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Legal Reasoning Questions for CLAT Exam

Legal Reasoning Set 16

Directions: Study the following information carefully and answer the questions given beside.

Sport is often a microcosm of society. Much as we might sometimes see it as a leveller, it invariably tends to underscore more endemic inequities. Recent revelations made by the former West Indies cricket captain, Darren Sammy, therefore, must awaken us to a problem that goes far beyond the cricket field and its narrow confines, of a society replete with racism.

In our country, this problem is only exacerbated by other historically ingrained forms of discrimination, along the lines of caste, class, gender, and religion among other things. Indeed, in reacting to Mr. Sammy's statements, the former Indian cricket Irfan Pathan pointed not only to how players from the south of India routinely faced abuse from the crowds in the north – something which the Tamil Nadu and India opener Abhinav Mukund too attested to – but also to another form of prejudice even more entrenched in society. On June 9, Mr. Pathan said, in a tweet, that racism in our country goes beyond the colour of our skins, that enforcing embargoes on people seeking to buy houses based on their faith, ought to equally be seen as a feature of prejudice.

These prejudices, which pervade every aspect of life, from access to basic goods, to education and employment, are sometimes manifest. But, on other occasions, the discrimination is indirect and even unintended. The latter, however, is just as pernicious. The forms that it takes were perhaps best explained by the U.S. Supreme Court's ruling in *Griggs vs Duke Power Co. (1971)*. There, the court held that an energy company had fallen foul to the U. S. Civil Rights Act of 1964- which made racial discrimination in private workplaces illegal – by insisting on a superfluous written test by applicants for its better entry-level jobs. Although, on the face of it, this requirement was race-neutral, in practice it allowed the company to victimise African-Americans.

In a memorable judgment, invoking an Aesop fable, Chief Justice Burger wrote that “tests or criteria for employment or promotion may not provide equality of opportunity merely in the sense of the fabled offer of milk to the stork and the fox”. On the contrary, the law, he said, resorting again to the fable, “provided that the vessel in which the milk is proffered be one all seekers can use.” That is, that it wasn't merely “overt discrimination” that was illegal but also “practices that are fair in form, but discriminatory in operation”.

[Extracted from editorial by Suhrith Parthasarathy “The need for an anti-discrimination law “]

- 1. Which of the following is a kind of discrimination in the backdrop of the passage.**
- A. Hooting by crowd with racial remarks in north India to south Indian players on the field.
 - B. People being barred to buy houses pertaining to their religion of faith.
 - C. African-Americans being asked to face the superfluous written test in the Duke Power Co. (1971)
 - D. All of the above

2. Mr. Singh was denied entry for a walk in interview in a company preparing beverages favouring only certain religion following people, to apply for job. What legal protection Mr. Singh is entitled to in India?

- A. There is no legal protection as there are no provisions regarding discrimination by a private entity in India.
- B. Mr Singh can move to court for he is protected from discrimination according to Article 15 and 16 of the constitution.
- C. Mr. Singh can report to the police about the being denied by the private company on pretext of different faith.
- D. Both option B and C.

3. Mr. Singh migrated to US and applied in the company for a job but was rejected on the pretext of wearing a turban on his head binding to his faith. What legal protection he is entitled to?

- A. He can file a suit citing the Civil Rights Act, of 1964 which made racial discrimination in private workplaces illegal in US.
- B. No, Mr Singh can't take action as he is of Indian Origin.
- C. Mr. Singh should file complaint with the embassy of India.
- D. Mr. Singh should file for unemployment benefits in the US.

4. Mr. Johnson devised criteria for a job in his US based internet company putting sport person as a mandatory requirement for the aspirants. Which statement from the passage invites legal obligation against this criteria?

- A. Tests or criteria for employment or promotion may not provide equality of opportunity merely in the sense of the fabled offer of milk to the stork and the fox.
- B. Sport is often a microcosm of society.
- C. Racism in our country goes beyond the colour of our skins.
- D. These prejudices, which pervade every aspect of life, from access to basic goods, to education and employment, are sometimes manifest.

5. According to the passage which is of the following is most harmful?

- A. Direct discrimination by State entities pertaining to race and religion of faith.
- B. Indirect discrimination by State pertaining to reservations for SC/ST and women.
- C. Direct discrimination by private entities pertaining to race and religion of faith.
- D. Indirect and unintended discrimination by the private entities.

Correct Answers:

1	2	3	4	5
D	A	A	A	D

Explanations :

1. According to the passage all the above describe instances of racial and religious discrimination.

So option D is the answer.

2. The discrimination in matters of employment is protected only against the State and not the private entity according to Article 16 of the Indian Constitution. However had there been a legislation citing to the matters of discrimination on the basis of religion, caste and faith pertaining to private entities Mr. Singh could have taken option D as the remedy.

But for now it will be option A as the answer.

3. Refer to the lines 20 of the passage where the law relating to Civil Rights empowers the court to take action against a private company if found discriminating individuals on the basis of race.

So Mr. Singh is protected under Option A. Other options can be rejected.

4. According to the passage the author has cited the judgment of the Chief Justice Burger who insisted that the test or criteria should be fair and equal. He even cites story of the fox and the stock from the fable.

So option A provides better answer to Mr. Johnson's unequal and indirect discrimination criteria for the job. Other options can be rejected.

5. Refer to the lines 15-16 of the passage where the author clearly mentions that indirect and unintended discrimination is more harmful (pernicious) for the people. Therefore option D is the right answer.

Other forms of discrimination are also harmful but option D is cited as more dangerous by the author.



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