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Editor : *Dr.Shirin Sharmin Chaudhury, Advocate,Bangladesh Supreme Court*

Reporters : Shah Md. Zahurul Haque : A.K.M. Zahirul Hoque
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: Md. Khurshid Alam Khan : Md. Motahar Hossain Saju

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APPELLATE DIVISION

Abandoned Buildings (Supplementary Provisions) Ordinance, 1985

Section—5(2)

Section 5(2) of the Ordinance creates a statutory presumption as to the character of the building so listed as abandoned building. Persons whose buildings have been so listed have all equally been burdened with the special type of onus to establish that the buildings listed are not abandoned. All such persons being placed in the similar and equal situation it can not be said that persons of the same group or position in similar situation have been discriminated by section 5(2) of the Ordinance. (Dr. Fakir Anjuman Ara v. Bangladesh & Ors.) (AD)121

Bangladesh Agriculture Development Corporation Regulation Service Rules, 1967

BADC Recruitment and Promotion Procedure, 1970.

Sudden introduction of viva voce examination was not approved by the Ministry of Agriculture. The persistence of BADC not to review their previous decision of promoting certain persons inspite of the decision of the Ministry clearly indicates that sudden change in the procedure of promotion to the post of General Manager was made to give undue advantage to certain persons. (Bangladesh Agricultural Development v. Giasuddin Ahmed & ors.) (AD)125

Bangladesh Citizenship Temporary Order, 1972

(P.O. 149 of 1972)

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Order 39 Rule 1 and 2

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Constitution of People’s Republic of Bangladesh, 1972

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HIGH COURT DIVISION

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Admiralty Rules, 1912

Rule—35

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Code of Criminal Procedure, 1898 (V of 1898)

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Bail is granted to a person accused of non bailable offence entirely at the discretion of the court having regard to facts and circumstances of each case and provision of law laid down in section 497 Sub-section (1) and (2) of the Code of Criminal Procedure. The concurrent power given to the High Court Division or Sessions Judge to admit any person to bail under section 498 of the Code of Criminal Procedure by recording in writing his or its reason for so doing is absolutely unfettered and High Court Division or Court of Sessions in exercise of discretion may also re-consider prayer for bail after rejection or cancellation of bail. (*Shamim @ Kazi Shamim v. The State*) (HCD) 243

Section—498

Anticipatory bail is an Extra-ordinary remedy and an Exception to the general law of bail which can be granted only in Extraordinary and Exceptional circumstances upon a proper and intelligent exercise of discretion where it can be demonstratively established that proposed accusation appear to stem not from the motive furthering ends of justice but from some ulterior motive, political or otherwise, the object being to harass, injure or humiliate the accused person. (*Marufa Siddiqi @ Baby v. The State*) (HCD) 228

Limitation Act, 1908 (IX of 1908)

Section—5

Condonation of delay

Condonation of delay is essentially a matter of discretion for the Court. When the applicant fails to offer any reasonable explanation justifying the delay covering a long period, the Court is fully justified in refusing condonation of the delay. If the applicant is found indolent and wanting in vigilance in prosecuting his case, the Court is usually reluctant to exercise its discretion in favour of the indolent applicant. (*Tafazzal Hossain v. The State*) (HCD) 235

Section—5

There is a long practice being followed since the days of Dhaka High Court that a revisional application is to be filed within the period of ninety days, prescribed by law for an appeal, and that the High Court Division may in its discretion entertain an application beyond that period in a suitable case where there is no negligence or laches on the part of the petitioner. (*Md. Afzal Molla v. Government of Bangladesh & ors.*) (HCD) 240

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To Justify inclusion of any building in the lists of abandoned buildings published in the official Gazette the government must show that the possession of the building was taken

over at same point of time as an abandoned property. Subsequent inclusion of the house in the list of abandoned property under Ordinance No. 54 of 1985 without issuance of any notice as contemplated under section 4 of the Ordinance is illegal. (Mrs. Shahida Begum v. Government of Bangladesh & ors.) (HCD) 232

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Artha Rin Adalat Ain, 2003

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