

Paramount Law Times Newsletter



(For uptodating law and events)

2014-15 – (second half)

Issue 0006

Welcome Announcement

Paramount has taken a initiative to have its Law Time Newsletter for updating law and events. All interested individuals and institutions are welcome to request this newsletter.

Legal Audit and Moral Audit Services

Paramount Law Consultants Ltd., Delhi has completed its research and is taking up legal audit and moral audit services for the Corporates.

Subhash Nagpal
Chairman

Paramount Law
Consultants Ltd., Delhi

Constitution Bench Decision

Dr. S. K. Kapoor
Ved Ratan

I

Constitution Bench

1. The Constitution Bench takes minimum of Five Judges on board and this strength value in itself speaks for the value of the Decision of the Constitution Bench

II

Supreme Court and Supreme Court Judges

2. Supreme Court Judges on the board of Supreme Court Benches get institutionalized with powers of the Supreme Court.
3. However, the Supreme Court judges while taking up the assignment other than as judges on the board of Supreme Court Bench are differently empowered.

III

Supreme Court Bench Decision

4. The Supreme Court of India in its **Constitution Bench** decision dated 23-July-2014 in case titled (*Dr. Subramanian Swamy Vs Arun Shourie in Contempt Petition (Crl.) No. 11 Of 1990*) has taken up following two questions for adjudication.

“(i) When a sitting Supreme Court Judge is appointed as a Commissioner by the Central Government under the 1952 Act, does he carry with

him all the powers and jurisdiction of the Supreme Court? In other words, whether the functions which are discharged by the Supreme Court Judge as a Commissioner are purely statutory functions independent of the jurisdiction vested in the Supreme Court?

(ii) Whether truth can be pleaded as defence in contempt proceedings?”

5. The above first question has been answered as that “*the Commission appointed under the 1952 Act is not a Court for the purposes of Contempt of Courts Act even though it is headed by a sitting Supreme Court Judge.*”
6. As far as the second question regarding “*truth being the defence in contempt proceedings*”, it is answered as is the provision of section 13 (b) of the Contempt of Courts Act, 1971 which provides:

“(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.”

7. The court may permit ‘*justification by truth*’ subject to the satisfaction of the court on two counts, firstly ‘that *it is in public interest* and secondly as that the *defense is bonafide*’

IV Satyamev Jayte

8. With this Constitutional Bench Decision there is re-assertion of our cherished Upanishadic value ‘*Satyame Jayte*’, as that the **Truth ultimately triumphs.**

Link of the above referred Judgment

<http://judis.nic.in/supremecourt/imgs1.aspx?filename=41786>

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