

“Great goals make great people. People cannot hit what they do not aim for.”

Roy T. Bennett

NATIONAL

PROSECUTION UNDER BENAMI ACT STUCK

The prosecution of accused persons under the Benami Transactions (Prohibition) Act has been scuttled as the special courts meant for the purpose have not yet been set up across the country.

The Act provides that the Central government, in consultation with the Chief Justice of the respective High Courts, will establish special courts through notification.

In the net

- The amended Benami Transactions (Prohibition) Act, 1988, came into force in November 2016
- In all, 24 Benami Prohibition Units of the Income-Tax Department have been set up across India
- The Dept. has so far made attachments in more than 1,600 cases under the Act
- The attached properties include parcels of land, flats, shops, vehicles and bank deposits
- Total on-paper worth of the attached immovable assets is more than ₹3,400 crore

Such courts will help in speedy conduct of trials.

The trial will be conducted within six months from the date of filing of the complaint.

ADULTERY LAW VIOLATES THE DIGNITY OF WOMAN, SAYS SC

Recently, the Supreme Court said that adultery law violates the right to equality of woman.

The court made the observation while hearing a case challenging the validity of the penal law, which makes adultery an offence punishable only for men and not the consenting women.

The meaning of ‘Adultery is defined under section 497 of the Indian Penal Code as follows:

Section 497 says that a man could be punished up to five years in jail if he has sexual intercourse with other man’s wife.

However, it is not an offence if the sexual intercourse is with the “consent or connivance” of the husband of the woman.

The Supreme court has made the following observations in this regard:

The adultery law violates the dignity of a woman.

The Bench said the IPC section treat a married woman as “chattel”(a personal possession) of the conniving husband, which was “absurd”.

“When a woman is treated as chattel, her right to dignity is affected.”

Decriminalising adultery was not “a licence for people to go indulge in it”.

Adultery is a sign of marital breakdown as marriage as an institution has two pillars where both parties have to be equally responsible.

However, the judgment is criticizing by many people for being unconstitutional.

Most countries have done away with adultery as a criminal offence, including Bhutan, Sri Lanka, China and South Korea.

SC/ST (PREVENTION OF ATROCITIES) ACT

Recently, the Union Cabinet decided to amend the provisions of the SC/ST (Prevention of Atrocities) Act.

The proposed amendments are aimed at undoing three new rules laid down by the court:

Bar on anticipatory bail under the act need not prevent courts from granting advance bail if there is no merit in a complaint.

There can be an arrest only if the appointing authority or the district superintendent of policy approves such arrest.

There should be a preliminary inquiry into complaints.

The Amended Bill will witness a protest for diluting the provisions of the 1989 law.

However, the supporters of the amended Bill argued that:

The protest has less to do with the correctness of the apex court's judgment but more to do with the way it was misinterpreted.

The ruling had not altered any of the key provisions of the Act.

The judgment just emphasized that it was only to protect the innocent against arbitrary arrest and that there should be no denial of relief and compensation to SCs and STs, who rights should be protected.

Proponents of the amended bill argued that no one can object to procedural safeguards against false accusations, if it is misuse of the act.

Such perceptions seem logical when the conviction rate under the Act is dismally low and atrocities against Dalits are a disturbing reality.

Way ahead:

The amended bill should maintain a balance between protecting the rights of the individuals to a fair trial and enforcing the spirit of a legislation that was introduced to protect the dignity of the disadvantaged.

STRATEGIC INVESTMENT FUND (UNDER NIIF)

Three funds have been established by the Government under the NIIF platform and registered with SEBI as Category II Alternative Investment Funds.

NIIF II ("Strategic Fund") is one of those three funds. The other **two funds are NIIF (or Master Fund) and NIIF Fund of Funds – I.**

The objective of this strategic fund is to invest largely in equity and equity-linked instruments.

It will focus on green field and brown field investments in the core infrastructure sectors.

The NIIF Funds work on a model whereby equity participation from strategic partners (including overseas sovereign / quasi-

sovereign / multilateral / bilateral investors) is invited, alongside Government's contribution.

Government's contribution / share in the corpus will be 49% in each entity set up as an AIF and will neither be increased beyond, nor allowed to fall below 49%.

The whole of 49% would be contributed by the Government of India directly.

National Investment and Infrastructure Fund (NIIF):

National Investment and Infrastructure Fund (NIIF) is a fund created by the Government of India for enhancing infrastructure financing in the country.

This is different from the National Investment Fund.

Objective: to maximize economic impact mainly through infrastructure development in commercially viable projects, both greenfield and brownfield, including stalled projects. It could also consider other nationally important projects, for example, in manufacturing, if commercially viable.

NIIF was proposed to be set up as a Trust, to raise debt to invest in the equity of infrastructure finance companies such as Indian Rail Finance Corporation (IRFC) and National Housing Bank (NHB).

NIIF is envisaged as a fund of funds with the ability to make direct investments as required. As a fund of fund it may invest in other SEBI registered funds.

GOVT. PUSHES FOR RE-EXAMINING NAGARAJ JUDGMENT

The Government said it wanted a total of 22.5% (15% for SC+7.5% for ST) posts reserved for promotion for SC/ST in public employment.

It began its push for providing "accelerated promotion with consequential seniority" for Scheduled Castes/ Scheduled Tribes (SC/ST) members in public employment.

It wants another five-judge Constitution Bench led by Chief Justice Dipak Misra to refer the 2006 verdict to a larger Bench for a re-examination.

It said that the 2006 verdict had created an “impossible situation” for providing accelerated promotions with consequential seniority for SC/ST communities in government services.

2006 Nagaraj Ruling:

The 2006 Nagaraj judgment was pronounced by a five-judge Constitution Bench.

A/c to this the government cannot introduce a quota in promotion for its SC/ST employees unless they prove that the particular Dalit community is backward, inadequately represented and such a reservation in promotion would not affect the overall efficiency of public administration.

The opinion of the government should also be based on quantifiable data.

It is made clear that even if the state has compelling reasons, the state will have to see that its reservation provision does not lead to excessiveness so as to breach the ceiling limit of 50% or obliterate the creamy layer or extend reservation indefinitely.

Presumed backwardness:

The SC/ST communities have faced centuries of deprivation at the hands of society. They have been deprived of access to temples, schools and the basic facilities of life argued the AGI.

But CJJ said the three criteria backwardness, inadequacy and administrative efficiency were “compelling reasons” so that reservation by government was not excessive.

The three qualifiers were meant to prevent reservation from making an inroad into the right of equal opportunity in public employment.

The Nagaraj judgment was meant to find a stable equilibrium between justice to the backwards, equity for the forwards and efficiency for the entire system.

In fact, the Nagaraj judgment said the three qualifiers were meant to prevent “reverse discrimination” by State.

Creamy Layer Row: In November 2017, a two-judge Supreme Court Bench led by Justice

Kurian Joseph, had re-opened the issues of creamy layer and quota in promotions for SC/ST by referring them to a Constitution Bench.

It was based on a series of questions of law, including clarity on:

Article 16 (4), which deals with the State’s powers for providing for appointments or posts for “any backward class of citizens”;

On Article 16 (4A), which arms the state with power to make provisions for quota in promotion with consequential seniority to SC/ST communities; and finally

Article 16 (4B), which deals with unfilled vacancies of a year reserved for SC/ST kept from being filled up.

BANDIPUR: MINISTRY ‘OVERLOOKS’ KEY ISSUES

According to NTCA report, ban on night traffic has reduced road kill

Recently, the Ministry of Road Transport and Highways (MoRTH), has proposed to the Karnataka government to lift the ban on night traffic through Bandipur.

The ban overlooked key issues brought to light in reports by the National Tiger Conservation Authority (NTCA) and other agencies, including the local police.

The number of death cases declined after the introduction of the ban.

The NTCA, is a part of the committee constituted by the apex court to look into the night traffic ban.

The NTCA in its report stated that wild animals such as tigers, elephants, gaurs, and other animals had behaviorally adjusted to the restricted traffic at night time.

This was beneficial to the long-term conservation of these species.

There are objections to the alternative road via Hunsur-Gonikoppal-Kutta and Mananthavady on the grounds that it was longer.

The NTCA noted that the distance should be calculated from Mysuru and not from the boundary of the Bandipur tiger reserve.

The activists said the people in Wayanad have for a very long time been going to Kozhikode and Ernakulam districts for medical and emergency needs.

Bandipur has 25 major mammal species and each has its own migratory path. According to D.Rajkumar, Wildlife Conservation Foundation, the ban on night traffic through Bandipur should not be lifted as it benefits both wildlife and tourism.

NATIONAL POLICY ON ELECTRONIC COMMERCE

A task force of the Union Commerce Ministry has submitted the draft National Policy on Electronic Commerce.

India's e-tail business, estimated to be worth around \$25 billion, is still a fraction of the overall retail sector in the country.

However, the sector witness some frenetic activity, including the merger between Singapore based Flipkart, and global giant Walmart.

Over the coming decade, the e-commerce pie is expected to swell to \$ 200 billion, fuelled by smartphones, cheaper data access and growing spends.

According to the first eight months of 2017-18, over 50,000 e-commerce grievances were made to the Consumer Affairs Ministry helpline.

Traditional retailers too have voiced concerns about large e-tail players with deep pockets pricing them out of the market, and have been seeking a level playing field.

The draft policy proposes :

The creation of a single national regulator to oversee the entire industry.

Operationalising its different features would require action from multiple ministries and regulators.

This would also need amendments to existing legislation and rulebooks.

The aim is to prevent large players from pricing out the competition through unfair trade practices.

Concern areas of draft policy:

E-tailer costs are also likely to rise on account of proposed norms on storing and processing data locally, while consumers and firms could both question the plan to stipulate payments via Rupay cards.

Among the ideas in the draft policy are a sunset clause on discounts that can be offered by e-commerce firms and restrictions on sellers backed by marketplace operators.

The aim may be to prevent large players from pricing out the competition through unfair practices, but taken too far such licensing and price controls can depress the sector.

Foreign direct investment restrictions on players who can hold their own inventory are sought to be lifted, but there must be a majority Indian partner and all products have to be made in India.

The proposed e-commerce policy could drive away those planning online retail forays — and the opportunity to create jobs and benefit consumers would be lost.

MUKHYAMANTRI YUVA NESTAM SCHEME

Mukhyamantri Yuva Nestam- a Pension Scheme.

The AP government has launched this scheme through which an allowance of Rs 1000 per month will be provided to unemployed youth in the state.

About 12 lakh youths in the age group of 22-35 years will get the benefit of the scheme.

The registration for the scheme will start mid-August.

The scheme will be extended to all those eligible even if there are more than one beneficiary in a family.

It will implement the scheme in a very transparent manner like pension scheme.

The money will be credited directly into the bank accounts through biometric authentication.
