

## PG QUESTIONS – COURTS AND CONSTITUTIONAL LAW – SAMPLE SET FOR MAY 25, 2020

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1. The recent outbreak of COVID-19 (Coronavirus) in several countries, including India, has necessitated the immediate adoption of measures to ensure social distancing in order to prevent the transmission of the virus. The Supreme Court of India and High Courts have adopted measures to reduce the physical presence of lawyers, litigants, court staff, para legal personnel and representatives of the electronic and print media in courts across the country and to ensure the continued dispensation of justice.

2. Every individual and institution is expected to cooperate in the implementation of measures designed to reduce the transmission of the virus. The scaling down of conventional operations within the precincts of courts is a measure in that direction. Access to justice is fundamental to preserve the rule of law in the democracy envisaged by the Constitution of India. The challenges occasioned by the outbreak of COVID-19 have to be addressed while preserving the constitutional commitment to ensuring the delivery of and access to justice to those who seek it. It is necessary to ensure compliance with social distancing guidelines issued from time to time by various health authorities, Government of India and States. Court hearings in congregation must necessarily become an exception during this period.

3. Modern technology has enabled courts to enhance the quality and effectiveness of the administration of justice. Technology has facilitated advances in speed, accessibility and connectivity which enable the dispensation of justice to take place in diverse settings and situations without compromising the core legal principles of adjudication. Indian courts have been proactive in embracing advancement in technology in judicial proceedings. The Indian judiciary has incorporated Information and Communication Technology systems through the e-Courts Integrated Mission Mode Project (e-Courts Project) as part of the National e-Governance Plan (NeGP).

[Excerpted from the judgment of the bench comprising Bobde, C.J.I., Chandrachud, J., and Nageswara Rao, J., in *In Re: Guidelines for court functioning through video conferencing during Covid-19 pandemic*, *Suo Moto Writ (Civil)* No. 5/2020.]

1.1 The “Information and Communication Technology systems through the e-Courts Integrated Mission Mode Project” (the “**e-Courts Project**”) mentioned in the passage above was conceptualised on the basis of:

- (a) The *Digital India* programme
- (b) The *National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary-2005*
- (c) The 230<sup>th</sup> Report of the Law Commission of India on Reforms in the Judiciary – Some Suggestions
- (d) The *Scheme for Action Research and Studies on Judicial Reforms*

1.2 Who is the present chairman of the E-Committee of the Supreme Court of India?

- (a) Dr. Justice A.R. Lakshmana
- (b) Justice R.C. Chavan
- (c) Chief Justice of India S.A. Bobde
- (d) Dr. Justice D.Y. Chandrachud

1.3 In *In Re: Guidelines for court functioning through video conferencing during Covid-19 pandemic*, *Suo Moto Writ (Civil)* No. 5/2020 (in “**Suo Moto Covid-19**”), which of the following cases did the Supreme Court cite in relation to the proposition that “The use of technology found judicial recognition in precedent of this Court...”?

- (a) *Anil Rai v. State of Bihar*, Appeal (Crl.) No. 389 of 1998

- (b) *S.P. Gupta and Others v. Union of India and Others*, AIR 1982 SC 149
- (c) *State of Maharashtra v. Praful Desai*, (2003) 4 SCC 601
- (d) *Sub-Committee on Judicial Accountability v. Union of India and Others*, (1991) 4 SCC 699

1.4 Which among the following did the Supreme Court hold in the case mentioned in the previous question, and which the Supreme Court referred to in *Suo Moto Covid-19*?

- (a) In video conferencing both parties are in presence of each other... Recording of such evidence would be as per "procedure established by law".
- (b) Video conferencing may be used for arguments, but not for the recording of evidence, since recording of such evidence would not be as per "procedure established by law".
- (c) Use of video conferencing facilities may be permitted in civil matters, but it cannot be taken up in the case of criminal matters.
- (d) No doubt technology has advanced, but it has not advanced to the point where it has any useful applications in the judicial system.

1.5 In its orders in *Suo Moto Covid-19*, what did the Supreme Court hold as regards the mode of video conferencing that district courts must adopt?

- (a) That each district court should evaluate the various modes of video conferencing, and adopt the one it thought best suited to its circumstances.
- (b) That all district courts should defer all hearings to a later date, and should not attempt to adopt video conferencing to conduct hearings.
- (c) That the district courts in each state shall adopt the mode of video conferencing prescribed by the concerned High Court.
- (d) It did not pass any orders in relation to this issue.

1.6 Under which Article of the *Constitution of India* did the Supreme Court exercise its jurisdiction to issue directions in *Suo Moto Covid-19*?

- (a) Article 140
- (b) Article 141
- (c) Article 142
- (d) Article 143

1.7 In which of the following cases did the Supreme Court, while upholding the principle of 'open courts' or 'open justice', permit, subject to certain conditions, the live streaming of cases of constitutional and national importance?

- (a) *Selvi and Others v. State of Karnataka and Others*, Cr. App. No. 1267 of 2004
- (b) *Swapnil Tripathi v. Supreme Court of India*, W.P. (Civil) No. 1232 of 2017
- (c) *Rohit Shekhar v. Narayan Dutt Tiwari and Another*, I.A. No. 10394/2011 in C.S. (O.S.) No. 700/2008
- (d) *Harjinder Kaur v. State of Punjab and Others*, Crl. Misc. No. M-31938 of 2011

1.8 In his separate judgment in the case referred to in the previous question, to which Article of the *Constitution of India* did Chandrachud, J., refer in support of the proposition that the concept of open courts is not alien to the Indian legal system?

- (a) Article 365
- (b) Article 32
- (c) Article 226
- (d) Article 145(4)

1.9 Which of the following did the Supreme Court hold in the case of *Naresh Shridhar Mirajkar and Others v. State of Maharashtra and Another*, AIR 1967 SC 1, as regards whether cases should be heard in 'open court'?

- (a) Indian jurisprudence does not permit the hearing of any matters in open court, and the limitations of physical infrastructure have led to a situation where some proceedings must, *per force*, be conducted in open court in India.
- (b) In general, all cases brought before the courts, whether civil, criminal, or others, must be heard in open court, but the requirements of justice may necessitate the trying of cases in-camera in certain situations.
- (c) It did not deal with the matter at all.
- (d) It referred the question to a larger bench.

1.10 Which among the following did the 230<sup>th</sup> Report of the Law Commission of India on Reforms in the Judiciary – *Some Suggestions* (the “**230<sup>th</sup> LC Report**”) state in relation to the use of video conferencing by courts?

- (a) E-filing and video-conferencing by dispensing with physical appearance saves precious time and resources and makes justice more easily accessible and a less expensive option.
- (b) Video conferencing by court is not possible in a country like India, and the courts should not spend any more resources examining this issue.
- (c) Dispensing with physical appearance is antithetical to the system of justice under which courts in India function, and should be discarded as a possibility.
- (d) While e-filing may be permitted by courts, it is not possible for them to permit hearings for arguments or collection of evidence through video conferencing.

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