NEWS ALERT

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COMPILED BY

HEMANT KHARE

Indian Institute of Public Administration

I.P. Estate, Ring Road, New Delhi-110002

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CONTENTS

AADHAAR

HINDU, SEP 26, 2018

Aadhaar gets thumbs up from Supreme Court

Upholds the passage of the Aadhaar Act as a Money Bill; says it fulfils government's aim to provide dignity to marginalised

The Supreme Court, in a majority opinion on Wednesday, upheld Aadhaar as a reasonable restriction on individual privacy that fulfils the government's "legitimate aim" to provide dignity to a large, marginalised population living in abject poverty.

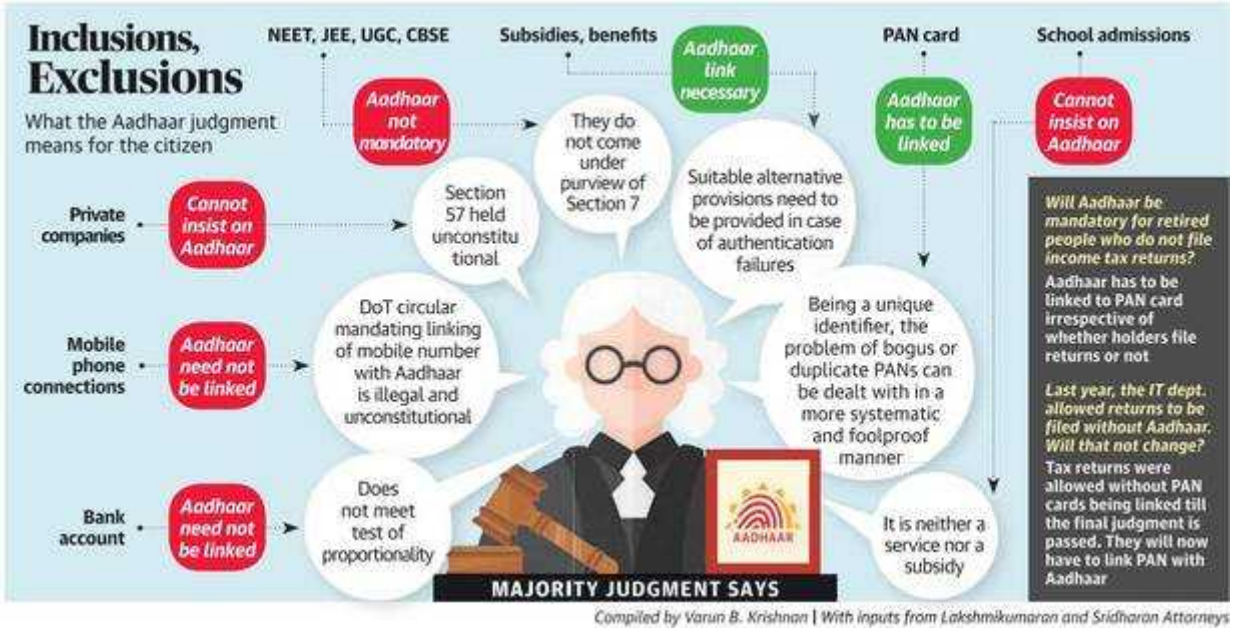
"The Constitution does not exist for a few or minority of the people of India, but 'We the People'," the Supreme Court observed.

The majority view by Chief Justice of India Dipak Misra and Justices A.K. Sikri and A.M. Khanwilkar declared Aadhaar a “document of empowerment.” An “unparalleled” identity proof. A document that cannot be duplicated unlike PAN, ration card, and passport.

“It is better to be unique than the best. The best makes you number one, but unique makes you the only one,” Justice Sikri, who authored the majority opinion, wrote.

Justice D.Y. Chandrachud wrote a sharp dissent, declaring Aadhaar unconstitutional. Justice Ashok Bhushan, in a separate opinion, concurred with the majority view, saying Aadhaar has been widely accepted. The three opinions of the Constitution Bench span 1,448 pages.

Justice Sikri said technology had become a vital tool for ensuring good governance in a social welfare state. Schemes like PDS, scholarships, mid-day meals, LPG subsidies, involve a huge amount of money and “fool-proof” Aadhaar helped welfare reach the poor.



Upholding the passage of the Aadhaar Act as a Money Bill, the Supreme Court said neither were individuals profiled nor their movements traced when Aadhaar was used to avail government benefits under Section 7 of the Aadhaar Act of 2016.

The statute only sought “minimal” biometric information, and this did not amount to invasion of privacy.

Bar on bank-mobile link

The majority opinion upheld the PAN-Aadhaar linkage, but declared linking Aadhaar with bank accounts and mobile SIM cards unconstitutional.

The court insulated children from the Aadhaar regime. The card was not necessary for children aged between six and 14 under the Sarva Shiksha Abhiyan as right to education was a fundamental right. Statutory bodies like CBSE and UGC cannot ask students to produce their Aadhaar cards for examinations like NEET and JEE. Permission of parents and guardians was a must before enrolling children into Aadhaar, the Supreme Court declared. Children once they attained the age of majority could opt out of Aadhaar, the Supreme Court said.

It said it was not trivialising the problem of exclusion faced by the elderly, the very young, the disabled and several others during the authentication process.

Authentication was found to be only having a .232% failure, Justice Sikri pointed out. It was accurate 99.76% times, Justice Sikri said.

He reasoned that dismantling the scheme would only disturb this 99.76%.

The Supreme Court, in its majority opinion, said the remedy was to plug the loopholes rather than axe Aadhaar.

“We cannot throw the baby out with the bath water,” Justice Sikri wrote.

The court further directed the government and the Unique Identification Authority of India (UIDAI) to bring in regulations to prevent rightfully entitled people from being denied benefits.

Countering the argument that the Aadhaar regime would facilitate the birth of a “surveillance state”, Justice Sikri wrote that Aadhaar exhibited no such tendencies. Authentication transactions through Aadhaar did not ask for the purpose, nature or location of the transaction.

Besides, information was collected in silos and their merging was prohibited. The authentication process was not expanded to the Internet. The collection of personal data and its authentication was done through registered devices. The Authority did not get any information related to the IP address or the GPS location from where authentication was performed. “The Aadhaar structure makes it very difficult to create the profile of a person,” Justice Sikri reasoned.

However, the Supreme Court quashed or read down several provisions in the Aadhaar Act in order to de-fang any possibility of the state misusing data.

For one, the court held that authentication records should not be retained for more than six months. It declared the archiving of records for five years as “bad in law.” It also prohibited the creation of a metabase for transactions.

It read down Section 33 (1), which allowed the disclosure of Aadhaar information on the orders of a District Judge. This cannot be done now without giving the person concerned an opportunity to be heard.

The Supreme Court struck down Section 33(2), which allowed the disclosure of Aadhaar information for national security reasons on the orders of an officer not below a Joint Secretary.

It held that an officer above the Joint Secretary rank should first consult with a judicial officer, possibly a High Court judge, and both should decide whether information need to be disclosed in the national interest.

The court has struck down Section 47, which allows only the UIDAI to file criminal complaints of Aadhaar data breach.

BACKWARD CLASSES

THE HINDU, SEP 26, 2018

SC refuses to refer to seven-judge Bench its verdict on SC/ST quota for job promotion

Supreme Court says govt. need not produce ‘quantifiable data’ of backwardness to provide the benefit.

A Constitution Bench of the Supreme Court on Wednesday modified a 2006 judgment requiring the State to show quantifiable data to prove the “backwardness” of a Scheduled Caste/Scheduled Tribe community in order to provide quota in promotion in public employment.

The 58-page judgment by a five-judge Bench led by Chief Justice of India Dipak Misra gives a huge fillip for the government’s efforts to provide “accelerated promotion with consequential seniority” for Scheduled Castes/ Scheduled Tribes (SC/ST) members in government services.

Directly contrary

Writing the verdict for the Bench, Justice Rohinton Nariman held that this portion of the M. Nagaraj judgment of another five-judge Constitution Bench in 2006 was directly contrary to the nine-judge Bench verdict in the Indra Sawhney case. In the Indira Sawhney case, the Supreme Court had held that the “test or requirement of social and educational backwardness cannot be applied to Scheduled Castes and Scheduled Tribes, who indubitably fall within the expression ‘backward class of citizens’.”

Justice Nariman pointed out that the Presidential List for Scheduled Castes contains only those castes or groups or parts as “untouchables.” Similarly, the Presidential List of Scheduled Tribes only refers to those tribes in remote backward areas who are socially extremely backward.

“Thus, it is clear that when Nagaraj requires the States to collect quantifiable data on backwardness, insofar as Scheduled Castes and Scheduled Tribes are concerned, this would clearly be contrary to the Indra Sawhney and would have to be declared to be bad on this ground,” Justice Nariman wrote.

But the unanimous judgment differed with the Centre’s argument that Nagaraj misread creamy layer concept to apply it to SC/ST.

March ahead

“The whole object of reservation is to see that backward classes of citizens move forward so that they may march hand in hand with other citizens of India on an equal basis. This will not be possible if only the creamy layer within that class bag all the coveted jobs in the public

sector and perpetuate themselves, leaving the rest of the class as backward as they always were," Justice Nariman said and upheld Nagaraj's direction that creamy layer applied to SC/ST in promotions. It said that when a court applies the creamy layer principle to Scheduled Castes and Scheduled Tribes, it does not in any manner tinker with the Presidential List under Articles 341 or 342 of the Constitution of India.

The caste or group or sub-group named in the said List continues exactly as before.

"It is only those persons within that group or sub-group, who have come out of untouchability or backwardness by virtue of belonging to the creamy layer, who are excluded from the benefit of reservation," Justice Nariman wrote.

CIVIL AVIATION

HINDUSTAN TIMES, SEP 24, 2018

Engineering marvel at 4,500 feet: PM Modi inaugurates Sikkim's Pakyong airport

Sikkim's Pakyong airport, which Prime Minister Narendra Modi inaugurated on Monday, is spread over 990 acres and is the first greenfield airport to be constructed in the Northeast.

Pakyong airport, about 30km from the state capital Gangtok has put Sikkim on India's aviation map. Until now, Sikkim was the only state in the country which did not have an airport, the nearest one being in West Bengal's Bagdogra, 125 km away.

The Pakyong airport, which Prime Minister Narendra Modi inaugurated on Monday, is spread over 990 acres and is the first greenfield airport to be constructed in the north-east India. The project was approved by the Union Cabinet a decade ago.

At an altitude of more than 4,500 feet, the picturesque airport is considered an engineering marvel because of the terrain where it has been built.

State-of-the-art geotechnical engineering including soil reinforcement and slope stabilisation techniques were used because traditional retaining structures and embankments were ruled as unfeasible in the greenfield project, a government official said.

From next month, you can finally fly straight to Sikkim when the Pakyong airport comes into service. Budget carrier SpiceJet will operate the first flight from Pakyong airport with a flight from Kolkata on 4 October.

Currently, one has to fly to Bagdogra airport in West Bengal to reach Gangtok.

The Pakyong Airport has been included in the central government's ambitious UDAN scheme. This is bound to enhance regional connectivity aiding the development of Sikkim's tourism sector, the official said.

On March 5, an Indian Air Force Dornier 228 conducted test flights from the airport. On March 10, SpiceJet conducted test flights of the 78-seater Bombardier Q400 from Kolkata to Pakyong

The Pakyong airport is the 100th functional airport in India.

ELECTION

THE HINDU, SEP 24, 2018

Publishing poll candidate's propaganda is paid news: Election Commission

Poll panel tells Supreme Court that it can't be allowed as free speech.

Repeated publication of propaganda lauding the achievements of a candidate in an election is nothing but "paid news", the Election Commission of India has told the Supreme Court.

Politicians cannot say that it is part of their fundamental right to free speech to spew out "motivated propaganda".

The EC has asked the court to declare whether it amounts to "paid news" if widely circulated daily newspapers cover statements issued by, and in the name of, a candidate that are not only laudatory of his or her record and achievements but also are a direct appeal to voters by the candidate.

'Unequal advantage'

“If such motivated propaganda is allowed in the garb of free speech during the election period, candidates with a strong network of connections and undefined relationships will exploit their sphere of influence in society and will have the unequal advantage of encashing such silent services,” the EC, represented by advocate Amit Sharma, said in a special leave petition.

The commission has moved the court in appeal against a decision of the Delhi High Court on May 18 to set aside the disqualification of Madhya Pradesh BJP leader Narottam Mishra.

The commission’s National Level Committee on Paid News found that five newspapers, with a wide circulation, had published 42 news items that were “biased and one-sided and aimed at furthering the prospects of Mr. Mishra”.

Some of the reports were advertisements in favour of him. The committee concluded that the items fitted the definition of “paid news”.

The EC on June 23 last year disqualified Mr. Mishra for not filing the accounts for money spent as election expenses on news items. Though a single judge of the High Court upheld the commission’s decision to disqualify Mr. Mishra, a Division Bench concluded that the BJP leader was merely exercising his fundamental right to freedom of speech and expression.

Mr. Mishra’s witnesses also denied receiving any money from him for favourable coverage.

‘An unholy alliance’

“The conduct of the eager supporters, whose extensive coverage, as in this case, being dubbed as freedom of expression cannot be termed news

because ‘news’ is expected to be unbiased and characterised by dispassionate coverage and proportionate space to other contenders,” the EC countered in its appeal.

Calling such relationships between candidates and publications an “unholy alliance,” the EC said the appeal was significant because if the court shut its eye to this case, “the assertion of freedom of speech would become a stock pretence or plea by the service provider and the beneficiary candidate”.

The commission said its powers to investigate the contents of such news coverage should not be thwarted.

HEALTH SERVICES

HINDUSTAN TIMES, SEP 24, 2018

Ayushman scheme's Rs 5 lakh insurance cover turns saviour for poor and needy

Over a dozen people were treated under the Pradhan Mantri Jan Arogya Yojana (PMJAY) at different hospitals of Jharkhand on the very first day of the launch of Ayushman Bharat scheme, officials said.

Manju Devi, 42, who works as a domestic help in Ranchi, was the first to receive the Ayushman Bharat-Pradhan Mantri Jan Arogya Yojna e-health insurance card from Prime Minister Narendra Modi here on Sunday.

Modi launched the flagship scheme in Ranchi that provides an annual cover of Rs 5 lakh per poor and vulnerable family.

“Ayushman Bharat is a boon for poor people like us as any health problem in the family takes away our hard earned savings. We underwent an acute financial crisis in 2011 when my husband met with an accident and my daughter was hospitalised with typhoid,” Devi said. “We had to bear over Rs 1 lakh as hospital cost, as there was no such scheme to support us then.”

Devi said they lost all their savings and had to borrow from relatives and neighbours. “With Ayushman Bharat, now we are free from the worry of disease and hospital cost,” said Devi.

Devi’s husband runs a cycle repair shop and both of them earn Rs 5,000-Rs 6000 a month. Devi’s son and daughter study at a Ranchi college. Another recipient, Ruby Rani, 18, said her family had to sell land for her operation, which cost them around Rs 3 lakh. “Had there been Ayushman Bharat like scheme, my father, who works as a casual worker in a private firm, would not have sold the property.” She said meeting the Prime Minister was like a dream come true and Ayushman Bharat would prove to be a blessing to the poor. Mukesh Kumar, a physically-challenged man, said he had to sell land for treatment of his brother, Manoj Kumar, who met with an accident a few years back.

“Doctors are now saying the rod that has been fitted in his leg would have to be taken out. But we do not have enough money for the operation. We thank Modi for introducing Ayushman Bharat.”

Over a dozen treated under PMJAY

Over a dozen people were treated under the Pradhan Mantri Jan Arogya Yojana (PMJAY) at different hospitals of Jharkhand on the very first day of the launch of Ayushman Bharat scheme, officials said. Altogether 12 patients underwent operations at Ranchi’s Rajendra Institute of

Medical Sciences (RIMS), while a successful caesarean section was performed at Sadar Hospital, East Singhbhum.

Dr Veena Singh, who performed the caesarean section of one Poonam Mahto, said, “Her operation was performed under PMJAY at around 1 pm and she delivered a baby girl.”

State health secretary Nidhi Khare said that treatment under PMJAY would pick up from Monday. “Despite being Sunday, operations were performed by the doctors in different districts. Majority of the patients who underwent treatment had been enrolled under the scheme today,” she said.

Fifty-year-old Bachulal Tiwary said, “Ayushman Bharat has come as blessing in disguise to me, as I had only two options for treatment- either sell property or take loan. I would like to thank Modi for such scheme.”

Tiwary was admitted to the hospital under PMJAY on Saturday. He was detected with 90% blockage in an artery of the heart on September 15.

Doctor had told him that the operation would cost nearly Rs 75,000, which felt like a financial blow to this private tutor, who earns meager Rs 5,000 to Rs 6,000 a month.

Tiwary said doctors at RIMS suggested him to try for availing the benefit of Ayushman Bharat. “Doctors told me, if I am enrolled under the scheme, my operation would be done free of cost, as I would get health insurance coverage up to ~5 lakh.

I visited the Ayushman Bharat kiosk at RIMS and submitted the required documents and thus got enrolled under the scheme,” he said. Cardiologist Dr Prshant Kumar said, “The angioplasty procedures of both the patients were done successfully.”

TRIBUNE, SEP 27, 2018

Govt dissolves MCI, new body led by docs takes over

In a massive move to reform medical education sector, the government on Wednesday dissolved the Medical Council of India replacing it with a seven member board of governors led by NITI Aayog member health VK Paul.

The seven-member BOG also comprises AIIMS New Delhi Director Randeep Guleria, PGI Chandigarh Director Jagat Ram, NIMHANS Bangalore Chief BN Gangadhar, AIIMS New Delhi professor Nikhil Tandon, Director General Health Services S Venkatesh, and Secretary Health Research Balram Bhargava.

The dissolution happened through an ordinance passed by the Union Cabinet today in a move to cleanse the health sector of corruption.

The Indian Medical Council Amendment Ordinance 2018 says the MCI will be superseded and the President, Vice-President and other MCI members will vacate their offices and shall have no claim to compensation whatsoever.

The move comes after a Supreme Court appointed oversight committee told the government that it was unable to oversee the MCI since the MCI remained non cooperative and non complaint.

The MCI was first dissolved through an ordinance in 2010 under the Congress-led UPA and remained superseded until 2013 and has again gone down the same old road.

INTERNATIONAL ORGANISATION

PIONEER, SEP 28, 2018

Terrorism single largest threat to peace in S Asia: India to SAARC

In a veiled attack on Pakistan, External Affairs Minister Sushma Swaraj has told a meeting of the SAARC foreign ministers that the scourge of terrorism remains the single largest threat to peace and stability in the South Asian region and it is necessary to eliminate the ecosystem of its support.

Addressing a meeting, also attended by her Pakistani counterpart Shah Mehmood Qureshi, Swaraj emphasised that regional cooperation can only be successful if it meets the expectations of the people.

The meeting, chaired by Foreign Minister of Nepal Pradeep Kumar Gyawali, was held on the margins of the 73rd session of the UN General Assembly and attended by foreign ministers of the SAARC bloc - Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

"An environment of peace and security is essential for regional cooperation to progress and achieve economic development and prosperity of our people. The number of threats and incidents that endanger South Asia are on the rise," Swaraj said in her statement at the Informal meeting of the SAARC Council of Ministers on Thursday.

She said terrorism remained the single largest threat to peace and stability in the region and to the world.

"It is necessary that we eliminate the scourge of terrorism in all its forms, without any discrimination, and end the ecosystem of its support," she said.

Swaraj stressed that meetings, including high-level ones, can only be effective if expressions of resolve are translated into concrete action on the ground.

India had boycotted the 2016 SAARC summit citing Islamabad's unrelenting support to terrorist activities in India and and after Pakistan-based terrorists attacked an Indian Army base in Uri in Jammu and Kashmir.

Bhutan, Bangladesh and Afghanistan had also joined India in boycotting the summit.

"The world is moving ahead to become more integrated and connected where movement of goods and people is becoming easier with each passing day. SAARC needs to deliver on its commitments or risk being left behind," she said.

Swaraj underscored that in order to realise the region's immense potential for trade, it was imperative that further trade liberalisation under South Asian Free Trade Agreement (SAFTA) and

operationalisation of SAARC Agreement on Trade in Services (SATIS) are done at the earliest.

Cooperation in the energy sector is also critical for meeting the high energy needs, she added.

Swaraj noted that the SAARC Framework Agreement for Energy Cooperation that the group's leaders signed at the 18th SAARC Summit had not yet entered into force due to non-ratification by some Member States.

With South Asia being one of the fastest growing regions of the world, Swaraj said its true potential can be realised only if all countries contribute constructively towards delivering on the commitments SAARC has made to the people of the region.

Swaraj voiced India's commitment to regional cooperation, saying it attaches highest priority to the development and prosperity of the region, under the government's 'Neighbourhood First' policy.

Improving connectivity in all forms also remains vital for progress of the region and for increasing people-to-people contacts, Swaraj said, adding that India is working on extending its National Knowledge Network to participating SAARC countries.

"Development of seamless physical connectivity is key for achieving regional growth, employment and prosperity," she said.

Swaraj said India had collectively decided to finalise a SAARC Motor Vehicle Agreement and SAARC Regional Railways Agreement, which, however, still remains pending.

She emphasised that India was willing to share the fruits of its economic, scientific and technological progress with the South Asian community

and the country has taken various initiatives including asymmetrical responsibilities for enhancing regional cooperation under SAARC.

Swaraj cited the example of the South Asia Satellite, a first-of-its-kind initiative, that was launched in May 2017 and will positively impact lives of the people even in remote areas of the region through its wide ranging applications in health, education, disaster response, weather forecasting and communications.

Further, the SAARC Disaster Management Centre in Gandhinagar is now in its second year of operation. A wide-ranging calendar of activities in area of disaster risk reduction and response prepared by the Centre is being implemented with the active participation of all Member States, she said.

Swaraj also assured speedy completion of the new campus of the South Asian University.

SAARC summits are usually held biennially. The member-state hosting the summit assumes the Chair of the association. The last SAARC Summit in 2014 was held in Kathmandu, which was attended by Prime Minister Narendra Modi.

JUDICIARY

HINDU, SEP 27, 2018

SC for live-streaming, video recording of court proceedings

Live-streaming of court proceedings will effectuate the "public right to know" and bring in more transparency

The Supreme Court upheld the plea for live-streaming of its proceedings, observing that the use of technology is to "virtually" expand the court beyond the four walls of the courtroom.

A Bench of Chief Justice of India Dipak Misra, Justices A.M. Khanwilkar and D.Y. Chandrachud held that this would help those even in distant places to witness court proceedings.

"Live-streaming of court proceedings has the potential of throwing up an option to the public to witness live court proceedings which they otherwise could not have due to logistical issues and infrastructural restrictions," Justice Khanwilkar wrote in his opinion shared by Chief Justice Misra.

In a separate and concurring opinion, Justice Chandrachud wrote that the live-streaming of proceedings would be the true realisation of the "open court system" in which courts are accessible to all.

The court laid down several conditions, mostly in consonance with those handed over by Attorney-General K.K. Venugopal.

It pointed out that in some cases the parties may have genuine reservations and may claim right of privacy and dignity. "Such a claim

will have to be examined by the court and for which reason, a just regulatory framework must be provided for, including obtaining prior consent of the parties to the proceedings to be live-streamed," Justice Khanwilkar observed.

The final decision whether to live-stream a case or not lies with the court, especially in sensitive ones. The decision cannot be appealed, the court said.

Justice Khanwilkar said live-streaming should start as a pilot project in the Supreme Court for cases of national importance. Specified category of cases or cases of constitutional and national importance being argued for final hearing before the Constitution Bench may be live-streamed first.

The project of live-streaming proceedings of the SC on the Internet through the Supreme Court website or on radio or Doordarshan must be implemented in a "progressive, structured and phased manner, with certain safeguards to ensure that the purpose of live-streaming of proceedings is achieved holistically and that it does not interfere with the administration of justice or the dignity and majesty of the court hearing."

NUTRITION

HINDU, SEP 25, 2018

Nutrition norms issued to tackle severe acute malnutrition

‘Severely wasted children must be fed fresh cooked food’

India’s top nutrition panel has recommended that severely malnourished children must be fed freshly cooked food prepared from locally available cereals, pulses and vegetables, and distributed by anganwadi centres, as part of the country’s first-ever guidelines for nutritional management of children suffering from severe acute malnutrition (SAM).

“The National Technical Board on Nutrition (NTBN) has approved guidelines proposed by our Ministry for severe acute malnutrition,” Secretary, Women and Child Development, R. K. Shrivastava told *The Hindu*.

The measures are part of the community-based health management of children suffering from SAM. The government had, till now, only put in place guidelines for the hospitalisation of severely wasted children who develop medical complications. Those norms were made public in 2011.

The norms were okayed by a scientific sub-committee under the NTBN, according to the minutes of the meeting issued last week.

The guidelines outline the role of anganwadi workers and auxillary nurse midwives (ANMs) in identifying severely wasted children, segregating those with oedema or medical complications and sending them to the nearest health facility or nutrition rehabilitation centres.

The remaining children are enrolled into “community based management”, which includes provision of nutrition, continuous monitoring of growth, administration of antibiotics and micro-nutrients as well as counselling sessions and imparting of nutrition and health education.

According to the recommendations, anganwadi workers have to provide modified morning snacks, hot cooked meals and take home ration for SAM children.

The morning snacks and hot-cooked meals, which are served at anganwadis to children between the age of three to six years, should be “prepared freshly and served at the centralised kitchen/ anganwadi centres. Locally available cereals, pulses, green leafy vegetables and tubers, vitamin C rich fruits, as well as fresh milk and 3-4 eggs every week” have also been prescribed.

It is also suggested that local self-help groups, mothers or village committees be engaged for the preparation of these meals.

Similarly, the take home ration, which is given to children between the ages of six months and three years, has to be prepared from “locally available and culturally appropriate food ingredients”. Use of extra oil/ ghee in these food items is also suggested in order to ensure these are “energy dense”.

The emphasis on freshly prepared food as well as locally procured ingredients clears the air on differences within the government on what form of food should be given at anganwadis, with Women and Child Development Minister Maneka Gandhi having backed “energy dense nutrient packets”.

Importantly, the government has also revised the method to be used to measure wasting and advised calculating weight based on the height of children instead of the mid-upper arm circumference.

PARLIAMENT

HINDU, SEP 25, 2018

Lawyers elected as lawmakers can practice in courts: SC

The Supreme Court on Tuesday held that there is no bar on MPs and MLAs doubling up as lawyers.

The judgment by a three-judge Bench of Chief Justice of India Dipak Misra and Justices A.M. Khanwilkar and D.Y. Chandrachud comes as a great relief for many sitting MPs across the political parties who are practising lawyers in the Supreme Court and various high courts.

The judgment authored by Justice Khanwilkar said MPs and MLAs do not come under the definition of full-time paid employees of the state.

The apex court upheld the earlier decision of the Bar Council of India, which had also declined to issue such a ban on legislators practising as lawyers.

The writ petition filed by advocate Ashwini Kumar Upadhyay said legislators donning the lawyers' robes is a "matter of serious concern to both the judiciary and the legislature."

"They also utilise their position as MPs/MLAs to be visible in the public domain, including on television where they give interviews or participate in shows. This essentially amounts to advertising as their "brand" is promoted among the public, many of whom are potential litigants. This virtually seamless transition between the two spheres by

these legislators is causing irreversible harm to both the profession and public interest," the petition had said.

The Bench dismissed the arguments made in the petition that such legal practice by lawmakers is in violation of Rule 49 of the Bar Council of India Act, which forbids an advocate to be "full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practice".

The lawmakers drew their salaries and pensions from the public exchequer, Mr. Upadhyay had contended.

Mr. Upadhyay had argued that MPs and MLAs draw their salaries from the Consolidated Fund of India, hence, were "employees of the State."

Under Section 21 of the Indian Penal Code and Section 2(c) of the Prevention of Corruption Act, MLAs and MPs are public servants. Hence, allowing them to practice, as an advocate and restricting other public servants is arbitrary, irrational and violation of Articles 14-15 of the Constitution, Mr. Upadhyay submitted.

He had contended that it amounted to "professional misconduct" that MLAs and MPs, who get salary and other benefits from the public fund, appear against the government . Some of these lawmakers even hold corporate retainer-ships.

POLITICS & GOVERNMENT – JAMMU & KASHMIR

HINDU, SEP 25, 2018

Article 370: J&K's special status challenged

A petition has been filed in the Supreme Court challenging the continued existence of Article 370, which gives a temporary autonomous status to the State of Jammu and Kashmir and restricts the power of Parliament to make laws for the State.

The petition especially challenges a particular proviso in Article 370 which mandates that the President should first get the permission of the 'Constituent Assembly of the State of Jammu and Kashmir' before declaring the Article null and void.

The PIL plea, filed by Supreme Court advocate Ashwini Kumar Upadhyay, contends that the restriction on the President continues to survive despite the fact that the Constituent Assembly of J&K dissolved on January 26, 1957. The petition contends that the proviso of Article 370(3) has lapsed with the dissolution of the J&K Constituent Assembly.

He says this proviso acts as a roadblock to the wide Presidential powers to end the temporary special status which was accorded to J&K at the time of its accession to the Union after Independence. "It virtually erodes the wide powers of the President of India," the petition says.

It says the proviso amounts to an arbitrary restriction and an "abridgement" of the powers of the President under the principal clause of Article 370(3).

“It is a direct affront to the amplitude of powers of President/Executive as available under the Constitution of India. A backhanded sleight of denuding powers of the President...” the petition says.

The petition says continuity of Article 370 is a “fraud on the Constitution” and prevents the realisation of the gradual and appropriate integration of the erstwhile kingdom of Jammu and Kashmir with the Union of India.

“This cherished objective of integration shall be dealt a death blow in the circumstance... that the special provision of Article 370 shall continue in perpetuity, which was never the intention...,” it says.

POLITICS & GOVERNMENT – MALDIVES

HINDU, SEP 25, 2018

Maldives election: India congratulates Opposition candidate Solih

India, on Monday, congratulated Ibrahim Mohamed Solih, the joint Opposition candidate who has claimed victory in the Maldivian Presidential Election after securing over 58 per cent votes.

"We welcome the successful completion of the third Presidential election process in the Maldives which, according to preliminary information, Mr. Ibrahim Mohamed Solih has won. We heartily congratulate Ibrahim Mohamed Solih on his victory and hope that the Election Commission will officially confirm the result at the earliest," a statement released by the Ministry of External Affairs read.

"This election marks not only the triumph of democratic forces in the Maldives, but also reflects the firm commitment to the values of democracy and the rule of law. In keeping with our 'Neighbourhood First' Policy, India looks forward to working closely with the Maldives in further deepening our partnership," the External Affairs Ministry has said.

Following ex-President Mohamed Nasheed’s decision in June to exit the presidential race, the joint Opposition led by his Maldivian Democratic Party (MDP) decided to field a common candidate. The unlikely coalition — of MDP with the Jumhooree party, Adalat party, and a faction of the ruling Progressive Party of Maldives (PPM) — chose Mr. Solih to fight a political rival they all shared.

POLITICS & GOVERNMENT – NORTH EAST

HINDU, SEP 25, 2018

Renewed push for Statehood in the Northeast

Statehood movements have gathered momentum across the Northeast States, with a renewed push for Bodoland, a proposed State comprising areas beyond the four districts under the Bodoland Territorial Council (BTC).

On Sunday, organisations such as the All Bodo Students' Union (ABSU), Peoples' Joint Action Committee for Bodoland Movement, and two factions of the National Democratic Front of Boroland, organised a pro-Statehood rally at the BTC headquarters in Kokrajhar in western Assam. Several non-Bodo tribal organisations backed the movement.

"Ours has been one of the oldest movements, since the 1960s, when the credo was to divide Assam 50-50. But we continue to be ignored while many new States have been created in the country under Articles 2 and 3 of the Constitution. More than 5,000 people have died for this cause but we have not veered from the democratic path," ABSU president Pramod Boro told *The Hindu*.

He said the Bodoland Statehood stir would be intensified with highway and railway blockades, and civil disobedience movements.

Frontier Nagaland

The Eastern Nagaland People's Organisation (ENPO), an apex tribal body with sway in four of Nagaland's most backward districts, has stepped up its demand for the creation of the Frontier Nagaland State.

Three of these four districts — Kiphire, Mon, Tuensang and Longleng — border Myanmar and are thus strategic for India.

The Statehood demand is contrary to the concept of Greater Nagalim, a homeland comprising all Naga-inhabited areas of the Northeast that the extremist National Socialist Council of Nagaland's Isak-Muivah faction has been seeking.

"We believe that the creation of Frontier Nagaland will bail us out of 50 years of underdevelopment and neglect since Nagaland attained Statehood. The demand is our right as enshrined in the Constitution," ENPO president Kekongchim Yimchunger said.

According to the ENPO, the four districts are denied their share of development funds despite having almost half the area and population of Nagaland. The employment ratio of the people of these districts is a little more than 7%, it said.

Other demands

The Indigenous Peoples Front of Tripura (IPFT), the Bharatiya Janata Party's (BJP) ruling ally in Tripura, raised pro-Statehood slogans while observing the 10th Twipraland Demand Day on August 23. The demand for carving out a separate State for 19 indigenous communities of the State has been intermittent since 1997.

IPFT president and minister N.C. Debbarma said his party would not stop struggling for Twipraland despite an alliance with the 'nationalist' BJP.

The Twipraland-specific event was sandwiched between two shutdowns in Assam by the Koch-Rajbongshi community who have been

demanding the Kamtapur State, whose proposed map straddles several districts of Assam and West Bengal.

The other Statehood demands in the Northeast, latent for some time now, are Garoland in the western half of Meghalaya, Karbi Anglong and Dima Hasao (two hill autonomous councils of Assam), and Kukiland in Manipur.

POLLUTION

HINDU, SEP 28, 2018

River pollution: NGT directs States to act

Orders preparation of action plans within two months

Taking suo motu cognisance of a report in *The Hindu* on the increase in polluted river stretches in the country, the National Green Tribunal (NGT) has directed all States and Union Territories to prepare action plans within two months.

Stating that the action plans should aim at improving the polluted stretches for "at least bathing purposes", a bench headed by NGT Chairperson Justice Adarsh Kumar Goel said, "We are of the view that the situation is far from satisfactory and action is required to be taken on war footing. There has to be meaningful further action to restore the minimum prescribed standards for all the rivers of the country."

The Hindu, on September 17, had reported, quoting data from the Central Pollution Control Board, that the number of polluted river stretches in the country had increased to 351 from 302 over the last two years.

The tribunal specified that Chief Secretaries of each State and administrators of UTs will be "personally accountable for failure to formulate action plan."

The bench directed that four-member committees, comprising representatives of State pollution control boards and the State governments, be constituted for preparing and executing the action plans.

“The action plan will include components like identification of polluting sources including functioning or status of sewage treatment plants, common effluent treatment plants, solid waste management and processing facilities, quantification and characterisation of sewage generated in the catchment area of the polluted river stretch” the bench said.

PRIME MINISTERS

HINDU, SEP 26, 2018

PM Modi gets UN’s highest environmental honour

Prime Minister Narendra Modi has been awarded with the UN’s highest environmental honour, also given to five other individuals and organisations, for his leadership of the International Solar Alliance and pledge to eliminate single use plastic by 2022.

Six of the world’s most outstanding environmental changemakers have been recognised with the Champions of the Earth Award. “This years’ laureates are recognised for a combination of bold, innovative and tireless efforts to tackle some of the most urgent environmental issues of our times,” the UN Environment Programme said.

French President Emmanuel Macron and Mr. Modi have been jointly recognised in the Policy Leadership category for their pioneering work in championing the International Solar Alliance and promoting new areas of levels of cooperation on environmental action, including Macron’s work on the Global Pact for the Environment and Modi’s unprecedented pledge to eliminate all single-use plastic in India by 2022.

RELIGION

HINDU, SEP 27, 2018

SC declines to refer to larger Bench issue whether mosques are integral to Islam

Hearing in Ayodhya title suit appeals to resume from October 29

A three-judge Bench of the Supreme Court, in a majority opinion of 2:1 on Thursday, declined to refer the question if a "mosque as a place of prayer is an essential part of Islam" in the Ramjanmabhoomi-Babri Masjid appeals to a seven-judge Bench.

The majority view by Chief Justice Dipak Misra and Justice Ashok Bhushan ordered that the hearing in the main Ayodhya title suit appeals should resume in the week commencing from October 29. With Chief Justice Misra retiring on October 2, a new three-judge Bench would be constituted.

On 1994 judgment

The bone of contention here is an observation made by a Constitution Bench of the Supreme Court in the 1994 judgment in the Ismail Faruqui case. It had stated that "a mosque is not an essential part of the practice of the religion of Islam and *namaz* (prayer) by Muslims can be offered anywhere, even in open".

Justice S. Abdul Nazeer, in a stinging dissent, observed that the question of what is essential or not in a religion cannot be hastily decided. He held that the question raised on the essentiality of offering prayers in

mosques should indeed be examined by a seven-judge Bench before the Ayodhya suit appeals are heard.

Justice Nazeer said the questions raised during the Ayodhya appeals' hearing about the comment made in the Ismail Faruqui judgment require a "comprehensive examination" by a seven-judge Bench.

Fundamental rights

What is essential or not in a religion can be decided only after studying tenets, beliefs, and doctrines. Justice Nazeer held that the comment has to be examined in the background of the fundamental right against discrimination under Article 15 and the protection guaranteed to practice, profess and propagate religion in Articles 25 and 26 under the Constitution.

As the hearings progressed in the appeals, the Muslim appellants had pressed that the place of a mosque in Islam and the importance of the practice of offering prayers inside a mosque should be first decided by a five-judge Bench.

'1994 order in context of acquisition'

Speaking for the majority judgement of himself and the Chief Justice on the issue of referring the question "if a "mosque as a place of prayer is an essential part of Islam", in the Ramjanmabhoomi-Babri Masjid appeals, to a seven-judge Bench, Justice Ashok Bhushan said references cannot be made to a larger Bench merely because of "questionable observations" made in an earlier judgment.

Such observations cannot be treated as "governing factors" for a reference, he said.

Justice Bhushan said the statement made in the 1994 Faruqui verdict was in the context of whether the mosque, which was acquired by the Ayodhya Act of 1993, had immunity from acquisition.

The statement meant that no place of worship, be it a temple, church or mosque, is immune from acquisition. It merely wanted to convey that mosques had “no special immunity from acquisition”. The context had nothing to do with the essentiality of the practice of offering prayers or *namaz* in a mosque, he said.

Acquisition, Justice Bhushan observed, is a sovereign power. The power of acquisition is available for a mosque like any other place of worship. Places of worship of all religions are liable to be acquired by the government under the Doctrine of Eminent Domain.

Senior advocate Rajeev Dhavan, for the Muslims appellants, had argued that the observation in the Ismail Farooqui judgment has affected the status of mosques in Islam. The majority view also dismissed Mr Dhavan’s exception to the observation made in the Faruqui judgment that Ayodhya, being the place of birth of Lord Rama, has “particular significance”.

“We have observed above that phrase ‘particular significance’ was used (in the Faruqui verdict) only in context of immunity from acquisition. What the court held was that if a religious place has a particular significance, the acquisition of it violates the right of religion under Articles 25 and 26. Hence the said place of worship has immunity from acquisition,” Justice Bhushan explained.

SOCIAL PROBLEMS

HINDU, SEP 27, 2018

Justice D.Y. Chandrachud overrules father former CJI Y.V. Chandrachud again

This is the second time Justice D.Y. Chandrachud has overturned the verdict of his father, former Chief Justice of India Y.V. Chandrachud.

Thirty-three years after his father upheld the validity of adultery law, Justice D.Y. Chandrachud ruled on Thursday that the earlier view cannot be regarded as “correct exposition” of the constitutional position.

In his historic judgment of August last year declaring privacy as a fundamental right, he had termed the 1976 verdict in the famous ADM Jabalpur case in which his father was part of the majority judgement by a five-judgeconstitution bench “seriously flawed.”

In the ADM Jabalpur case, the five-judge bench by a majority verdict of 4:1, had said Article 21 is the sole repository of all rights to life and personal liberty and when suspended takes away those rights altogether.

A different view

On Thursday, striking down section 497 of the IPC dealing with adultery, Justice D.Y. Chandrachud said the 1985 judgment dealt with the “constitutional challenge by approaching the discourse on the denial of equality in formal and rather narrow terms.”

VIOLENCE

PIONEER, SEP 27, 2018

Mob violence will invite serious consequences: Centre advisory to States

Seeking to check incidents of lynching, the Centre on Wednesday issued an advisory asking all States to make the general public aware that mob violence of any kind will invite serious consequences under the law.

Quoting a Supreme Court directive issued on Monday, the Union Home Ministry

advised the States that preventive measures must be taken to check incidents of lynching which have taken place in different parts of the country recently.

The SC has ordered that the Central and State Governments should broadcast on radio and television and other media platforms, including the official websites of the home department and police of the States, that lynching of any kind shall invite serious consequences under the law.

“In keeping with the Supreme Court directive, we have asked the State Governments to take necessary action to check cases of lynching,” a senior Union Home Ministry official said.

In an earlier advisory, the Home Ministry had asked the States to appoint a superintendent of police-level officer in each district, set up a special task force for gathering intelligence and closely monitor social media contents so that no one is attacked on suspicion of being child-lifter or cattle-smuggler.

The Home Ministry also said that wherever it is found that a police officer or an officer of the district administration has failed to comply with the directions to prevent, investigate and facilitate expeditious trial of any such crime of mob violence and lynching, it should be considered as an act of deliberate negligence and misconduct, and strong action must be taken against such officials.

“Incidents of violence and lynching by mobs in some parts of the country fuelled by various kinds of rumours and unverified news such as child lifting, theft, cattle smuggling etc, are a matter of serious concerns. Such instances of persons taking the law in their own hands run against the basic tenets of the rule of law.

All State Governments, UT administrations and their law enforcement agencies are requested to implement the directions of the Supreme Court in letter and spirit.

A detailed report on the action taken in the matter may please be sent to the ministry at the earliest,” reads the latest advisory. A Group of Ministers (GoM), headed by Union Home Minister Rajnath Singh, is also deliberating on legal framework to be set up to check incidents of lynching.

WOMEN

HINDU, SEP 25, 2018

SC refers plea against female genital mutilation to Constitution Bench

The plea states that the practice caused “permanent disfiguration to the body of a girl child.”

The Supreme Court on Monday referred to a five-judge Constitution Bench petitions seeking a declaration that the practice of female circumcision or ‘khafz,’ prevalent in the Dawoodi Bohra sect, amounts to “female genital mutilation” and is a violation of women’s right to life and dignity.

A three-judge Bench of Chief Justice of India Dipak Misra, Justices A.M. Khanwilkar and D.Y. Chandrachud observed that the issue deserved to be examined by a Constitution Bench.

Earlier, during hearings, Justice Chandrachud had observed that circumcision leaves a permanent, emotional and mental scars in a young girl.

Protecting the girl child

The Chief Justice had orally observed that the Constitution does not allow a person to cause injury to another. The Bench had said that the practice should be tested in the light of constitutional morality.

However, senior advocate A.M. Singhvi, appearing for 70,000 Bohra Muslim women under the banner of the Dawoodi Bohra Women's Association for Religious Freedom (DBWRF) in favour of 'khafz,' said the practice was essential to religion and has been continued since the 10th century.

In a statement, DBWRF secretary Samina Kanchwala said, "The Supreme Court has today upheld the voice of a large section of Dawoodi Bohra women in India... we have maintained that female circumcision is not FGM and we will continue to clear the misconceptions that the two practices are the same."

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