

# SURENDRANATH LAW COLLEGE

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Ref. No. SNLC/IQAC/ACA/021/2025-26

Date : 21.04.2025

## **PRACTICAL ASSIGNMENTS OF 10<sup>TH</sup> SEMESTER**

### **Paper-IV**

### **PRACTICAL TRAINING-IV**

It is hereby informed to the students of the 10th Semester to deal upon the following assignments which is appended below, in consonance with the practical training which consists of 90 marks in respect of:

- 1. Moot Court**
- 2. Observation of Trial in two cases, one Civil and one Criminal**
- 3. Interviewing Techniques and Pre-trial Preparation and Internship Diary**

The submission of the paper will be notified shortly.

### **MOOT COURT**

Every student is required to do to write one moot court memorial for both the sides i.e., for Plaintiff: Defendant /Appellant: Respondent or Petitioner: Respondent given out given two moot problems.

10 marks each for both the memorial and 10 marks for oral submission.

**(10+10+10=30) marks**

### **MOOT COURT PROBLEM ON CIVIL MATTER**

#### **PROBLEM 1**

#### **STATEMENT OF FACTS :**

1. The Union of Artara is a sovereign, socialist, secular, democratic and republic country with a population of about 1.38 billion people. Artara has a written Constitution that came into force on 26th January, 1950 and is a federal government with a strong centralizing tendency. In Artara, the Fundamental Rights, embodied in Part III of the Constitution, are justiciable and the importance of the Directive Principle of State Policies is appreciated in realizing the objectives of a welfare state. Under the Constitution, three organs of the state are established: The Parliament, the Executive and the Judiciary.

2. Mrs. Beena Tripathi is a computer operator in an orphanage named Jeevashray, with a salary of Rs 20,000 per month. The orphanage is located in Dhelapur, a western district of the State of Wasseyapur. She is married to Mr. Akhandanand Tripathi for the past six years. Mr. Tripathi is an assistant teacher in a government school of the same district. The relationship between the husband and wife hasn't been very harmonious. The rough patch in their relationship began in the second year of their marriage, when Beena had an abortion without

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the consent of her husband. Things got so bitter at the time that Mr. Tripathi threatened to press cruelty charges against Beena. However, things returned to normalcy after Beena conceived again in January, 2018.

3. Both the husband and wife were excited about the pregnancy and took all the required care and precaution. In April 2018, Mrs. Beena went to the Hospital for her routine tests which included Glucose Tolerance Test (GTT), Thyroid and Enzymes Linked Immunosorbent Assay (ELISA) tests for HIV I and HIV II antibody, all of which were negative. After six months, on 23rd October 2018, she was admitted to the Dr. Ramadhir Singh's Chirpy Baby Clinic for the delivery of the child. Due to some complications, the attending physician decided to perform Caesarean surgery. Dr. Singh asked Mr. Tripathi to fill up the standard consent form required for the surgery, which he instantly did. After an hour into the operation, Mrs. Beena delivered a Baby Boy, Phoolchand. After the delivery, she suffered from postpartum hemorrhage, one of the leading causes of maternal mortality. Due to excessive blood loss, Mrs. Beena's blood pressure started to drop severely and the doctor had to take critical decisions in such pressing situation. The doctor decided that blood transfusion is the only recourse available and accordingly asked Mr. Tripathi to arrange for six units of blood. Mr. Tripathi went to a private blood bank at Maudhaha, 5 km away from the clinic, named Durga Charitable Blood Bank. He purchased six units of blood and handed it over to Dr. Singh along with a certificate which was given to him by the blood bank with respect to the blood's suitability for transfusion. Dr. Singh observed that a label from the blood bag was missing. Since time was of the essence and he was in a hurry, he hastily enquired with Mr. Tripathi about the same, to which Mr. Tripathi replied that he was not sure if while handling the blood bags, he rubbed off any label. The doctor nodded and went ahead with the blood transfusion to save the life of his patient. After the transfusion, both, the mother and the child, seemed fit and therefore, were discharged from the clinic.

4. Few weeks after the discharge, Mrs. Beena experienced frequent low-grade fevers and night sweats, loss of appetite, inability to sleep and overwhelming fatigue. She consulted Dr. Singh since he has been her attending physician throughout her pregnancy. Dr. Singh explained to her that these are the signs of postpartum depression and that taking rest and meditating can solve her issues. After few days, in November, 2018, Mrs. Beena developed boils on her skin and had urine and stool infection. She again consulted Dr. Singh, who then prescribed certain medication after which her condition stabilized temporarily. However, the symptoms resurfaced and this time she consulted another physician, Dr. Murli Prasad at the Creach Bandy Hospital. Dr. Prasad asked Mrs. Beena about her family history and if she has had any operation which required blood transfusion. After learning about the recent blood transfusion, Dr. Prasad asked her to undergo ELISA test, in which she tested HIV positive. Upon her diagnosis, Dr. Prasad advised a similar test for Phoolchand. In Dr. Prasad's opinion, even though the transfusion took place after the delivery of the child, continuous breast feeding could have infected the child as well. Phoolchand too tested HIV positive.

5. The hospital informed her about the status and counseled her accordingly. Mrs. Beena asked Dr. Prasad and Creach Bandy Hospital authorities not to tell anything to anyone, especially her husband. She said that she will tell her husband about her disease when the time comes. Believing that Mrs. Beena will not tell her husband about her HIV positive status at the earliest, they informed the husband, Mr. Tripathi about her HIV positive status, after

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informing Mrs. Beena about their intention to do so. After Mr. Tripathi got to know that his wife is HIV positive, he filed for a divorce under Section 13(1)(v) of Hindu Marriage Act, 1955. The Family Court of Dhelapur granted the divorce and proceeded for hearing on the issue of maintenance to Mrs. Beena. On the date fixed for the hearing on the issue of maintenance, neither Mrs. Beena nor her advocate was present in the court, without any notice. The court passed an ex parte order against Mrs. Beena, denying any maintenance to her. After 3 months of passing of the order, Mrs. Beena filed an application in the court through another advocate for setting aside the ex parte order. She claimed that she was unaware about the court requirements and her advocate was negligent as neither he had asked her to be present in the court nor had informed her about his absence. However, the family court dismissed the application on the ground of inordinate delay. Against the order of the Family Court, Mrs. Beena filed a Special Leave Petition in the Hon'ble Supreme Court of Artara (SLP No. 132/2020)<sup>1</sup>.

6. At the same time, Mrs. Beena had filed a complaint before the ombudsman appointed under The Human Immuno Deficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (Annexure I) on the ground of violation of Section 9 of the Act by Dr. Murli Prasad and the Creach Bandy Hospital and claimed damages for the same. She had claimed that the hospital authorities should not have informed her husband about her HIV positive status as she specifically asked them not to and that she was eventually going to do so at a right time and place and in a proper manner. As he got the news from the hospital authorities and not from her, a bad impression was created in the mind of her husband that she was not going to tell him and that she wanted to infect him as well. This led to her divorce and a mental injury was caused to her as well as her child in the form of abandonment. On the other hand, the hospital authorities argued that they had informed the husband as they believed that she was not going to tell her husband at the earliest and there was a substantial risk of infection to her husband. Also, the husband has exercised his legal right in a lawful manner through lawful means. Therefore, it cannot be said that mental injury or abandonment has been caused to Mrs. Beena. The ombudsman decided in the favor of Mrs. Beena on the ground that the communication of such sensitive information by a stranger had a disastrous impact over her marital relationship which eventually led to her divorce. Therefore, the act of the hospital had a negative impact over her mental well-being and the hospital is liable to pay a compensation of Rs 10 Lakh to her. The hospital went for appeal to the National Disease Tribunal. The tribunal overturned the decision of the ombudsman and decided in favor of the hospital on the ground that exercise of legal right in a lawful manner cannot be said to be causing mental agony to her. Now, Mrs. Beena has filed an appeal before the Hon'ble Supreme Court of Artara (Civil Appeal No. 264/2020)<sup>2</sup>.

7. Mrs. Beena also filed a complaint against the blood bank, Durga Charitable Blood Bank, as well as the attending physician, Dr. Singh, before the State Consumer Dispute Redressal Commission (SCDRC), Wasseypur. The complaint was filed against the blood bank for selling the HIV infected blood, without proper labelling on the blood bag, to Mr. Tripathi for the blood transfusion of the complainant; and against the doctor (i) For not testing the blood before carrying out the transfusion, in spite of noticing missing labels from the blood bag, particularly when proper labelling on the blood bag is a requirement under the Drugs &

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Cosmetics Rules, 1945, (ii) for not taking real and valid consent for the blood transfusion, as the complainant wasn't informed about the inherent risks involved. The complainant prayed for the compensation of Rs. 18 Lakh for the medical treatment for herself and her son Phoolchand.

8. Before the SCDRC, Wasseyapur, the blood bank and the doctor both contended that it is highly unlikely that the infection had been passed through breastfeeding. Therefore, it is not safe to rule out all the other possibilities through which the complainant could have been infected and to assume that the blood transfusion has resulted in the infection. The blood bank argued that improper sterilization of equipment in an operation including caesarean, infected needles, scalpels, tattooing equipment, etc. can also transmit HIV and most prominent route of the transmission is through unprotected intercourse with an infected partner. Hence, he contended that paternity test should be done for this situation prior to admitting the allegations made by the complainant. It was also averred that even if it is to be believed that the complainant was transmitted HIV through the blood transfusion, the blood bank cannot be held liable for the same since it had taken all the reasonable precautions and there is always an inherent risk in blood transfusion because a donor, who, despite having HIV virus in his blood, being in window period when tested, the aforementioned test would give negative test report. The Doctor contended that in cases of postpartum haemorrhage, blood transfusion is the only way to save the life of the patient. Also, the consent form for the caesarean operation specifies that the operation may or may not require blood transfusion, depending on the case at hand. Therefore, no additional consent was required apart from the general consent, which was already signed by Mr. Tripathi, for the blood transfusion.

9. The SCDRC, Wasseyapur held the blood bank liable for deficiency in service under the Consumer Protection Act, 1986 since the blood purchased from the blood bank transmitted HIV to the complainant. As far as the medical negligence by the doctor is concerned, since the concerned doctor had failed to obtain a valid and real consent from the complainant and the blood transfusion to the complainant was an unauthorized act amounting to a tortious act of assault and battery, there was a deficiency in service on his part as well. The commission directed the Doctor to pay Rs. 18 Lakh towards the expenses claimed for the medical treatment of the complainant and her son. An appeal against the order of SCDRC was filed under Section 19 of the Consumer Protection Act, 1986 before the National Commission Dispute Redressal Commission (NCDRC). The same was dismissed by the NCDRC on merits. Against the order of NCDRC, the blood bank and the Doctor filed an appeal before the Hon'ble Supreme Court of Artara under Section 23 of the Consumer Protection Act, 1986 (Civil Appeal No. 329/2020)3.

10. While the proceedings were pending before NCDRC, Phoolchand was diagnosed with a rare disease called Duchenne Muscular Dystrophy (DMD), which affects the use of voluntary muscles in the body resulting in difficulty in walking, running or climbing and even struggling to lift their head due to a weak neck. If the disease is left untreated, the child is unlikely to survive. Given Phoolchand's history of HIV, the condition was far more severe than the usual cases of DMD. The available therapy in the global market is called Antisense Oligonucleotide (AON). An antisense therapy involving the drug 'Exondys 51', manufactured and supplied by Sarepta Therapeutics, USA, is available in Artara and

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approved by the Central Drug Standard Control Organization. No Artaran drug company has developed a competing drug for this disease till date. It is expected that patients receiving this treatment have a high chance of surviving. The treatment, however, is lifelong and expensive.

11. Given the existing condition of Phoolchand's household, arranging for such treatment was next to impossible. Mrs. Beena availed the financial assistance for Phoolchand's treatment from Wasseypur Arogya Kosh. Under the scheme, Rs. 6 Lakh was released in favour of Phoolchand. However, since the total expenditure of the treatment was around Rs. 25 Lakh for a year, the Wasseypur Government stated that no further financial assistance for medical treatment can now be extended to the child. Mrs. Beena also sought aid under Rashtriya Arogya Nidhi Scheme from the Central Government. However, the Central Government did not extend the aid for more than Rs. 2 Lakh rupees stating the reasons of financial constraints and that the State Government should be approached for further assistance. With no support from her husband and no other option left, Mrs. Beena, on behalf of Phoolchand, filed a writ petition under Article 32 of the Constitution of Artara, before the Hon'ble Supreme Court stating that the Central Government and the Government of Wasseypur were obligated under Article 21 of the Constitution and Directive Principles of State Policies to provide totally free treatment to the petitioner and like patients. The Hon'ble Supreme Court admitted the said writ petition (WP No. 68/2020)4.

12. On the request of Mrs. Beena and considering the commonality of facts and circumstances, the bench has agreed to club all the appeals and petitions filed by Mrs. Beena and hear them together. The Supreme Court has posted the matters for final hearing on February 6, 2021. The issues before the Hon'ble Supreme Court are:

(i) Whether the ex parte order of the Principal Judge, Family Court, Dhelapur is liable to be set aside on the ground of negligence of the advocate and innocence of the party?

(ii) Whether the decision of the National Disease Tribunal denying the liability of Doctor Murli Prasad and Creach Bandy Hospital for the violation of section 9 of HIV AIDS Act, 2017, is liable to be set aside?

(iii) Whether NCDRC order upholding the decision of the SCDRC of holding the Durga Charitable Blood Bank and Dr. Ramadhir Singh liable for deficiency in service and medical negligence liable to be set aside?

(iv) Whether the Central and State Government's refusal to free treatment of a minor suffering from a rare disease, where the parent of the child cannot afford the treatment is in violation of Article 21 of the Constitution of Artara?

## NOTES :

- In light of the aforesaid facts, students are to prepare memorial of arguments on behalf of all concerned sides. Memorials for the petitioner shall be marked with a blue covering page and memorials for the respondent shall be marked with a red covering page.



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- In issue (iii), participants are expected to argue for the Durga Charitable Blood Bank and Dr. Ramadhir Singh independent of one another.
- Students are allowed to frame their own issues, over and above and not in place of the ones already stated, on the basis of the above moot proposition.
- Laws of Artara are in pari materia with the laws of the 'Union of India'.
- The above facts have been set as of 01/03/2025. Any/all judgements passed by the Hon'ble Courts of the Union of India post 01/03/2025 shall not have any retrospective effect and shall not be quoted as a precedent in relation to the present case.

## ANNEXURE I THE HUMAN IMMUNO DEFICIENCY VIRUS AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (PREVENTION AND CONTROL) ACT, 2017

### **Section 9 – Disclosure of HIV positive status to partner of HIV positive person;**

(1) A healthcare provider, who is a physician or a counsellor, may disclose the HIV positive status of a person under his direct care to his or her partner, if such health care provider-

- (a) reasonably believes that the partner is at a significant risk of transmission of HIV from such person, and;
- (b) such HIV positive person has been counselled to inform such partner, and;
- (c) is satisfied that such HIV positive person will not inform such partner, and;
- (d) has informed the HIV positive person of the intention to disclose the HIV positive status to such partner.

Provided that disclosure under this section to the partner shall be made in person after counselling;

Provided further that such healthcare provider shall not inform the partner of a woman where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health or safety of such woman, her children or someone close to her.

(2) In case of the disclosure of the HIV positive status of a HIV positive person in violation of this provision, the healthcare provider will be responsible to pay reasonable damages to such HIV positive person.

### **Section 23 – Appointment of Ombudsman**

- (1) Every State Government shall appoint one or more ombudsman possessing such qualification and experience, with such terms and conditions as may be prescribed.
- (2) The ombudsman shall upon a complaint made by a person, inquire into the violation of provisions of this Act in such manner as may be prescribed.

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## Section 24- Appointment of National Disease Authority

- (1) The Central Government shall establish a National Disease Authority with a chairperson with the qualifications of a High Court judge in such manner as may be prescribed.
- (2) The National Disease Authority, among others, will hear the appeals from the decisions of the ombudsman.
- (3) The appeal shall be filed to the National Disease Authority within 30 days.
- (4) The appeal against the decision of the National Disease Authority shall lie to the Supreme Court, within a period 60 days.

## PROBLEM 2

### STATEMENT OF FACTS :

1. Elitiya University situated in the state of Elevate, Grey Island opened their admissions for the 2016 batch on 26th January, 2016. Students got admitted on basis of merit, quota and caste out of which Preeti and Riya were granted admission based on their merit and as their families were below the poverty line, the state granted them scholarship to pay their college fee.
2. Kritika and Preeti were allotted the same room in the girl's hostel. Riya who was allotted a different room with a girl named Sohini, during the admission process got close and became good friends with Preeti. The rooms of Preeti and Riya were adjacent to each other.
3. As their friendship grew, Preeti and Riya became emotionally attached to each other and even helped each other academically and secured good marks in their semester examinations.
4. Kritika who was a roommate of Preeti was not into studies and was notorious in nature. Whenever Kritika was included by Preeti and Riya in some of their group study sessions, instead of absorbing knowledge and taking help from them, she rather distracted and disturbed them. Due to this Preeti and Riya started to exclude her from group sessions and pulled off their helping hand. Therefore, Kritika being deprived of their help and notes failed to perform well in the examination nor was she able to handle the academic pressure because of which she started envying Preeti and Riya and held them accountable for her marks.
5. While Preeti and Riya were alone in Preeti's room during their study hours their sexual characteristics started showing up and they developed feelings for each other, as a result of which they got intimate with each other during the hours when Kritika was not around.
6. One day when Kritika planned a night out with her friends at the house of another girl named Ayesha, Preeti called Riya to her room after Kritika left. While they were studying, they got intimate with each other but forgot to lock the doors properly, Kritika who forgot her purse came back and through the slight opening of the door she saw Preeti and Riya in their vulnerable state. While watching the scenes unfold before her, Kritika chose not to intervene

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and rather sensed an opportunity to take revenge and recorded a video on her phone and left silently.

7. When Kritika reached Ayesha's place, she told everything to her and showed her the video. Both planned to extort notes and study material from Preeti and Riya by blackmailing them because they got jealous of their academic performance.

8. Kritika returned to her room and confronted Preeti and Riya about their relationship and started blackmailing them with the threat of circulating the video of Preeti and Riya getting intimate if they did not help Kritika and Ayesha academically.

9. Preeti and Riya finding no other alternative were compelled to follow the whims of Kritika and worked accordingly. Preeti and Riya used to complete the assignments of Kritika and Ayesha and provide them with notes and study material, thereby allowing Kritika and Ayesha to successfully blackmail and extort them.

10. Subsequently, Kritika, who also in gambling suffered a heavy loss and was unable to make payments herself and decided to further blackmail Preeti and Riya for money so that she could pay off her gambling debts.

11. After being blackmailed for over a year with ever increasing demands, both Preeti and Riya made up their mind that they have had enough and decided to come out about their relationship and lodge complaint against Kritika and Ayesha. However, with the threat of their intimate video getting released and circulated Preeti and Riya decided to get help and approached an NGO namely 'Elevate Seva Sadan', which works for the protection of LGBTQ+ Community and their rights.

12. Upon being apprised of the situation of Preeti and Riya, the NGO decided to file a plea in Supreme Court of India seeking remedy for infringement of the Right to Privacy, a Fundamental right of Preeti and Riya. Coming to know about the same, Kritika and Ayesha contended that Homosexuality is a criminal offence and the video taken stood as evidence of the same.

13. The said Writ Petition is scheduled to be listed before the Hon'ble Supreme Court on 02/01/2018, wherein all concerned parties shall appear.

## ISSUES :

I. Whether the instant writ petition can be admitted before the Hon'ble Supreme Court of Grey Island?

II. Whether the actions of Preeti and Riya amounts to a criminal offence and whether they can be held liable for the same?

III. Whether the actions of Kritika amounts to breach of the Right to Privacy?



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