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THE 3-YEAR MANDATORY PRACTICE RULE JUSTICE OR JUDICIAL MONARCH, THE INTENT ?

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ABSTRACT

The article is a critical analysis of the 3 year mandatory practice rule pronounced for the raw graduates as a minimum eligibility criterion to appear for the entry level examination of Civil Judge (Junior Division) Cadre in the case of All India Judges Association Vs. Union Of India (2025) passed on 20th May 2025 has brought around a disturbing situation amongst the aspiring law graduates. The recent judgement passed contains huge number of lacunas. Firstly, lack of proper reasoning or rationale, secondly copy paste of the precedent judgement of AIJA Case 1993, & last but not the least lack of proper review by the Supreme authority. The lackness as a result is giving ambiguity towards the intention of the decision. Further ahead the historical background of the Ruling, the Two Faced Temperament of the Apex and how it is impacting the entire sect is discussed. While talking about the judgement certain situations are briefed elaboratively that has risen up due to the ruling, like, the current condition of the aspirants, promotion of nepotism, demotivation of transparency and origin of corruption in the profession and the impact on women participation. The author in the article tried to analyze all the possible magnitude of the judgement starting from its repercussions on the law profession, to the birth of new complications. A set of justified alternative resolutions are also discussed as suggestive measures towards the summing up of the article. The author doesn't aim towards demeaning any authority or its decision perse it aims towards learning about the judgement by way of critical analysis.

Keywords: Critical Analysis, AIJA Case 2025, Lacunas, Nepotism, Corruption

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INTRODUCTION- THRUSTING INJUSTICE TO SERVE JUSTICE

“Supreme Court” an inspiration, ideal, a holy body and a very significant segment for all the budding lawyers & young passionate law graduates. A destination where every lawyer, Advocate or law professional dreams to represent itself. The Supreme court, ‘The Supreme justice delivery body’. An authority that, if brings in a rule carries the capacity to turn lives head over heels. But what if the same body makes the most unjustifiable & in-justiciable act ?

Yes, you are right I am talking about the 3 year Mandatory Practice Rule, for the admission of a fresh law graduate as a Junior division judicial officer after qualifying the minimum criteria of passing the Preliminary exam, followed by Mains & then getting selected in the Personal Interview.

This is now overruled and walled by hindrance. The Honorable Supreme Court in its recent judgement ruled a mandatory 3 year practice, a necessary criterion for appearing in Civil Judge Examination (Junior Division) on 20th May 2025 by mean of reasoning that the experience would lead for a better understanding of court room proceedings, professional ethics and association of compassion with the people approaching the court.

But what about the subjects we learnt in our law schools, weren't they teaching us the laws or the professional ethics which was framed in the issues ? And if that's not sufficient then what about the experience we gained during the internship period in our journey as law students ? Doesn't that even make a count? If observed carefully the judgement would seem two-faced, unexplained and irrational, as a lot of facts over decades in the profession changed and evolved. The number of participations in the field raised, so is the standard of the sphere.

Moreover, it is just the ‘Thrusting of Injustice to serve Justice’ in the name of court room experience, professional ethics & lack of compassion towards people, without proper evaluation of the modern problems, if they exist. The injustice that caused to lakhs of Judicial aspirants without keeping in mind the rights of these law enthusiasts. In this Article I'll try to decipher about all the loopholes in the judgement and the alternative measures for the problems that's framed in the issues.

THE HISTORICAL BACKGROUND OF THE JUDGEMENT

The Judgement that was held in the case of All India Judges Association Vs. Union Of India (2025 INSC 735), is no new rule but rather a restoration of the precedent judgement held in the case of All India Judges Association & Others Vs. Union of India of 1993. It is the copy paste of the precedent judgement without even a minute amendment or proper reasoning.

This verdict of 1993 was further challenged in the case of All India Judges Association & Others Vs. Union of India & Others of 2002, where the Shetty Commission appointed by the Supreme Court also known as the National Judicial Pay Commission, submitted its recommendations on the case in 1999. It said that the 3 year mandatory practice rule is preventing the top talent from being a part of the Judicial Body, resulting in losing the resourceful flair. Therefore, the commission recommended a deterrence in the 3 year mandatory practice rule.

Following the recommendation of the commission, the Supreme Court removed the rule by the mean of reasoning that after practicing for three years as a legal representative, the fresh graduate might lose interest in pursuing career as a Judicial Officer. Therefore, they can appear for the judicial services exam after completing their graduation.

Coming up to the current scenario, the pronouncement of 2002 case was first challenged, then overruled and restored to its prior position back to 1993. That is they reinforced the 3 year Practice rule as a necessary criterion for the eligibility.

From the above statement didn't it felt like running back in time but not out of emotional overwhelmedness, but rather as devolution ? Because, where every sector is moving towards growth and development by means of new resolution, our sect is moving in a backward direction trying to pursue solution of modern day concerns by ways of past century.

THE RECENT VERDICT & REASONING

As we all are aware that the decision on the disputed matter, for whether three minimum practice must prevail or not as an eligibility to appear in the exam, is now out. And it has been made compulsory that such practice is a necessary qualification to get into entry level, on 20th May 2025 in the Case 'All India Judges Association Vs. Union of India (2025)'. Now we'll closely look into the issues raised in the judgement.

Issue No. 3, Issue No. 4, Issue No. 7, & Issue No. 8 is discussed regarding the concerned matter.

ISSUE NO. 3 As to whether a quota needs to be reserved for meritorious candidate from the Civil Judge (Junior Division) to Civil Judge (Senior Division) so that there is an incentive for merit in the cadre of Civil Judge (Junior Division)?

AND

ISSUE NO. 4 If yes, then what should be the percentage thereof and what should be the minimum experience as a Civil Judge (Junior Division)?

COURT’S RESPONSE_ In the above issues i.e, in Issue No. 3 & 4 the Honorable Court majorly discussed the promotion of the Civil Judges (Senior Division) cadre from Civil Judge (Junior Division) cadre through LDCE (Limited Departmental Competitive Examination) mechanism. Explaining the opposition and support from various High Courts in the country, taking reference of Shetty Commission recommendation and restoration of the precedent quota of 25% in the promotion process (Para 43 & 45). On the matter of 3 years minimum mandatory practice, the court summed up with a statement –

“The minimum experience of a Judicial Officer in the Cadre of Civil Judge (Junior Division) for appearing in such an examination should be 3 years.” (Para 46)

CRITICAL ANALYSIS After going through Issue No. 3 & 4 thoroughly, multiple lacklackingsoning can be observed. Such as;

1. No explanation of the 3 year mandatory practice rule, perse summing it up with a 2 line statement.
2. Appears lack of judicial review before decision making.
3. A copy of 1993 AIJA Case.

From the above analysis, it seems as if, The Honorable Court must be running out time or resources, reason being concluding the rule in one line!

ISSUE NO.7 As to whether the requirement of having minimum three years practice for appearing in the examination of Civil Judge (Junior Division), which was done away by this Court in the case of All India Judges Association & Ors. (supra), needs to be restored? And if so, by how many years?

AND

ISSUE NO.8 If the requirement of certain minimum years of practice for appearing in the examination of Civil Judge (Junior Division) is restored, should the same be calculated from the date of the provisional enrolment/registration or from the date of the passing of the AIBE?

COURT'S RESPONSE_ In the above issues i.e. in Issue No. 7 & 8, the Honorable Court discussed regarding the subject matter, referring about the precedent judgment of 1993 (Para 57 & 58) giving a justification of reasoning behind the judgement. The matter when appeared before the Supreme Court, whether to restore the verdict of 2nd AIJA Case Year 1993 all again, the various High Courts of the Country were called up to submit their opinions on affidavits, on the same, order dated 25th April 2023 & 18th April 2023. (Para 62 & 63)

(Para 64 to 80), contains the opinions of various High Courts and State Governments. Where major no. of Courts & State Govts are in favor of 3 years mandatory practice rule, while some suggest for 1 to 2 years of practice, Others at the opinion favoring the practice rule with anonymous years, remaining a very few State Govts and High Courts opposing the rule. The reasoning for the support by majority of the courts are, lack of maturity & Court handling ability, frequent complaints from Advocates and Litigants & Disruption in Court Decorum.

Para 84 further declares the rule of legal practice being mandatory for which time span is explained in the following Paras from Para 85 to 88.

The final Verdict is mentioned in Para 89 (vii) (viii), in which The Supreme Court, decisively made up on the matter and stated that –

The 3 year mandatory legal practice Rule to be implemented on all the States of the country and asked The various High Courts & State Govts to make necessary amendments pertaining to the same. Also clarified the counting of practicing years for experience starting from the date of Provisional Registration Enrollment granted by the State Bar.

Furthermore, the Honorable Court mentioned about the authentication of such certificate to be verified and signed, either by the Principal Judicial Officer of that Court or by an advocate of that Court having a minimum standing of 10 years duly endorsed by the Principal Judicial Officer of such a District or a Principal Judicial Officer at such a station.

Candidates who are practicing before the High Courts or Supreme Court, they shall be certified by an advocate who has a minimum standing of 10 years duly endorsed by an

officer designated by that High Court or Supreme Court. The candidate servicing as law clerk under any of the Judges or Judicial Officer shall also be counted.

CRITICAL ANALYSIS Although the response on the Issue No. 7 & 8 was quite elaborative, but it contained no new facts and circumstances. The rationale revolved around the opinionated fact from majority of the High Courts and the State Govts. and from the justification provided in the 2nd AIJA Case 1993. There is no mention of real factual subjects which could carry a potential to justify the Judgement, - such as the rise in the pendency of no. of cases due to the fresh graduates being appointed as the Judicial Officer (Junior Division), or a survey on matter of corruption by the new joinee or incompetency in framing charges or delivering judgement or other such strong contention.

Secondly, though it is a subject matter of the High Court & the State Govt for the appointment of Judges in the courts as per Article 233, 234 & 235 of the constitution, doesn't it still become the moral duty of the Honorable Supreme Court to ask opinions from the Subordinate Courts, (other than that of a Officer from Junior division), regarding the matter, as it's about the recruitment from the most ground level, so that a fair reasoning could be made up by mean of empirical methodology and not just opinionated summary?

A HEART RECKONING & TURMOIL SITUATION

The judgement brought a lot of dilemmatic scenarios throughout the country for all the law students and fresh graduates. Also, the verdict gave birth to some new complicated & to be bothered about conditions and situations. A set of such problems will be discussed here in.

Current Situation of the Judicial Aspirants

The judgement has created a heart reckoning & turmoil situation amongst a lot of law students and especially on the judicial aspirants. Numerous questions have raised in the minds of many law graduates, for "What next ?" Some quit the field, while some just revolving around cluelessly. It is true that having a career as Civil Judge is not the only career option available, but for a lot, it was their ultimate goal. A lot of graduates with outstanding skills reject the best opportunities just to pursue their career as a Judicial Officer. Amongst this large population of aspirants, a lot of them have given their 2-3 attempts for the exam and in this entire phase of appearing then reappearing, years passes creating professional breaks being visible in their resumes. Not only the gap is the concern for the candidate but also the attempted years now seems to be a waste as the candidate have not practiced in the court. For a lot the attempt to become the final attempt is due to the lackness in the eligibility criteria and age bar restrictions

as well. Students have been giving their years of dedication for the preparation of this examination & a Judgement with a lack of logical sense & reasoning has now chopped off all of their aspirations & labor, leaving them in a distressing situation.

The Promotion Of Nepotism In The Field

On the other hand, nepotism is extensively going to get promoted and benefited after this judgement. All the first generation lawyers will either have to quit law as career or have to face extreme level of competition with this nepotism. The fresh graduates having an existing generational law background would get a backup by their parents, whereas the first generation lawyer has to dwell around in the field for an amount that doesn't even suffice a hand to mouth meal. A matter of dignity is also in question, and it's very obvious for who'll be respected and who all will not.

An aspirant from a legal legacy would receive a certificate from his/her predecessor and possibly the certificate could get endorsed by the Judicial Officer through the chain of networks his/her parents must be possessing. On the contrary the first generation lawyer will be pushed from door to door.

If observed closely, it can be interpreted very well for how a "King's son to become the next King" theory is reinforced all again in the case. The direct appearance after law graduation in the judicial services examination was giving an equality of opportunity guaranteed by the Preamble of the Constitution and by Article 14. But the recent verdict on 3year mandatory practice rule has now created high walls of encumbrance, allowing only the privileged to jump through while the unprivileged to remain where they are. The theory of equity has failed now.

The Demotivation Of Transparency In The Sphere

The transparency or authenticity of the profession is at risk after this verdict. The indirect promotion of nepotism is giving birth to the risk. As discussed above briefly, about the matter, it can be clearly assumed for how things might function in case of nepotism.

Fake certificates can be made and endorsed easily. If not by the way of honesty via fulfilling the eligibility criteria and practicing for 3years, then by the way of dishonesty, meaning by the way of corruption. The endorsement of the certificates can either be achieved by high profile connections or by purchasing the same at high cost. May be in lakhs. The corruption that reigned in the upper strata of the profession, now could be seen in the subordinate level as well, malifying the entire hierarchy.

Overall, not only the transparency or genuinity is at risk, but also the devil of corruption will bear here as well. Because practicing isn't enough to qualify for the exam, preparation of the exam is also required and in order to save time people might take the shortcuts, resulting is high level of falsehood unfortunately. Thus, the rule will make no better improvements.

The Smooth Eradication Of Women From The Fraternity

The Smooth eradication of women from the fraternity could be the most humble or decorated form to say how it felt to a woman. When coming up to the harsh reality it felt like a kick out from the sphere. Women are the most effected in the entire layout. We live in Indian Society where women empowerment has just started to show up in factual records. In such a scenario halting a woman to appear in the exam, in the name of lack of court room experience, is actually sabotaging her, already in hand limited time. Indian society/families have not yet evolved to a level where they give her enough liberty of time to chase her dreams. She is tethered with a limited time period, under pressure of getting married before her 30s and after marriage forced to have kids & expected to leave her aspirations behind and serve the family.

The total percentage of representation women judges in the Indian judiciary at the High Courts is 14%, in the Supreme Court its 9.3%, meanwhile the count in the subordinate courts is 36.3%. When these figures were compared to the representation of male judges on the 3 levels, it was discovered that 90% of the Indian Judiciary consist of male judges according to a 2017 report & this decision of the Supreme Court is going to suppress the already lessor ratio.

Now from this, we all can assume, presume or interpret the challenging conditions and representation of women in the profession. Again Article 14 is compromised. Equal opportunity is taken away in an indirect way. It is not very tough to figure out for how much of female population will still choose to stick to this field after the verdict.

THE TWO- FACED TEMPRAMENT

The Supreme Court while critiquing in various cases gave remarks on the violation of fundamental rights and arbitrariness of the State for their acts, now what about the rights that got breached after this adjudication, Isn't it the 'Two- faced temperament' of the Supreme authority ? Furthermore, some instances of such critique will be discussed ahead in this Article.

In Re: Direction in the Matters of Demolition Of Structures (2024) Case the Supreme Court while directing the procedural guidelines for demolition of the illegal constructions, declared

that Govt. sanctioned bulldozer demolitions are a violation of rights against “Arbitrary State Action” and infringe on the right to shelter guaranteed under Article 19 & 21.

CRITICAL ANALYSIS_ The term Arbitrary State Action here is a matter of concern. The Supreme Court declares that the State behaved arbitrarily, then what about the arbitrary attitude, the authority showed towards the students, the raw graduates & the law professionals ? Isn't that violating the fundamental rights of the crowd, guaranteed under Article 14, 19(1)(g), & 21 respectively ?

State of Punjab Vs. Davinder Singh, 2024 SC, In this case a 7 Judge bench with the majority of 6:1, held that sub-classification of Scheduled castes among reserved categories is permissible for granting separate quotas for more backwards within the Scheduled Caste categories, identifying the creamy layers even from the scheduled castes & scheduled tribes.

CRITICAL ANALYSIS_ They talk about the unprivileged amongst the under privileged, pretty much legitimate, but again the question arises, what about the unprivileged in this profession, the aspirants, the first generation lawyers, the women in the field, their dignity & their opportunity to earn ? Why is there no such relaxation justification, sense of sensitivity or separation of these deprived from the prosperous ones or bringing down the prosperous one on the same pedestal ?

In Assn. For Democratic Reforms (Electoral Bond Scheme) Vs. Union of India (2024) Case – The Supreme Court strikes down electoral bond schemes for being violative of right to information under Article 19(1)(a) of the Constitution.

CRITICAL ANALYSIS_ The above judgement is about the violation of right to information under Article 19(1)(a) of the constitution. Deriving from the above the judgement, isn't the right to information of the effected party being infringed, when the Highest Authority without proper research heard up on the matter and declared the ruling on the basis of opinions ?

Khalsa University Vs. State Of Punjab 2024 SC – Supreme Court strikes down Khalsa University (Repeal) Act for violating Article 14.

CRITICAL ANALYSIS_ Finally a comparison with Article 14, the Right to Equality. This right is most injured amongst all the other rights. As the various loopholes in the verdict is creating craters in the pathway of the aspirant resulting inequality within the occupation, varying from a raw graduate, a woman or a first generation lawyer.

SUGGESTIVE MEASURES

1. Instead of the 3 year mandatory practice, the post selection training period duration from 1 year to 2 years can be raised before the selected candidate starts practicing as a Judge.
2. If the practice rule cannot be revoked then the duration can be reduced from 3years to 1.5years.
3. The calculation of experience period can be counted from the period of internship done while being in law school, by calculating the no. of months the student interned in his/her internship program. Furthermore, the Shetty Commission in their report recommended mandatory internship for law students for practical knowledge amounting to awareness of the reality from the bookish world, also this was made a necessary rule by the BCI through the Legal Education Rule 2008.
Therefore, the internship duration must also be included in the calculation of experience period.
4. The standard of the Judicial Services Examination can be raised including the sound knowledge of clerical advocacy & court room proceeding being examined from the preliminary level, instead of the elongation of the experience term.
5. Implementation of Reasonable Classification Doctrine, if experience certificate & endorsement of the same is required, to prevent nepotism & corruption & to safeguard authenticity of the Profession.
6. The fixation of eligibility criteria for Civil Judge Junior Division Cadre for the subordinate Courts to be brought by necessary constitutional amendment, as such the way prescribed for the High Court & Supreme Court Judges.
7. The Retrospective effect of the Judgement is quite indefinite and put a huge throng in a pendulum state. This needs to be enforced correctly by making the rule a mandate for the upcoming joinee to profession and not on the one who have already enrolled them as a law student in a law school.

CONCLUSION

In conclusion, this article doesn't aim towards critiquing the judgement but rather digging out the loopholes by way of critical analysis. Ample number of interpretations & assumptions could be drawn due to the lacunas in the justification of the ruling. Therefore, the evaluation of the intention of the Judicial body remains in the series of questions and

ambiguity. The opinionated summary directs towards arbitrariness of the deciding authority. While Article 137 of the Constitution gives the Supreme Court the ultimate power to review its judgement, it doesn't seem as the power being used in a rightful way, instead of reviewing on the matter, a poll system was conducted and opinions were polled. And ironically the one who participated in the vote making have never gone through the process of examination, facing competition, rejection, repetitive attempts and then being qualified. This brings in the Question – “THE 3- YEAR MANDATORY PRACTICE RULE. JUSTICE OR JUDICIAL MONARCH, THE INTENT ?