



# FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 4<sup>th</sup> Semester

SUBJECT: ENGLISH-III

SUBJECT CODE: BAL. 403

NAME OF FACULTY: Mr. Rahul Singh

# Lecture-6



## Writing Case Comments

### Introduction

Unlike a case summary, a case analysis is a technical piece of legal writing which delves deep into several layers of the case. You are required to peel these layers off to bring out the issues and analyses the significance of the case in the light of those issues. You can do this by following four simple steps: -

1. Re-reading the case keeping in the mind the issues that you are going to discuss in the Comment;
2. Comprehending complex situations and identifying the legal problems or lacunae in the case;
3. Sieving out relevant details and indicators from the case that support your analysis.
4. Reaching the conclusion by adopting a particular approach.

### Possible Approaches to writing a Case Comment

**Law is not clear:** Here, you need to focus more on how statutory provisions and relevant case laws including the present case have created an uncertainty of law on that particular issue or failed to fill the legal void.

**The judgment is correct and clears the law:** Here you need to focus more on the positive implications of the case and its bearing on the future course of law on that particular issue. You may also have to provide additional reasons for how the counter-arguments do not have a legal standing.

**The judgment was wrong:** In this approach, you try to prove how the courts take on the issue was not correct by presenting reasons for the same. The common mistake which students usually do here is that they reiterate the dissenting opinion in their own words without adding their own personal critic of the judgment.

**The judgment was not wrong but the reasoning:** Here, you need to clearly distinguish your reasoning from that of the court and demonstrate how the court's reasoning is incompatible with the reasoning given in prior similar cases on that issue and goes against the spirit of law or public policy

**Important issue not discussed:** Here, you can identify an issue which you think the Court should not have ignored or should have discussed in greater detail.

The above approaches are suggestive in nature and you are free to adopt your own unique way of presenting the critic of a judgement or come up with a combination of the given approaches.

### **Structure of a Case Comment**

The body of a case comment or note consists of four limbs. These are:

## **Introduction**

A case comment should ideally begin with a short paragraph identifying the subject of the case so as to give the reader a fair idea regarding the issues you are going to address in the comment. The second paragraph should be a very brief statement of facts stating only the part of the factual matrix which is essential to the issue being discussed. Thereafter, you should write the disposition and what was eventually held in the case in a very precise manner.

## **Background**

The purpose of writing this section is to let the reader get the general idea about the factual subject matter of the case before you start your analysis. The very first step to do this is to draw an outline of the development of the law leading up to the case under review by touching upon landmark cases and significant statutory developments. This helps the reader to appraise the court's decision and understand your arguments more clearly.

## **Conclusion**

The conclusion to the case comment should encapsulate the main essence of the author's findings and arguments. It is not always necessary to reach a conclusion to decide upon whether or not the court's decision was right. You can simply end your analysis by briefly stating the impact of the case and pointing out certain lacunae (if any).

## **MCQ**

### **1. Issues in kesvanand bharti v/s state of kerela**

- a. Constitutional Validity of 24<sup>th</sup> Constitutional (Amendment), Act 1971
- b. Constitutional Validity of 25<sup>th</sup> Constitutional (Amendment), Act 1972
- c. Extent of Parliament's power to amend the Constitution
- d. All the above

### **2. Who is chief justice in leading case of Kesavananda Bharati ... vs State of Kerala**

- a. S.M. Sikri
- b. , K.S. Hegde,
- c. B.K. Mukherjea,
- d. J.M. Shelat,

### **2. Judgment majority of kesvanand bharti vs state of kerala**

- a.7:6**
- b.6:7**
- c. 8:5**
- d. 9:4**

### **3. No. of judges of kesvanand bharti vs state of kerala**

- a. 12**
- b. 13**
- c. 14**
- d. 15**

**4. Judgment date of kesvanand bharti vs state of kerala**

- a. 24 april 1973**
- b. 15 march 1973**
- c. 24 march 1973**
- d. 10 april 1973**

**5. One of those case biggest bench in judiciary history**

- A. kesvanand bharti vs state of kerala**
- B. Golaknath case**
- C. Sajjan Singh**
- D. Shankari Prasad**