talent is inconsistent and variable.

In law, experience matters, but it is also a fact that the number of years does not necessarily mean competence. A young lawyer could very well outsmart and be more competent to handle a case than a Senior at the Bar. **A poorly selected lawyer or legal professional can cause a significant burden through incompetence, ethical lapses and lack of diligence. For law firms, the cost includes lost billable hours, client dissatisfaction, and potential malpractice lawsuits.** For companies hiring in-house counsel, a bad hire might mean regulatory non-compliance or flawed contract drafting, leading to financial losses.

The ripple effect extends to clients, who rely on legal professionals to safeguard their rights. In a country where trust in the legal system is already strained, such errors amplify public anger and frustration on the legal fraternity. **In India, we are yet to see clients marching in huge numbers to the BCI filing cases against their advocates for their rude behaviour, excessive and unwarranted adjournment habits, improper billing and lack of professional communication.**

Firms, while hiring, should integrate practical tests such as drafting a contract, analyzing a case brief, or simulating a client consultation. This ensures candidates can perform under real-world conditions, not just on paper. **Rather than fixating on elite institutions, employers should tap into tier-2 and tier-3 law colleges, where untapped talent often lies ungroomed and underutilised.** Mentorship programs can bridge experience gaps, turning raw potential into polished expertise. **Background checks, reference verifications, and scenario-based ethical questions should be standard. Firms can also leverage technology, such as AI-driven tools, to flag red flags in a candidate’s history.** Tailored onboarding and probation periods allow firms to assess how candidates mesh with their team and workload.

A bad hire isn’t always a lost cause. Investing in upskilling through workshops on legal tech, compliance, or soft skills can salvage talent. **The wrong counsel is not a one-person problem. It is a systemic issue of not preparing competent counsels right from the college level made worse by the unorganized opportunity to learn from experts on the job.**

An appraisal-based system for assessing lawyers is better as abilities rise and diminish. Having simplified procedure checklists and having open-source learning platforms from experts may slowly cause a cumulative change that augurs well in a decade for the legal industry.





# LEGAL CRISPS

## Impeachment of President in India and USA

*-Murshida Banu T*

Impeachment of a President is a constitutional process through which a sitting President is removed from office for violating the Constitution as per **Article 56(1)(b)** of the Indian Constitution. Whereas in the US, **Article II, Section 4** of the US Constitution states that a President may be impeached for Treason, Bribery, high crimes, and other misdemeanours. It is an important mechanism to ensure accountability and uphold the rule of law. No Indian President has been impeached yet. But in the US, Three Presidents have been impeached: Andrew Johnson, Bill Clinton, and Donald Trump, who was impeached twice.

**Article 61** of the Indian Constitution talks about the procedure for impeachment of the President in India. When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament. The process begins when a resolution is introduced to initiate impeachment proceedings. This resolution must be signed by at least **one-fourth** of the members of the House and requires a minimum of **fourteen days' notice** before it is formally moved. For further proceedings, the resolution must be passed by a **two-thirds** majority of the total members of the house. When the charge has been so preferred by either House of Parliament, the other house is responsible for investigating the charge. During the investigation, the President has the right to appear and to be represented in the investigation. As a result of the investigation, a resolution is passed by a majority of not less than **two-thirds** of the total members of the House, and then the President is removed from office immediately.

Impeachment procedures in the US are different from those in India. The Procedure of Impeachment is laid down under **Articles I and II** of the US Constitution. Any member of the House can initiate impeachment procedures and introduce the resolution. The Judiciary Committee analyses the resolution. The Impeachment requires a simple majority, and once it is passed, the President is considered impeached. These charges are then sent to the Senate for trial, and if the Senate convicts the President with a special majority, they are removed from office. Impeachment does not result in removal; it is regarded as an indictment.

The President's impeachment is a pivotal constitutional safeguard to prevent any misuse of power at the highest level. The impeachment procedure thus has its own rigorous structure, which can never be used for petty political purposes, thereby ensuring the dignity of the highest constitutional office in any nation.





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# Can Air Force Personnel challenge their dismissal in Courts?

-Monisha TM

Air Force personnel who are dismissed from service often wonder if they can challenge their dismissal in civil courts. Generally, military personnel are governed by the **Air Force Act of 1950**, which provides for specific procedural matters related to disciplinary actions, dismissal and appeal. Disputes relating to service conditions and dismissals usually come under the jurisdiction of the Armed Forces Tribunal (AFT), established by the **Armed Forces Tribunal Act, 2007**. However, several disciplinary cases and discharge cases have been examined at Civil Courts, notably the High Courts and the Supreme Court, where fundamental rights violations, bias or procedural irregularities occur.

In ***Union of India v. Major General Shri Kant Sharma, [(2015) 6 SCC 773]***, the Supreme Court held that High Courts should not interfere in AFT decisions through Article 226 of the Constitution. This Judgment restricted military personnel from approaching High Courts for relief and limited their option of challenging dismissals outside the tribunal system. Later, this judgement was overturned by the Supreme Court in ***Union of India v. Parashotam Dass [2023 SCC OnLine SC 314]***, where the Supreme Court held that High Courts can take intervention under Article 226 of the Constitution where there is a violation of natural justice, bias or procedural glitches in an AFT judgment. This means that Air Force personnel can challenge their dismissal in High Courts if they believe their fundamental rights have been violated.

Courts may intervene if due process was violated in cases of wrongful dismissal, illegal court-martial proceedings, or unfair denial of benefits. Air Force personnel can also challenge AFT decisions in the Supreme Court under Article 136 of the Constitution. The Supreme Court has the authority to review an unfair decision made by the AFT. Civil courts usually do not consider regular service problems, such as promotions and transfers, unless they involve fundamental rights.

Therefore, the AFT has been established as the principal venue for service disputes; personnel whose fundamental rights have been violated by their dismissal may appeal to the High Courts in necessary cases. The military personnel should not be left without legal remedies to ensure fair treatment under the law.





# CASE CHRONICLE

## Supreme Court quashed criminal proceedings due to settlement in a POCSO Case

-Seethala B

**CASE NAME:** Mahesh Mukund Patel Vs. State of U.P. & Ors.

**CITATION:** Criminal Appeal No.001005/2025

In this significant ruling, the Supreme Court of India set aside an order passed by the Allahabad High Court, which had directed that an application for dropping criminal proceedings based on a compromise should be moved before the Trial Court. The Division Bench held that the High Court had overlooked a fact— that the Trial Court lacked the authority to record the settlement. Instead, the Supreme Court emphasized that this was a suitable case for the High Court to exercise its jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) to quash the proceedings.

The case revolved around an FIR registered on 18-09-2016, wherein the accused was charged under Sections 354A, 363, 366, and 376 of the Indian Penal Code, 1860 (IPC), along with Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). However, the accused and the victim had entered into a marital relationship, as evidenced by a marriage certificate issued by the Registrar of Hindu Marriages and Sub Registrar, Varanasi. The marriage took place on 05-02-2016, and from their wedlock, two children were born.

A crucial point that was raised before the Court was the age of the victim at the time of the alleged offence. The victim, in her affidavit, stated that she was happily married to the accused and had been residing with him. She provided documentary evidence, including a primary school record and an ossification test conducted during the investigation, confirming her date of birth as 20-07-1998. This established that she was already a major when the offence was alleged to have occurred in September 2016.

Given these facts, the Supreme Court ruled that **“the appellant and third respondent are happily married, no purpose will be served by continuing the prosecution as it will cause undue harassment to the appellant, the third respondent and their children.”**

The Court pointed out that the marriage certificate was already on record before the High Court, and no objections had been recorded from the first informant. Despite this, the High Court had directed that the matter be taken up before the Trial Court for dropping the proceedings instead of exercising its jurisdiction under Section 482 CrPC. Recognizing the undue burden placed on the parties by the High Court’s decision, the Supreme Court intervened and quashed the FIR along with the pending Sessions Trial before the Special Judge.





# BEYOND THE OBVIOUS

## Can housing societies deny permission for EV charge installations?

-Nithyaparvathy R G

The adoption of electric vehicles (EVs) in India is rising, driven by government incentives and environmental consciousness. However, many EV owners in housing societies face resistance when seeking permission to install charging stations. The question arises: Can housing societies legally deny permission for such installations?

Housing societies in India cannot arbitrarily deny permission for installing electric vehicle (EV) chargers, as government policies and legal provisions support such installations. The **Model Building Bye-Laws, 2016**, and various state EV policies, including those of **Delhi and Maharashtra**, mandate residential complexes to facilitate EV charging infrastructure. Under the **Maharashtra Cooperative Societies Act, 1960**, and similar state laws, societies can manage common areas but **cannot impose unreasonable restrictions** on EV charger installations in privately owned or allotted parking spaces.

On September 17, 2024, the Ministry of Power, Government of India, issued **Guidelines for Installation and Operation of Electric Vehicle Charging Infrastructure-2024**. The EV Guidelines, are applicable to private parking spaces and expressly promotes installation of EV chargers in Group Housing Societies and other places. Further, the EV Guidelines state that residents can install private EV charging stations in their designated parking spaces and the distribution licensee will ensure electricity supply through the resident's existing meter or a separate sub-meter, depending on the consumer.

In the matter pertaining to ownership of parking spaces, the Hon'ble Supreme Court of India, in **Nahalchand Laloochand Pvt. Ltd. Vs Panchali Cooperative Housing Society Ltd., (AIR 2010 SUPREME COURT 3607)**, held that as soon as the municipal corporation issues occupation certificate and Society is registered, the building, as well as the stilt parking spaces, open spaces and all common amenities become the property of the Society. Thus, any additions/ alterations of the property belonging to the Society would require the Society's consent.

In **Amit Dholakia v. The State of Maharashtra, (2025:BHC-OS:1513-DB)**, the Bombay High Court directed authorities to finalize and implement rules for EV charger installation in housing societies, urging amendments to Model Bye-Laws under the Maharashtra Co-operative Societies Act, 1960.

To conclude, housing societies **cannot arbitrarily deny** permission for EV charger installations, especially if state and central policies support them. While concerns about safety and electricity load management are valid, these can be addressed with proper technical assessments. As India moves towards an EV-driven future, housing societies must adapt to facilitate eco-friendly mobility solutions.



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# LAWBY WRITES

## Have Suggestions or Questions?

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