

Critical Study And Analysis Of Judgment Of Supreme Court In The State Of Uttarakhand Vs Mohammad SALIM And Ors(2018) On The Issue Of Conferring Legal Status To Non Living Things Like Rivers

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ABSTRACT

A lawful individual (in lawful settings frequently basically individual, less questionably legitimate entity) is any human or non-human element, at the end of the day, any person, firm, or government office that is perceived as having benefits and commitments, for example, being able to go into contracts, to sue, and to be sued. The expression "legitimate individual" is anyway questionable in light of the fact that it is additionally utilized in contradistinction to "common individual". So there are of two sorts of lawful elements, human and non-human: normal people (likewise called physical people) and juridical people (additionally called juridic, juristic, counterfeit, lawful, or imaginary people, Latin: *persona ficta*), which are different substances, (for example, companies) that are treated in law as though they were persons. While individuals obtain lawful personhood when they are conceived (or even before in a few purviews), juridical people do as such when they are consolidated as per law. Legitimate personhood is an essential to lawful limit, the capacity of any lawful individual to correct (go into, exchange, and so on.) rights and commitments. In global law, therefore, legitimate identity is an essential for a universal association to have the capacity to sign worldwide settlements in its own name.

KEYWORDS: Legal, Status, Case, Non living things and rivers

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I. INTRODUCTION

Fake identity, juridical identity, or juristic identity is the normal for a non-living substance respected by law to have the status of personhood. A juridical or fake individual (Latin: *persona ficta*; additionally juristic individual) has a legitimate name and has certain rights, insurances, benefits, obligations, and liabilities in law, like those of a characteristic individual. The idea of a juridical individual is a basic legitimate fiction. It is relevant to the theory of law, as it is fundamental to laws influencing a partnership (enterprises law).

Juridical personhood permits at least one normal person (universitas personarum) to go about as a solitary substance (body corporate) for legitimate purposes. In numerous wards, counterfeit identity enables that element to be considered under law independently from its individual individuals (for instance in an organization constrained by offers, its investors). They may sue and be sued, enter contracts, cause obligation, and claim property. Substances with legitimate identity may likewise be subjected to certain lawful commitments, for example, the installment of expenses. An element with legitimate identity may shield its individuals from individual risk.

In some precedent-based law purviews a refinement is drawn between enterprise total, (for example, an organization, which has various individuals) and a company sole (or, in other words individual's open office is considered to have a different identity from them as a person). Both have separate lawful identity. Generally most enterprises sole were religious in nature (for instance, the Archbishop of Canterbury is an organization sole), however various other open workplaces are presently framed as companies sole.

The idea of juridical identity isn't total. "Puncturing the corporate cloak" alludes to taking a gander at the individual characteristic people going about as operators engaged with an organization activity or choice; this may result in a legitimate choice in which the rights or obligations of a partnership or open restricted organization are treated as the rights or liabilities of that company's individuals or chiefs.

The idea of a juridical individual is presently integral to Western law in both custom-based law and common law nations, yet it is likewise found in for all intents and purposes each legitimate system.

The aim of the paper is that it is mainly focuses on the legal status conferring to non living things and about the case state of Uttarakhand vs Mohammad Salim and Ors.

Objectives

1. To know legal status of non living things like rivers
2. To know the facts of the case
3. To know what is legal person
4. To analysis judgement of case
5. To know whether non living things require rights

II. Review of Literature

With the end goal to facilitate the investigation of the exploration of business law, the subject has been grouped in four expansive universes: (1) people, (2) objects of trade, (3) lawful instruments got from business relations, and (4) authoritative and jurisdictional methodology("The Mother of the Legal Person"). The regulatory techniques are held before authoritative courts and the jurisdictional strategies before legal courts(Shelton).

Inside the universe of business relations, where people and protests unite, every legitimate instrument are, and work as, a help for business trades(McLaughlin). A case of this is business contracts, which because of theirs tendency are referred to in this universe as a typical contracts(Holland).

In the expansive universe of business exchanges, the focal angle that emerges is the business endeavor, that is, the "juridical individual(Mertz)." To guarantee that ventures may direct their action they require a "juridical identity," which takes into account the activity of rights and satisfaction of commitments that lead us to the investigation of legitimation(Mertz; Naffine).

The legitimate instruments most generally utilized by enterprises are the atypical contracts(Horder). These lawful instruments lead us to investigate the juridical individual, contemplating that it suggests another broad field of concentrate known as the "delimitation of ability of the gatherings" who take an interest in the agreement, as creating substances of rights and obligations, that rotates around legitimation of identity, which, in the meantime, could be a point of debate in business exchanges(Horder).A man is juridically characterized in two gatherings: normal people and juridical persons(Vermeulen et al.). The principal assemble alludes to an individual, who is an individual being equipped for accepting commitments and fit for holding rights(European Consortium for Church-State Research. Conference and Friedner). The second gathering alludes to those elements enriched with juridical identity who are normally known as an aggregate person, social person, or lawful element(Barbara). In this paper, the expression "substance" will be frequently utilized when alluding to this second gathering(Kjeldgaard-Pedersen).The expression "individual" has been a vital idea in the general extent of law, in common issues(Salman and Uprety).

With the end goal to figure out what ought to be comprehended by "individual," assorted lawful researchers have made changed investigations endeavoring to clear up its inception(O'Donnell).

These examinations portrayed beneath express and break down various positions created by various legitimate scholars whose thoughts have filled in as a model to distinguish the distinctive patterns of thought clarifying the juridical individual(*Legal Problems Relating to the Utilization and Use of International Rivers*). In the knowledge that we only hope to set up for exploration of business law impact, the significant things that enable us to determine on the business matter what we ought to comprehend by "lawful substance" or "juridical individual" as an element equipped for having commitments and rights(Grizzetti et al.).

Francisco Carnelutti comprehends "individual" in a triangular sense(Boyd). He sees the subject as the vertex in which the individual intrigue (monetary component) and the abstract right (lawful component) correspond in a legitimate relationship(Young et al.).The individual is the "meeting purpose of these two components, that is, the core of the issue where both join(Alday and Gupta)." Carnelutti clears up that the juridical individual isn't just the man considered in his uniqueness(Sato et al.). Rather, Carnelutti avows that where aggregate intrigue exists, i.e. driving a few men as one, solidarity is permitted to rise, and identity as a unit will be gained(Rai).

III. Materials And Methods

This paper is depends on primary data and secondary data. The primary data for the present study is collected using sampling technique. Convenience sampling is used to collect the primary information from the respondents. A random number of samples selected from the study and the sampling size is 3181. The primary data which has been analysed using Frequencies and Chi square test.

The secondary data is collected from books, journals, articles and resources.This research paper is analytical and descriptive in nature.%

Hypothesis

Null hypothesis : it is not a major issue of conferring legal status to non living things like rivers
 Alternative hypothesis : it is a major issue of conferring legal status to non living things like rivers

DATA ANALYSIS

TABLE 1

What is your age? *Are you aware of recent Supreme Court judgement in state of Uttarakhand vs Mohammad Salim and Ors(2018) , conferring legal status to non living things like rivers?

Hypothesis

Null hypothesis : People are not aware of the Supreme Court judgement of mohd Salim vs state of Uttarakhand
 Alternative hypothesis : People are aware of the Supreme Court judgement of mohd Salim vs state of Uttarakhand

Crosstab

Count

		18. Are you aware of recent Supreme Court judgement in state of Uttarakhand vs Mohammad Salim and Ors(2018) , conferring legal status to non living things like rivers?		Total
		Not aware	at all Unaware	
1. What is your age?	18-20	693	138	831
	21-30	628	570	1198
	31-40	472	221	693
	41-50	128	272	400
	Above 50	27	32	59
Total		1948	1233	3181

Out of 3181 respondents, 831 of them were in the 18-20 years age group, 1198 of them were in the 21-30 years age group, 693 of them were in the 31-40 years age group, 400 of them were in the 41-50 years age group and 59 of them were in the 50 years and above age group.

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	374.878 ^a	4	.000
Likelihood Ratio	391.962	4	.000
Linear-by-Linear Association	194.083	1	.000
N of Valid Cases	3181		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 22.87.

The table which contains the results shows that it is less than .005 therefore null hypothesis is rejected and there is an association between two variables.

TABLE 2 :

What is your age? * Do you think that attributing loco parent concept to rivers and animals will help in better protection of it?

Hypothesis

Null hypothesis : People are not aware about of the loco parent concept to rivers and animals will help in better protection of it
 Alternative hypothesis : People are aware about loco parent concept to rivers and animals will help in better protection of it

Crosstab
Count

				49. Do you think that attributing loco parent concept to rivers and animals will help in better protection of of it?		Total
				yes	No	
1.What is your age?	18-20	284	547	831		
	21-30	966	232	1198		
	31-40	361	332	693		
	41-50	68	332	400		
	Above 50	31	28	59		
Total		1710	1471	3181		

Out of 3181 respondents, 831 of them were in the 18-20 years age group, 1198 of them were in the 21-30 years age group, 693 of them were in the 31-40 years age group, 400 of them were in the 41-50 years age group and 59 of them were in the 50 years and above age group.

The table which contains the results shows that it is less than .005 therefore null hypothesis is rejected and there is an association between two variables.

	value	df	Asymptotic Significance (2-sided)
Pearson chi square	694.518a	4	.000
likelihood ratio	741.078	4	.000
Linear by Linear Association	24.630	1	.000
N. Of valid cases	3181		

a.0 cells (0.0%) have expected count less than 5. The minimum expected count is 27.28.

A survey was conducted among people using random sampling method. A questionnaire on legal persons is prepared and distributed to the public. The questionnaire contains questions on concept of legal person. The opinions and views of people are recorded in the questionnaire.

The tables which contains the results shows that it is less than .005 therefore null hypothesis is rejected and there is an association between two variables.

IV. Discussion

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL Writ Petition (PIL) No. 126 of
2014 Reserved on: 11th November, 2016 Decided on: 05th December,
2016

Mohd. Salim .. Petitioner Versus
State of Uttarakhand and others ... Respondents

Mohd Salim filed a petition in the Uttarakhand HC, against mining and stone crushing activity on the shore of Ganga

He said since the carving of the new state of Uttarakhand no settlement has been arrived at UP and UK government.

The high court directed by passing order to DM/SDM to get the illegal and unauthorised area vacated in 12 weeks. Central government claims that UP and UK government are not cooperating with it. They have not even supplied the center with MoU. In this case the main concern of the court was after that agreement regarding division of assets and properties. The Ganga water management board was not yet formed. Under sec 80 of UP reorganisation act 2000 the board was formed.

The main issues of the case is :

The Central Government is additionally coordinated to establish a Ganga Management Board, under Section 80 of the Act, and make it utilitarian inside a time of three months. The Central Government will likewise enlist State of Uttarakhand as individual from the Upper Yamuna Board inside three months.

The mining in waterway bed of Ganga and its most noteworthy surge plain zone is prohibited forthwith. The District Magistrate and Sub-Divisional Magistrate will be by and by mindful to actualize this course. (Alok Singh, J.) (Rajiv Sharma, J.) 05.12.2016 Jitendra.

V. Conclusion

Pronouncing a landmark decision in the instant case wherein it was noticed that despite the decision of this Court dated 05.12.2016, the States of Uttar Pradesh and Uttarakhand have not cooperated with the Central Government to constitute a Ganga Management Board, the Court, in exercise of its *parens patriae* jurisdiction, in order to preserve and conserve river Ganga and Yamuna, declared the Rivers, and all their tributaries, streams, every natural water flowing with continuous or intermittent flow, as juristic/legal persons/living entities, having the status of a legal person with all corresponding rights, duties and liabilities of a living person read with Articles 48-A and 51-A(g) of the Constitution. The Director NAMAMI Gange, the Chief Secretary of the State of Uttarakhand and the Advocate General of the State of Uttarakhand were declared as persons in *loco parentis* i.e. the human face bound to protect, conserve, preserve, uphold the status and promote the health and well being of Ganga and Yamuna. The Court made it clear that, "Rivers Ganga and Yamuna are breathing, living and sustaining the communities from mountains to sea".

Expressing deep concern over the deteriorating state of Ganga and Yamuna and extreme displeasure over the callous attitude displayed by the State Governments in showing non-cooperation with the Central Government, the Division Bench of Rajiv Sharma and Alok Singh, JJ., sharply berated the States terming their non-cooperation as a 'sign of non-governance' especially when they are constitutionally bound to obey the orders passed by the Central Government or face consequences as enshrined under Article 365, and directed them to cooperate with the Central Government in an earnest manner for the constitution of Ganga Management Board by appointing the Members, failing which it shall be open to the Central Government to constitute the Ganga Management Board without the Members of the States.

Pointing out that deterioration of Ganga and Yamuna is a classic case of 'desperate times, desperate measures', the Court observed that the Rivers have a profound significance in the lives of devout Hindus, whence they are worshipped and revered as Mother; the one who purifies people of their sins. Backing its decision to grant legal personality to Ganga and Yamuna, the Court cited the cases of *Yogendra Nath Naskar v. Commission of Income Tax, (1969) 1 SCC 555* and *Ram Jankijee Deities v. State of Bihar, (1999) 5 SCC 50* wherein it was held that a Hindu idol is a juristic entity capable of holding property, thereby stating that to protect the recognition and the faith of society, Rivers Ganga and Yamuna are required to be declared as legal persons/living persons. Examining that how Hindus have deep faith in the Rivers and how the Rivers are very central to the material and spiritual existence of half of Indian population and their health and well being, the Court noted that the constitution of Ganga Management Board has become all the more necessary for the purpose of irrigation, rural and urban water supply, hydro power generation, navigation, industries. [Mohd. Salim v. State of Uttarakhand, 2017 SCC OnLine Utt 367, decided on 20.03.2017]

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