BLOGS

Sample Legal Reasoning Questions for CLAT 2024

Mimi Dharshana · 22 Apr 2023

Read the passage below and answer the questions that follow.

Passage 1

On March 23, the Court of the Chief Judicial Magistrate in the district of Surat passed an order convicting Wayanad MP Rahul Gandhi in a defamation case under sections 499 and 500 with a sentence of 2 years, which is the maximum sentence under the law for criminal defamation. The important aspect that has caught everybody's attention is the status of Rahul Gandhi as an MP, as section 8(3) of the Representation of the People Act, 1951 mandates disqualification of a member after being convicted of an offence with a sentence of 2 years or more.

Section 8(3) reads:

A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

In the famous **Lily Thomas case** (2013), a two-judge bench of the Supreme Court struck down **Section 8(4)** of the said act for going above the mandate given to the parliament by the constitution to frame laws for disqualification. Section 8(4) provided that the disqualification of a sitting member of parliament or state legislature shall not take effect till three months from the date of conviction; additionally, if the member files an appeal or revision with respect to conviction or sentence within those three months, the disqualification shall not take effect till the appeal is disposed of. The immunity given to sitting members for three months was held ultra vires the constitution. After the *Lily Thomas* judgment, a sitting member of the house faces immediate disqualification from the date of conviction if it falls under any sub-sections of section 8.

Rahul Gandhi's case falls under **Section 8(3)** of the Act and, hence, he faces immediate disqualification by virtue of the *Lily Thomas* judgment. On March 24, the Lok Sabha secretariat issued a notification declaring the disqualification of the MP from Wayanad and referring to Mr. Gandhi as ex-MP. It is important to note here that a member's disqualification takes effect from the date of conviction and not from the date of notification.

Lily Thomas held that disqualification is immediate and automatic after the conviction and operates from the date of conviction. Under **Section 389(1) of the CrPC**, the appellate court can stay the order of conviction in addition to staying the execution of sentence arising out of the conviction by relying on the judgments of *Rama Narang, Ravikant S. Patil and Navjot Singh Sidhu.* The disqualification ceases to operate from the date of order on the stay of the conviction.

By the virtue of Section 8(4) being struck down by the court, the position of a sitting member of the parliament and state legislatures and person contesting elections, with regard to the matter of disqualification is the same. What is different is the effect of disqualification. Suppose X wants to contest an election, and Y is already a member of the house. Both are charged with an offence, with the sentence exceeding two years and stand to be disqualified immediately from the date of conviction as per section 8(3).

While X is disqualified from contesting elections, Y is disqualified from continuing as a member of the house. Now suppose the appellate court, considering the matter as extraordinary, stays the order of convictions of both X and Y under 389(1) of the CrPC. Disqualifications will cease to operate from the date of order of stay of conviction for both X and Y.

By the virtue of the appellate court's judgment, X is restored to his previous position as he is now able to contest elections, but Y is disqualified as an MP from the date of conviction, and to reinstate his status as member of the house will contradict its own position and previous judgments that a stay on the order of conviction or the acquittal of the person, operates only prospectively. Hence, even though the disqualifications are the same for both X and Y, the stay on order of conviction operates differently on X and Y by imposing a greater burden on _____.

The court ignored this distinction and erroneously held that a stay order on conviction is enough to remedy baseless and frivolous convictions, and the resulting disqualification of a sitting legislator.

Source: *Excerpt taken from the blog article "The Ambiguous Case of a Disqualified MP" written by Chiranth Mukunda (dated 9 April, 2023)*

Questions

1. X is a MP from the Y constituency. He was convicted for murder under section 302 of the Indian Penal Code. Will X be immediately disqualified as MP? If yes, for how long will he be disqualified after his release?

a. X will be immediately disqualified. His disqualification will continue for two years after his release.

b. X will be immediately disqualified. His disqualification will continue for six years after his release.

c. X will not be disqualified, since the offence of murder is punishable with a sentence of less than 2 years.

d. X will not be disqualified, even though the offence of murder is punishable with a sentence of 2 years or more.

2. Provision for disqualification for membership of either house of parliament and the analogous provision for the state legislatures are which among the following?

a. Article 54 and Article 153

b. Article 72 and Article 164

c. Article 81 and Article 175

d. Article 102 and Article 191

3. Which of the following was not held in the famous *Lily Thomas* case of 2013?

a. Section 8(4) of the Representation of the People Act, 1951 was struck down.

b. Section 8(4) was held ultra vires the constitution.

c. The Court was not in favour of the immunity granted by section 8(4) to the sitting members.

d. The constitutionality of Section 8(4) was upheld by the Court.

4. Which of the following statements are true based on the given passage?

a. Disqualification is immediate and operates from the date of conviction.

b. Disqualification is immediate but operates from the date of issuance of notification by the Lok Sabha secretariat.

c. Disqualification is immediate but not automatic.

d. Disqualification is immediate and does not cease from the date of order on the stay of the conviction.

5. Based on the example in the passage, even though the disqualifications are the same for both X and Y, the stay on order of conviction operates differently on X and Y by imposing a greater burden on whom?

a. X

b. Y

c. Both of them

d. None of them

Answers

1. (b) Yes. X will be immediately disqualified. His disqualification will continue for six years after his release. This is because the offence of murder is punishable with life imprisonment, which is more than 2 years specified in section 8 of the Representation of People Act, 1951
2. (d) Article 102 and Article 191.
3. (d) Section 8(2) of RPA was held ultra vires the constitution and hence unconstitutional.
4. (a) Disqualification is immediate and operates from the date of conviction.
5. (b) Even though the disqualifications are the same for both X and Y, the stay on order of conviction operates differently on X and Y by imposing a greater burden on Y, for he must fight a re-election as per existing judgments.

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