BLOGS

Landmark Cases on State: Article 12 for CLAT

Aparna Shukla · 22 Sep 2021

.docxpressoPlugin { font-size: 83.35%; } .h5p_layout { box-sizing: content-box !important; } .h5p_layout *{ float: none; text-align: initial; box-sizing: border-box; } /*to make sure that floating elements are always inside the document bounds*/ .h5p_layout:after { content: " "; display: block; height: 0; clear: both; visibility: hidden; } /* a default layout for documents without maste styles */ .h5p_default_layout { margin-top: 3.6rem; margin-left: 8.50464rem; margin-bottom: 3.6rem; margin-right: 8.50464rem; writing-mode: lr-tb; } /*hack for IE */ wbr:after { content: "\00200B"; } /*hack to get some extra top margin for anchors if needed*/ .h5p_layout span[id^="_Toc"]{ padding-top: 10px; margin-top: -10px; } /* Remove unwanted numbering styles */ .h5p_layout .removeNumbering:before{ content: initial !important; display: none; all: initial !important; } /* give zero default top and bottom paddings for paragraphs*/ .h5p_layout p { color: #000000; line-height: 1; margin-top: 0; margin-bottom: 0; } .h5p_layout span { color: #000000; font-weight: normal; } .h5p_layout span.dropcap { color: inherit; font-family: inherit !important; } .h5p_layout h1, .h5p_layout h2, .h5p_layout h3, .h5p_layout h4, .h5p_layout h5, .h5p_layout h6 { margin-top: 0; margin-bottom: 0; font-family: inherit; font-weight: 500; line-height: 1; color: inherit; } /* give zero default top and bottom paddings for paragraphs in tables*/ .h5p_layout table p { margin-top: 0; margin-bottom: 0; } .h5p_layout ul, .h5p_layout ol { list-style-type: none; margin-top: 0; margin-bottom: 0.5em; padding-left: 0; } .h5p_layout ul li, .h5p_layout ol li { list-style-type: none; margin-top: 0; margin-bottom: 0.5em; } .h5p_layout li p { margin-top: 0; margin-bottom: 0; } .h5p_layout table { border: none; } .h5p_layout td { vertical-align: top; border: none; } .h5p_layout th { vertical-align: top; border: none; } .h5p_layout div { margin-bottom: 10pt; } .h5p_layout img { margin: 0; padding: 0; } .h5p_layout ul ul { margin-top: 0; margin-bottom: 0; } .h5p_layout li { margin-top: 0; margin-bottom: 0; list-style-type: none !important; } .h5p_layout ul, .h5p_layout ol { list-style-type: none !important; } .h5p_layout td[data-sorting] p:before, .h5p_layout th[data-sorting] p:before { content: ' '; padding-right: 16px; background: url(background-position: left center; background-repeat: no-repeat; } .sortDecorator { border-bottom: 3px solid #b70000 !important; } /* This is a spacial class designed to remove unwanted bullets when a li has ul as its first child*/ .h5p_layout .removeBullet:before { content: none !important; }

/*responsive tables*/ .h5p_layout div.dxoResponsiveTable{ margin: 0 !important; padding: 0 !important; overflow-x: auto !important; overflow-y: hidden; } /* chart tooltips */ .c3-tooltip-container td.name { white-space: nowrap; } /* External services*/ .h5p_layout iframe { resize: vertical; border: 1px solid #fff; } .h5p_layout div.youtube { position:relative; padding-bottom:56.25%; height:0; overflow:hidden; background-color: transparent; } .h5p_layout div.youtube iframe { resize: none; position:absolute; top:0; left:0; width:100%; height:100%; } div#h5p_6a7bf46ee7ffd ul.LFO1 {counter-reset: ulLFO1_1;margin-left: 0;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul {counter-reset: ulLFO1_2;margin-left: -0.5in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li {margin-left: 0.5in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li:before {counter-increment: ulLFO1_1;content: counter(ulLFO1_1, decimal) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul {counter-reset: ulLFO1_3;margin-left: -1in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li {margin-left: 1in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li:before {counter-increment: ulLFO1_2;content: counter(ulLFO1_2, lower-latin) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul {counter-reset: ulLFO1_4;margin-left: -1.5in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li {margin-left: 1.5in;text-indent: -0.125in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li:before {counter-increment: ulLFO1_3;content: counter(ulLFO1_3, lower-roman) ". ";margin-left: -0.125in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul {counter-reset: ulLFO1_5;margin-left: -2in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li {margin-left: 2in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li:before {counter-increment: ulLFO1_4;content: counter(ulLFO1_4, decimal) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul ul {counter-reset: ulLFO1_6;margin-left: -2.5in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li {margin-left: 2.5in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li:before {counter-increment: ulLFO1_5;content: counter(ulLFO1_5, lower-latin) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul ul ul {counter-reset: ulLFO1_7;margin-left: -3in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li {margin-left: 3in;text-indent: -0.125in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li:before {counter-

increment: ulLFO1_6;content: counter(ulLFO1_6, lower-roman) ". ";margin-left: -0.125in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul ul ul ul {counter-reset: ulLFO1_8;margin-left: -3.5in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li {margin-left: 3.5in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li:before {counter-increment: ulLFO1_7;content: counter(ulLFO1_7, decimal) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul ul ul ul ul {counter-reset: ulLFO1_9;margin-left: -4in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li ul li {margin-left: 4in;text-indent: -0.25in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li ul li:before {counter-increment: ulLFO1_8;content: counter(ulLFO1_8, lower-latin) ". ";margin-left: -0.25in;display: table-cell;} div#h5p_6a7bf46ee7ffd ul.LFO1 ul ul ul ul ul ul ul ul ul {counter-reset: ulLFO1_10;margin-left: -4.5in;padding: 0; list-style-type: none;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li ul li ul li {margin-left: 4.5in;text-indent: -0.125in;font-size: 11pt;} div#h5p_6a7bf46ee7ffd ul.LFO1 li ul li ul li ul li ul li ul li ul li ul li ul li ul li:before {counter-increment: ulLFO1_9;content: counter(ulLFO1_9, lower-roman) ". ";margin-left: -0.125in;display: table-cell;} div#h5p_6a7bf46ee7ffd p.P1 {break-before: page !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P1 span {hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P2 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P2 span {hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P3 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P3 span {hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P4 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P4 span {hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P5 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd span.T6 {font-family: Times New Roman !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd p.P7 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P7 span {hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P8 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P8 span {hyphenate: false;font-family: Times New Roman;font-size:

12pt;} div#h5p_6a7bf46ee7ffd p.P9 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P9 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P10 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P10 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P11 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P11 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P12 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P12 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P13 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P13 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P14 {margin-left: 0.5in !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P14 span {hyphenate: false;hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P15 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P15 span {hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P16 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P16 span {hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P17 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P17 span {hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P18 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd span.T19 {font-family: Times New Roman !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd p.P20 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd span.T21 {font-family: Times New Roman !important;font-weight: bold !important;font-style: italic !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd span.T22 {font-family: Times New Roman !important;font-weight: bold !important;font-style: italic !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd span.T23 {font-family: Times New Roman !important;font-weight: bold !important;font-style: italic !important;font-size: 12pt !important;}

div#h5p_6a7bf46ee7ffd span.T24 {font-family: Times New Roman !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd span.T25 {font-family: Times New Roman !important;font-weight: bold !important;font-style: italic !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd p.P26 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P26 span {hyphenate: false;font-family: Times New Roman;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P27 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P27 span {hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;} div#h5p_6a7bf46ee7ffd p.P28 {text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd span.T29 {font-family: Times New Roman !important;font-size: 12pt !important;} div#h5p_6a7bf46ee7ffd div.a0 {border: none !important;background-color: transparent !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd div.a1 {border: none !important;background-color: transparent !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.Normal {font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.Normal span {hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd span.DefaultParagraphFont {font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.ListParagraph {margin-left: 0.5in !important;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.ListParagraph span {hyphenate: false;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd div {font-size: 11pt;} div#h5p_6a7bf46ee7ffd div.Graphics {font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P5 span {hyphenate: false;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P18 span {hyphenate: false;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P20 span {hyphenate: false;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p.P28 span {hyphenate: false;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf46ee7ffd table {margin-left: 0in;border-collapse: collapse;writing-mode: lr-tb;font-size: 11pt;} div#h5p_6a7bf46ee7ffd table tr {height: 0in;keep-together: auto;font-size: 11pt;} div#h5p_6a7bf46ee7ffd table td, table th {background-color: transparent;vertical-align: top;wrap-option: wrap;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p {keep-with-next: auto;keep-together: auto;widows: 2;orphans: 2;break-before: auto;border: none;text-align: left;writing-mode: lr-tb;margin-bottom: 0.1111in;line-height: 1.07;background-color: transparent;font-size: 11pt;} div#h5p_6a7bf46ee7ffd p span {font-family: Calibri;font-weight: normal;font-style: normal;text-transform: none;font-variant: normal;letter-spacing: normal;font-size: 11pt;background-color: transparent;text-decoration: none;text-decoration-color: font-color;language: en;country: IN;hyphenate: true;}

Pradeep Kumar Biswas v Indian Institute of Chemical Biology (2002) (SC)It was held that there cannot be exhaustive definition of State as the Constitution creates welfare state and in the welfare state, the function of state are highly dynamic and diversified and changes with changing requirement of time. The Sate has to create new mechanisms and new agencies or instrumentalities through which it can perform its functions effectively. At the time of framing the Constitution, it was not practically possible to stipulate various bodies though which State will perform its functions. In fact, even today, it will not be practically to do that stipulation. If a list is given, then every time a new body is created, the Constitution will be required to be amended. In this case, it was held that CSIR (Council of Scientific and Industrial Research) is State for the purpose of Article 12 of the Indian Constitution.

It was also held that list given in Ajay Hasia case is not exhaustive and in proper circumstances, more elements can be added to the list.Ramana Dayaram Shetty v International Airport Authority (1979) (SC)It was held that the test is not as to how that particular body was created rather it is as to why it was created i.e., the test is actually regarding the purpose of the body i.e., what is the purpose that the particular body is performing. It has to be seen as to what function it performs i.e., does it perform the same function as the as the State has to do or is it some different function. Apart from that and in addition to that, it also has to see as to whether the State has a control upon that body and what is the nature and extent of that control. It is called as instrumentality or agency test. Both tests i.e. functionality test and instrumentality test has to be satisfied simultaneously.Ajay Hasia v Khalid Mujib Sehravardi (1980) (SC)Various tests given in this case are:The said body is totally funded by the State.If not totally funded, then a major part of the finance (more than 50% is given by the State.If there is no financial control, then the body is such as has been given autonomy by the State and the State and the State has the power to withdraw that autonomy.There is an absolute administration control of the State wherever the State appoints the other staff and the head of the organization and also can remove them.A ministry has been converted into a company or a corporation. It performs the same functions as the State performs.The Court also said that all these tests have to be seen together. Zee Telefilms Ltd. V Union of India (2005) (SC)It was held that Government had no financial or administrative control over the BCCI and hence it is not the State.Lt. Governor of Delhi v V K Sodhi (2007) (SC)and Chander Mohan Khanna v NCERT (1991) (SC)In both these cases, it was held that NCERT is not State as there was no financial or Administrative control.State of Uttar Pradesh v Radhey Shyam Rai (2009) (SC)Uttar Pradesh Ganna (Sugarcane) Kisan Sansthaan is State as the Government has sufficient financial and administrative control.(function($) { //footnotes

$('.defaultNote').children(":first").css('cursor', 'pointer'); $('.defaultNote').children(":first").click(function(){ var gotoID = '#' + $(this).parent().attr('id'); $('html, body').animate({ scrollTop: $('a[href="' + gotoID + '"]').offset().top - 60, }, 250, 'linear') }); }(jQuery)); var numFormat = ",."; (function($) { "use strict"; //do some cleaning on load var sortCells = $('td[data-sorting], th[data-sorting]'); sortCells.each(function(){ var first = $(this).text().trim().charAt(0); if (first == '@'){ var oldHTML = $(this).html(); var newHTML = oldHTML.replace('@', ''); $(this).html(newHTML); } }); function sortingTable(node, pos, ordBy){ var rows = node.children('tbody').children('tr').get(); rows.sort(function(a, b) { var X = $(a).children('td').eq(pos).text().toUpperCase(); var Y = $(b).children('td').eq(pos).text().toUpperCase(); if (numFormat != '.,'){ //we are dealing with a different locale and we need to do some //transformation in numbers X = convert2number(X); Y = convert2number(Y); } else { X = X.replace(/,/g, '').replace(/ /g, ''); Y = Y.replace(/,/g, '').replace(/ /g, ''); } var currencies = ['$', '¥', '£', '€']; var arrayLength = currencies.length; var XX = X; var YY = Y; for (var i = 0; i < arrayLength; i++) { XX = XX.replace(currencies[i], ''); YY = YY.replace(currencies[i], ''); } if (!isNaN(XX) && !isNaN(YY)){ var floatXX = parseFloat(XX); var floatYY = parseFloat(YY); return -(floatYY-floatXX) * ordBy; } else if (!isNaN(XX) && isNaN(YY)){ return -1 * ordBy; } else if (isNaN(XX) && !isNaN(YY)){ return ordBy; } else { if(X < Y) { return -1 * ordBy; } if(X > Y) { return 1 * ordBy; } return 0; } }); $.each(rows, function(index, row) { node.children('tbody').append(row); }); } function removeTableCellDecoration() { $("td[data-sorting], th[data-sorting]").removeClass('sortDecorator'); } //unbind the click event just in case we are loading more than one document $("td[data-sorting], th[data-sorting]").off('click'); $("td[data-sorting], th[data-sorting]").click(function(){ removeTableCellDecoration(); $(this).addClass('sortDecorator'); //get desired ordering var ordering = $(this).attr('data-sortOrdering'); if (ordering == 'ASC'){ var ordBy = -1; $(this).attr('data-sortOrdering', 'DESC'); } else { var ordBy = 1; $(this).attr('data-sortOrdering', 'ASC'); } var cellPosition = $(this).prevAll().length; var table = $(this).parents('table:first'); sortingTable(table, cellPosition, ordBy); }); function convert2number(str) { str = str.trim(); if (str.match(/^\d+/)) { //we have to take special care when the thousand separators are '.' var result_0 = str.replace(/\./g, '_@_'); var result_1 = result_0.replace(window.numFormat[0], '.'); var result = result_1.replace(/_@_/g, ''); result .replace(/ /g, ''); return result; } else { return str; } } }(jQuery));

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