

ALL INDIA LEGAL FORUM



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ALL INDIA LEGAL FORUM

Corporate weekly

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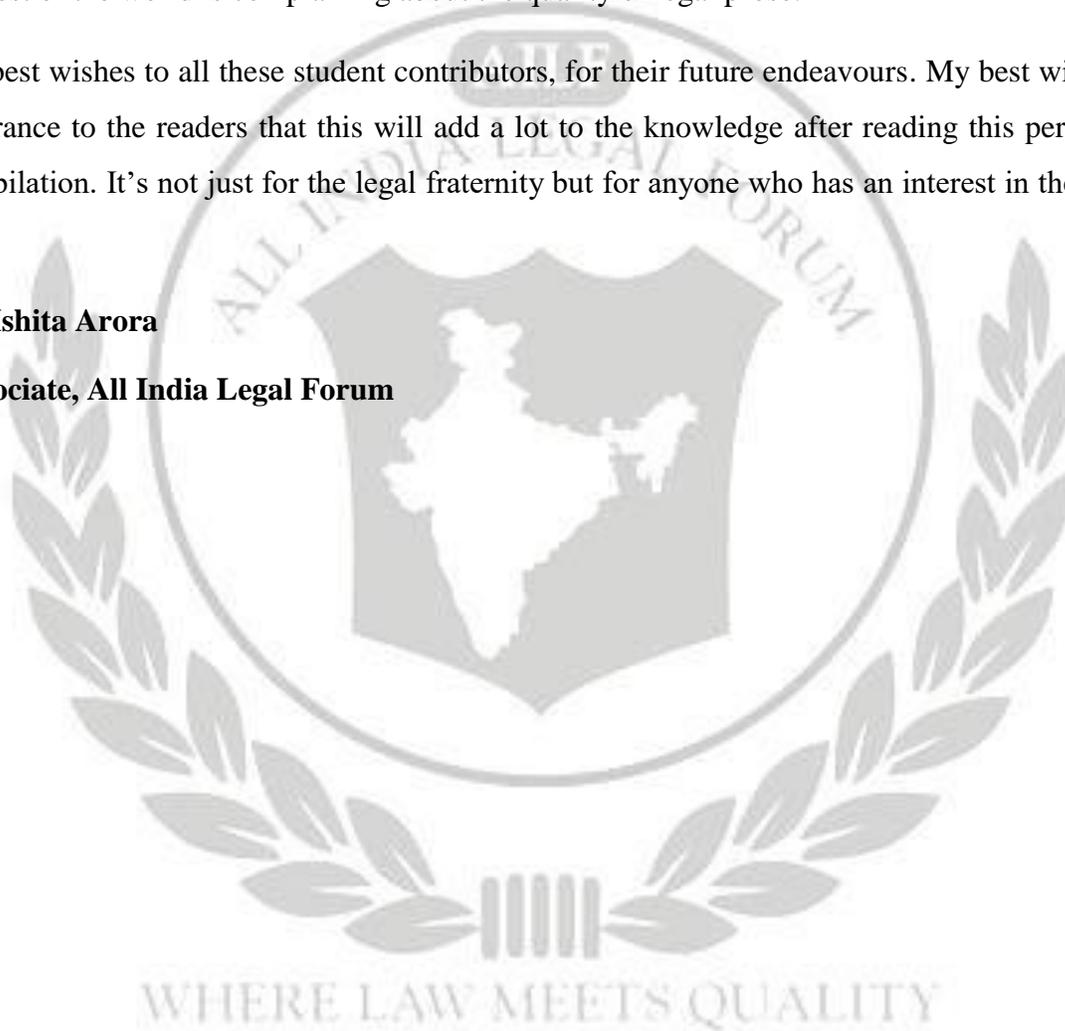
Forward

Most has been said about the writing of lawyers and judges than of any other group, except, of course, poets and novelists. The difference is that while the latter has usually has been admired for their writing, the public has almost always damned lawyers and judges for theirs. If this state of affairs has changed in recent times, it is only in that many lawyers and judges have now joined the rest of the world is complaining about the quality of legal prose.

My best wishes to all these student contributors, for their future endeavours. My best wishes and assurance to the readers that this will add a lot to the knowledge after reading this perfect case compilation. It's not just for the legal fraternity but for anyone who has an interest in the field of law.

By Ishita Arora

Associate, All India Legal Forum



Preface

May there be Peace in Heaven, May there be Peace in the Sky, May there be Peace in the Earth, May there be Peace in the Water, May there be Peace in the Plants, May there be Peace in the Trees, May there be Peace in the Gods in the various Worlds, May there be Peace in all the human beings, May there be Peace in All.

PEACE, PEACE, PEACE.

Our age-old culture prays for peace and happiness for one and all. Family is the first and oldest social group. It has played an important role in the stability and prosperity of the civilization. Almost everything of lasting value in humanity has its roots in the family. Peace and harmony in the family are important for the all-round development of children. This Compilation of Judiciary notes by All India Legal Forum is aimed at bringing about desired sensitivity in all duty holders. We're glad to be a part of the All India Forum. Here's an introduction to my team:

Senior Manager: Ishita Arora

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1. Priya Singh Rathore
2. Yamini Pokhriyal
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WHERE LAW MEETS QUALITY

DISCLAIMER

Team AILF India has made all efforts to summarize the Judiciary notes retrieved from AIR and SCC. In some cases, the team has tried to summarize cases from the available sources as they could not find original ones.



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CORPORATE NEWS:

(1st and 2nd JULY)

July 1

1. Jindal Steel & Power has accepted a bid of approximately \$1 billion from promoter group Templar Investments to sell its Oman operation.

2. Yes Bank has filed a petition in Bombay High Court to prevent controlling shareholders such as the Zee promoters from selling more shares in the company. Punit Goenka, the company's MD, is also being prevented from leaving India.

3. Temasek, Blackstone, Goldman Sachs, Samara Capital, and Baring Private Equity Asi are among the top global private equity companies eyeing India's auto components market.

million euros for Mumbai-based engineering consultancy firm STUP Consultants.

4. As a result of a drop in revenue, Oyo has suspended contracts with over 250 hotel owners in India for its "Townhouse" properties.

July 2

1. Geetika Mehta, formerly of HUL, has joined The Hershey Company as managing director, India.

CORPORATE NEWS

(3rd AND 4th JULY)

2. The former Vijaya Bank and Dena Bank's checkbooks have been phased out by the Bank of Baroda.

3rd July

3. Unacademy is stated to have chosen New Relic of California for full-stack observability to maintain service continuity and achieve global hyper-growth and scalability.

1. RBI is reported to have imposed a penalty of Rs. 25 lakh on Punjab and Sind Bank for Non-compliance with certain provisions of the cybersecurity framework.

4. Assystem S.A., a French engineering firm, is said to have paid around 21-22

2. Piramal Capital & Housing finance will reportedly launch a public issue of NCDs to raise Rs. 200 Crore

3. GroupM India announced the appointment of Karthik Shankar as digital Trading Head.
4. Laurus Labs is said to have received a license from DRDO to manufacture and market COVID-19 treatment drugs 2DG(2-Deoxy-D-Glucose)

4th July

1. Pine labs an Indian payments company is considering a bid for Wirecard AG businessmen in Southeast Asia and India.

CORPORATE NEWS **{5th AND 6th JULY,2021}**

5th of July 2021:-

2. India bulls Housing Finance raised Rs. 2200 crore from Oaktree capital by pleading a part of its real estate loans to the global stressed assets investor.
3. Intel Capital is set to invest around Rs. 1894.50 crores for a 0.39% stake in Jio platforms. Following this, the company will become the 11th entity to invest in RIL in a span of 3 months.

Government issues a draft to regulate direct selling to consumers

The government has issued a draft to regulate a direct selling consumer from a company. The draft consists of new rules and regulations for direct sellers. These rules and regulations are imposed on direct selling companies like Amway, Oriflame, Tupperware, and many more companies for securing the interest of the consumer. In

2016, Council Ministers came up with the rules and regulations for these kinds of companies and now there are few penalties for violating these guidelines. As per these guidelines, direct selling companies are not allowed to use pyramid schemes or money circulation schemes.

Direct selling companies have to register themselves under their respective laws and also in the department of promotion of industry and internal trade. They are now supposed to have at least 1 physical office in India. These companies need to recruit a chief compliance officer, grievance redressal officer, and a nodal contact person who can work with law enforcement agencies. A company should provide required and authorized information about the company for consumers. The company should also have verification of KYC and identity card for employees and they are required to have all the data of their information. The collected data should be submitted to government authorities.

The parent company of Paytm, known as, One97 Communications is on the way to increase the capital of the platform by Rs. 17 000 Crores through IPO i.e. Initial Public Offering. The sources mentioned that they have a meeting on 12 July 2021 and the final draft is expected soon to be out. They are trying to form a blend of primary as well as secondary issuances. This aim is to place the platform a little near Bajaj Finserv.

There is the presence of nearly around 20 companies in the present market having such a high valuation. It is said that if this saying comes into existence Paytm will be considered in the list of top 10 financial services stocks. Bankers such as ICICI, HDFC, etc are picked up by the platform for IPO. Its roundabout \$2.3 billion fundraise and henceforth can be regarded as one of the greatest steps taken by them after getting recognized by the general public at large.

6th July 2021:-

**Paytm Aiming To Have \$25 BN
Valuation in Initial Public Offering**

CORPORATE NEWS
{7th AND 8th JULY,2021}

7th JULY,2021

1. Pradhan chairs meeting on SAIL's mining expansion plan. Union Steel Minister Dharmendra Pradhan on Tuesday chaired a meeting on mining expansion plans of state-owned SAIL which looks to more than double its steel-making capacity to 50 MTPA by 2030.

Steel Authority of India (SAIL), under the ministry of steel making company with a yearly basis capacity of over 21 million

tonnes (MT). Expanding capacity would require a plus amount of raw materials.

This will also affect the availability of raw material in the open market and will have a positive bearing on raw material prices, the ministry said in another tweet. It said, the officials have been advised to plan a detailed road map on significantly ramping up production, evacuation, and sale of dump and fines.

2 . NHB imposes Rs 4.75 lakh fine on HDFC for technical non-compliance.

The National Housing Bank (NHB) has urged a fine of Rs 4.75 lakh on Housing Development Finance Corporation Ltd. (HDFC) for non-compliance with some rules, the country's largest mortgage said on the lender.

“This is to inform you that NHB has on July 5, 2021, urging a monetary penalty of Rs 4.75 lakh plus GST on the corporation for technical non-compliance with NHB

circulars, “HDFC said in a regulatory filing on Tuesday. The circulars matter to November 2013 and July 2016”.

The corporation will be taking important steps to comply with the said letter, it said in

review to the matter leading to the urging of fine.
HDFC's shares on Tuesday closed flat at Rs.2493.30 apiece on BSE.

As per estimate made by Kotak institutional equities, as the GST cluster for FY22 is budgeted at Rs 13.1 lakh crore, it would permit a required monthly run-rate of Rs 1.1 lakh Crore.

8th JULY,2021

GST collections keep alive hope of a 6.8% fiscal deficit in FY22.

The June GST cluster has once again brought back confidence in the government's revenue department that not only indirect tax cluster in FY22 may remain near to budget targets but also that fiscal deficit may finally be contained as per prediction.

The brokerage report said that growth and tax clusters should begin recovering as restrictions have begun easing from June and activity levels have bounced. This should also keep the country's fiscal deficit at a budgeted level of 6.8% of GDP with more than budgeted receipts of Rs 150 billion and expenditure of Rs 690 billion.

ARTICLES

Section 8 – Company and procedure for incorporation

Introduction:

In India, 3 legal forms exist for an NGO or public-spirited agency i.e Trusts, Societies, and Section 8 Companies.

Indian Trusts have no central law; Indian Societies have different legal and established structures from state to state while Section 8 companies have one consistent law across the country – Companies Act, 2013. It is this vigorous Act that controls the formation, management, and

liability of a Section 8 Company, thus making it more closely synchronized and examined than trusts and societies and identified all over the world.



Section 8 corporation is a corporation which:

- Has in its objects the indorsement of trade, art, science, sports, education, research, social welfare, religion, charity, save of environment or any such other item;
- The Extent to apply its profits, if any, or other income in encouraging its items and •
Intends to restrict the payment of any profit to its members.

The elemental characteristics of Section 8 Company are that it is created for the non-profit motive and it forbids the payment of divided..._Process for registration_of section 8 company.

1. Solicitation for name availability in form RUN

Solicitation for name fortunateness must be made in''RUN'' facility. The name of Section 8 Company shall include the words Premise, assembly, consortium, Coalition, legislation, confederacy, board, Obligatory Trust, and the like, etc. One can propose a maximum of 2 names at a time and 1 resubmission is allowed in the RUN facility. The fee for RUN is **Rs. 1000/-**. It is advisable to attach the object clause of the suggested company.

2. Getting Digital Signatures of First Directors

The next step is to get class 3 digital signatures of the first members and chief which are required to arrange abstract form with the ROC.

3. Preparation of Memorandum of Association, Articles of Association, and other documents

A Memorandum of association is the charter of the company and explains the area of its items. An article of association is a certificate-monitor the inside management of the company. Section 8 Company should be in form INC-13 while there is no template referred for Section 8 Company. One can adopt table F provisions. Memorandum of association & Articles of association of the company shall be signed by each member who shall mention his name, address, description, and work in the presence of at least one witness who should approve the sign and likewise sign and add his name, address, description, and work.

4. Filing of SPICe 32 Form

After getting put forward name approval, one may go ahead with filing of form SPICe 32.

Attachments of SPICe 32:

The following are the documents that are required to be attached with the SPICe form for incorporation of Section 8 Company.

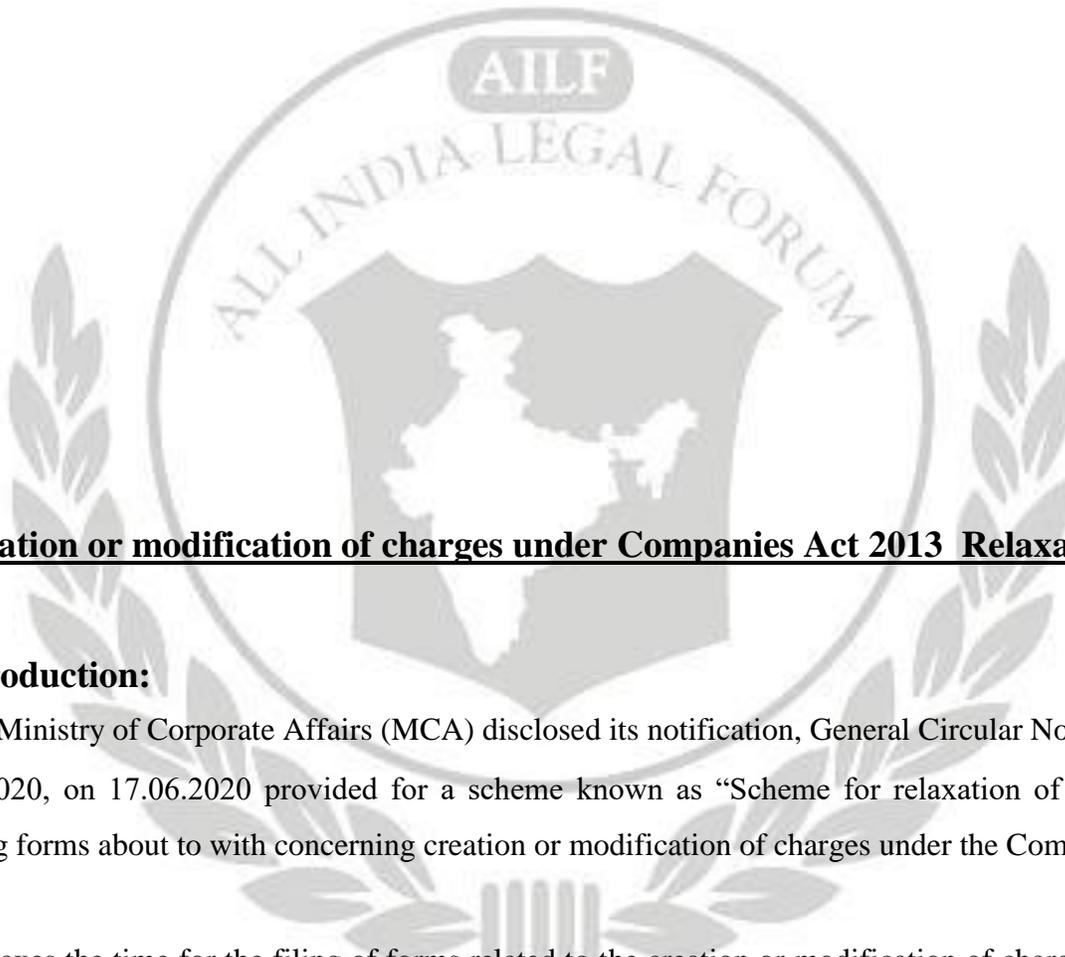
- ❖ Memorandum of Association in Form INC-13;
- ❖ Articles of Association;
- ❖ Proclamation in Form INC-14 by CS/CA/CWA in operation, that the draft MOA & AOA have been drawn up in orthodoxy with the supplying of Section 8 and rules made thereunder and that all the essential of the Act and the Rules made thereunder relating to the listing of the company under Section 8 and matters peripheral or accessory there to have been complied with;
- ❖ Proclamation by each of the persons making the application in Form INC-15;

- ❖ An estimate of the future annual income and dissipation of the company for the next three years;
- ❖ Name Authorize Letter received from CRC;
- ❖ agreement and Proclamation by first Directors in Form DIR-2;
- ❖ Self-declaration by first members in Form INC-9;
- ❖ PAN card of first directors and members.
- ❖ Aadhar card of first directors and members.
- ❖ evidence of inscribed office like Sale Deed/Lease Deed/Rent Agreement etc;
- ❖ Latest value Bill of inscribed office like Electricity Bill;
- ❖ non-objections certificate if the registered office is taken on rent/lease.

The welfare of Section 8 Company Registration

- Exception from Stamp Duty.
- Tax deductions to the contributor of the establishment u/s. 80G of the Income Tax Act.
- Section 8 Companies can be formed with or without equity capital, in case they are formed without stocks, the necessary grants for carrying the business are brought in form of offering, the endowment from members, and universal.
- Section 8 Companies are not required to add the ending Limited or Private Limited at the end of their name.
- A Section 8 Company has more credibility as compared to any other commercial composition like Trust or Society.

WHERE LAW MEETS QUALITY



Creation or modification of charges under Companies Act 2013 Relaxations

Introduction:

The Ministry of Corporate Affairs (MCA) disclosed its notification, General Circular No. 23/2020, on 17.06.2020 provided for a scheme known as “Scheme for relaxation of time for filing forms about to with concerning creation or modification of charges under the Companies Act, 2013”. It relaxes the time for the filing of forms related to the creation or modification of charges under the Companies Act, 2013 due to the stressful times caused by the Covid-19 pandemic.

Concept of Charge:

The Companies Act, 2013 defines a Charge as an interest or lien that is created on the assets or property of a Company or any of its undertakings as security and it also includes a mortgage.

The financial institutions/banks would not lend their money unless they are sure that the lender's money is safe and they would be repaid as per the agreement for the agreed schedule along with payment of interest.

Keeping the security of their loan in mind they sort to create right in the assets and properties of the borrowing companies, which is known as a charge on assets.

Mandatory Requirements of Charge Filing:

It shall be the duty of every Company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, to register the list of the charge signed by the Company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of the prescribed fees to the Registrar within 30 days of its creation. [Section 77(1)]

The scheme is also applicable for the timeline under section 78 which relates to the charge holder filing the charge with the ROC in case the company fails to do it according to the section above. Where any charge on any property or assets of a company or any of its undertakings is registered, any person acquiring such property, assets, undertakings, or part thereof or any share or interest therein will have a duty to have a notice of the charge from the date of such registration. [Section 80]

Following is the process which is to be followed

Registration of Charge within 120 Days

1. File particular of the charge with ROC

Company shall file the particulars of the Charge along with ROC (registration of charge) within 30 days of execution of the instrument creating or modifying charge in Form CHG-1 or Form CHG-9, duly signed by the Company and the charge holder along with the copy of the instrument creating and modifying charge and attach the following documents

- ❖ CHG 1: For Creating or Modifying Charges other than debentures

This form will include a certified copy of the deed by which the charge is created.

- ❖ CHG 9: Form for Creating or modifying the charge in (for debentures including ratification)

It will include a Certificated True copy of the resolution authorizing the issue of debentures along with an instrument containing details of charge created or modified mandatory in all cases.

- ❖ If these forms are not filed in 30 days within the formation of the charges then for an additional period of 30 days payment of additional fees has to be done and again if such instrument of creation or modification of charges is not filed within 60 days from the date of its creation or modification, the company shall make an application for extension of the time limit for filing the relevant forms in ROC it may allow such registration to be made within the period of further 60 days after the payment of ad Valorem.

2. Certificate of Registration of Charge

- ❖ ROC will register the charge and issue a Certificate of Registration of Charge in Form CHG-2 or modification of charge in Form CHG-3.

3. Entries in Register of Charge

- ❖ The Company shall make necessary entries in the Register of Charges in Form CHG-7 maintained by the Company. The director or the company secretaries or any other person authorized by the Board of directors shall authenticate these entries.

Now that we have talked about the meaning of the charge and the procedure which has to be followed in filing forms for the creation and modification of charges

So now let's look at what has MCA recently given relaxation for filing of charges.

MCA via its general circular no 7/2021 dated 3rd May 2021, has provided relaxation of time for filing forms related to creation or modification of charges in the context of CHG 1 and CHG 9 forms under Companies Act, 2013. It was because of the difficulty being faced by stakeholders due to the resurgence of the COVID-19 pandemic, the Ministry of Corporate Affairs that is MCA has allowed the relaxation of time to file forms of creation or modification of charges.

By this, the provision of section 77 of the Companies Act 2013 mandates the company to file a form relating to creation and modification of charge within a maximum of 120 days of the date

of creation of charge or modification of charge, depends on the case has been relaxed. With this circular MCA has provided relaxation to the companies for charge holder for condoning the delay in filing certain forms related to section 77 of the Companies Act 2013. This is done because of the difficulty faced by people on filing the form of charges due to the Covid 19 pandemic.

Now talking about the purpose of the scheme for relaxation of time for filing the form related to creation and modification of charges under the Company Act 2013, It can be said the purpose is basically because of the delay in filing certain forms related to the creation of charges, the Central Government decided to introduce a scheme for relaxation of time for filing the same. The applicability of the scheme of relaxation in form of CHG 1 and 9 by a company or a charge holder where the date of creation modification of charge

- ❖ Is before 1st March 2020 The timeline for filing such forms has not expired under section 77 of the act till 1st March 2020
- ❖ or falls on any date between 1st March 2020 and 30th September 2020 both the dates are inclusive under this.

Now talking about who are the people who have been barred from MCA applicability they are

- ❖ CHG 1 and CHG 9 forms have already been filed before the date of issue of this circular.
- ❖ The time for filing the form has already expired under section 77 or section 78 of the act before March 1st, 2020.
- ❖ If the timeline for filing the form expires at future date despite the exclusion of the time provided.
- ❖ Filing of form CHG for the satisfaction of charges.

Conclusion

A legal professional hired by a company should always be aware of the changes and need to advise the companies to comply with the terms of the notification of the Government like that of filing of creating a charge with the registrar within 30 days of such creation of Charges to avoid any penalty. And also the company has to be very particular regarding these things as

noncompliance with results in not only the fine charge to the company in question for default, but the officers concerned are also liable to be punished with imprisonment for a term of 6 months and or with fine.

Reference

Charge creation, modification and satisfaction under company law (14 December 2019) by CS Deepak Kumar Sharma <https://taxguru.in/company-law/charge-creation-modificationsatisfaction-company-law.html>

MCA relaxation of time to file forms for creation or modification of charges by Renu Suresh <https://www.indiafilings.com/learn/mca-relaxation-of-time-to-file-forms-for-creation-or-modification-of-charge/>

Company Act, 2013 procedure for registration of creation or modification of charges (26th February 2021) by Nupur Rathore. <https://www.lawrbit.com/companies-act-procedures/registration-of-creation-or-modification-of-charges/>



ABOUT ALL INDIA LEGAL FORUM

All India Legal Forum (AILF), the brainchild of several legal luminaries and eminent personalities across the country and the globe, is a dream online platform which aims at proliferating legal knowledge and providing an ingenious understanding and cognizance of various fields of law, simultaneously aiming to generate diverse social, political, legal and constitutional discourse on law-related topics, making sure that legal knowledge penetrates to every nook and corner of the ever-growing legal fraternity. AILF also houses a blog that addresses contemporary issues in any field of law. We at AILF don't just publish blogs but we also guide the authors when their research paper is not up to the mark.

AIM OF AILF

Legal Education is regarded central in providing access to justice by ensuring equality before the law, the right to counsel and the right to a fair trial. All India legal Forum aims to bring out a platform to provide resourceful insight on law-related topics for the ever-growing legal fraternity. Through ambitious and studious legal brains across the country, AILF aims at providing valuable contributions on developments in the legal field and contemporary assessment of issues, putting forward quality legal content for the masses. We provide constant legal updates and make quality law notes available for law students across the country.

PEOPLE BEHIND AILF

The biggest asset of AILF is our team of more than 400 law students across the country to tackle basic problems which a legal researcher encounters in day to day life. Putting forward the basic tools and ideas needed for researching and drafting, AILF seeks to help and encourage people to write research papers efficiently and effectively. AILF is not just a blog but a platform to make legal research effortless and undemanding. We at AILF consider dedication and determination as ultimate requisition to be a good researcher and we thrive to instill these values.



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