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Since 2005

(Sir Isaac Pitman's Shorthand)

Krishna Shorthand Institute कृष्णा आशुलिपिक संस्थान (English Only) By. A.V. Kushwaha

(For Govt. Jobs, SSC (Group D & C), Supreme Court, High Court, District Courts, ASRB, CRPF, Railway, CBSC & all other departments requiring "English Stenographer/ Personal Assistant/Private Secretary"

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

Note: You will get following:

- 1. Passage (in two parts, approximately 600 each for better comprehension)
 - 2. Important Outlines
 - 3. Important Vocabulary
 - 4. Accuracy Building Tips etc.

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NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Arbitration and Conciliation

Volume 1: Dictation No. 10, Part 1

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Before proceeding to adjudicate the application for condonation of delay in filing the present appeal, is pertinent to notice the growing trend the <u>Civil Courts</u> and/or <u>Tribunals</u> impleading respondents in appeals or writs, wherein the orders passed by such Civil Courts or Tribunals are impugned. Although this issue appears to have been settled more than 25 years ago by the Hon'ble Apex Court, the recent spurt in arraying Civil Courts or Tribunals, as the case may be, through Presiding Officers, casts this Court upon bounden duty to reiterate the settled legal position. It must be clearly understood that Courts and Tribunals in this country, when acting in judicial capacity, enjoy a degree of immunity from being prosecuted or sued as Courts in their individual or

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personal capacity, except in cases where allegations of mala fides, partiality, bias or other misconduct are levelled against the particular Presiding Officer, which allegations must satisfy a very high threshold before they can be entertained. These Civil Courts or Tribunals cannot be made parties in proceedings where they have already adjudicated upon the matter, as their decisions are subject to correction revisional Courts appellate by or in judicial proceedings. This position finds authoritative support in the judgment of the Hon'ble Apex Court <u>rendered</u> in <u>Savitri Devi</u>v. <u>District Judge,</u> Gorakhpur and others, AIR 1999 SC 976, which continues to hold the field.

Before parting with this case, it is necessary to advert to one aspect of the matter which is rather disturbing. In the writ petition filed before the High Court as well as in the Special Leave Petition filed before the this Court, District Judge, Gorakhpur and the 4th Additional Civil Judge (Junior Division), Gorakhpur were impleaded as respondents and, in the Special Leave Petition, they were even described as contesting respondents. There was no necessity for impleading the judicial officers who had <u>disposed of</u> the matter in <u>civil proceedings</u> when the writ petition was filed before the High Court, nor was there any justification for arraying them as parties in the Special Leave Petition and describing them as contesting respondents. This Court strongly disapproves of the course adopted by the petitioner,

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as such a practice causes unnecessary disturbance to the <u>functioning</u> of the concerned judicial officers. Judicial officers cannot be <u>equated</u> with government officials <u>for the purpose</u> of being impleaded as parties to <u>litigation</u>. It is <u>high time</u> that the practice of impleading judicial officers, who dispose of civil proceedings, as parties to writ petitions <u>under Article</u> 226 <u>of the Constitution of India</u> or to Special Leave Petitions under Article 136 of the Constitution of India, is <u>completely</u> stopped. Such a practice is <u>deprecated</u> in the <u>strongest terms</u>.

rishna Shorthand

It must therefore be understood that neither a Court nor a Tribunal, nor the Presiding Officer thereof, is required to defend its order before a superior Court. If the High Court, while exercising its appellate or revisional jurisdiction, calls for the records, such records can always be summoned impleading the concerned Court without Presiding Officer as a party. Courts and Tribunals merely adjudicate disputes between parties; they have no personal stake in the outcome and concern with the issues raised or adjudicated, once their judgment has been pronounced. Hence, they are not required to defend their orders Since there is no requirement of their defending the orders, no useful purpose is served in before appellate impleading them or forums. On the contrary, such impleadment, any <u>legitimate</u> <u>purpose</u>, from serving

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<u>embarrassment</u>, <u>dejection</u>, and creates <u>unwarranted</u> <u>hurdles</u> in the <u>independence</u> of the <u>Judiciary</u>.

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NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Arbitration and Conciliation

Volume 1: Dictation No. 10, Part 2

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Isaac Pitman's Shorthand

with respect to impleading Similarly. Arbitrator as a party in a petition under Section 34 or 37 of the Arbitration and Conciliation Act, 1996 before a Commercial Court, this Court, drawing an analogy from proceedings before Civil Courts, holds that an Arbitrator ought not to be impleaded as a party-respondent in such proceedings. The itself provides detailed grounds for challenging an award under Section 34 and a right of appeal under Section 37. In both instances, it is the award which is the subject matter of adjudication before the Consequently, there is Court. no necessity implead the Arbitrator as a respondent, since the Arbitrator is neither required to defend the award nor personally interested in the dispute. This Court is not unmindful of the fact that Arbitrators are

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often embarrassed upon receipt of notices from this imposes them which on an unnecessary burden. and in most cases. they Thus, they <u>cannot be</u> treated unrepresented. contesting respondents. Just as in an appeal revision the lower Court or the presiding Judge is not impleaded as a party, similarly, in proceedings under Sections 34 or 37, the Arbitrator or members of the Arbitral Tribunal are wholly unnecessary parties, unless specific personal allegations are made against them. Only in <u>rare</u> cases, where such allegations are levelled, may the Arbitrator impleaded to answer them. The Act itself contains provisions where an Arbitrator may be made a party-respondent. However, once the award has delivered and the Arbitrator has functus officio, there is ordinarily no requirement to implead the Arbitrator or the Arbitral Tribunal in proceedings under Sections 34 or 37. In the present case, this Court finds no personal allegations against the learned Sole Arbitrator. Accordingly, the office is directed to delete the name of Shri P.N. Gupta, Sole Arbitrator, as respondent No. 2 from the array of parties in the present appeal.

Turning to the issue of delay, it is well settled that the expression 'sufficient cause' under Section 5 of the Limitation Act cannot be stretched to cover inordinate delays. Merely establishing sufficient cause does not confer an automatic right to have delay condoned. The Supreme Court in

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Borse Brothers v. State of Bihar has held that only short delays may be condoned by way of exception, not by rule, and that too only where the party has acted bona fide and without negligence. Given that the object of both the Arbitration and Conciliation Act, 1996 and the Commercial Courts Act, 2015 is the speedy resolution of disputes, the expression sufficient cause must be construed strictly. No such circumstances have been pleaded in the present appeal. It must also be borne in mind that even where sufficient cause is shown, condonation of delay is not a matter of right but lies within the discretion of the Court, to be exercised sparingly and in furtherance of the legislative object of expeditious adjudication.

In our view, it is the right time to inform all government bodies, their agencies instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months or years due to considerable degree of procedural red tape in the process. The government departments under are obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

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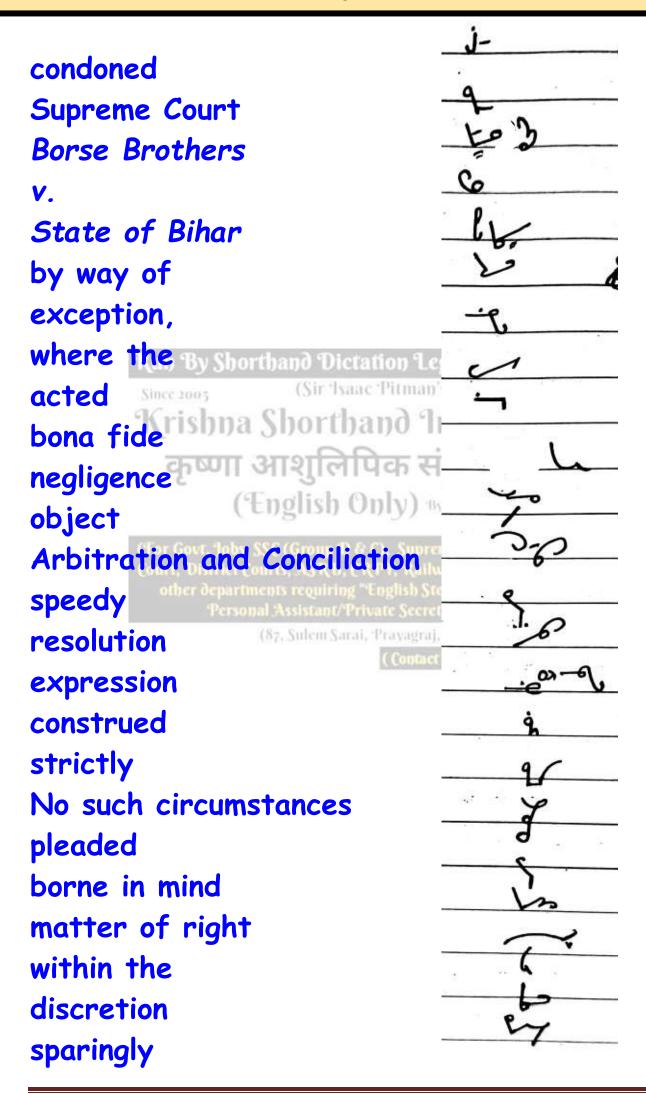
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(Increase your vocabulary:

Learn New and Important Words of the Matter) Keep revising all new words learned.

Legal/General Matter (Legal Vocabulary Building)

- 1.adjudicate: (verb) to make an official decision about who is right in a dispute निर्णय देना/न्यायाधीश का फैसला करना
- 2.condonation: (noun) the act of forgiving or overlooking a fault or offense क्षमा करना/माफ करना
- 3.delay: (noun/verb) lateness in time; to postpone देरी/विलंब
- **4.pertinent**: (adjective) relevant and appropriate to a particular matter संगत/प्रासंगिक
- 5.trend: (noun) a general direction of change प्रवृत्ति/रुझान
- 6.impleading: (verb) (gerund) the act of joining a party to legal proceedings पक्षकार बनाना

- 7. Tribunals: (noun) (plural) specialized courts for particular areas न्यायाधिकरण
- 8.respondents: (noun) (plural) parties who respond to a legal petition प्रत्यर्थी/उत्तरदाता
- 9.writs: (noun) (plural) formal written orders issued by courts रिट/लेख
- 10.wherein: (adverb) in which जिसमें
- 11.impugned: (verb) (past participle) challenged or disputed चुनौती दी गई/आपत्ति की गई
- 12.Hon'ble Apex Court: (noun phrase) respectful reference to Supreme Court माननीय सर्वोच्च न्यायालय
- 13.spurt: (noun) a sudden increase अचानक वृद्धि/तेजी
- **14.arraying**: (verb) (gerund) arranging or organizing in order व्यवस्थित करना/सजाना
- 15.as the case may be: (phrase) depending on circumstances जैसी स्थिति हो/यथास्थिति

- 16.Presiding Officers: (noun phrase) (plural) judges or officials who lead proceedings पीठासीन अधिकारी
- 17.casts: (verb) (third person singular) places or imposes डालना/थोपना

Accuracy Mantra: Don't confuse with word costs otherwise you will end up committing one full error.

- 18.bounden duty: (noun phrase) moral or legal obligation बाध्यकारी कर्तव्य
- 19.reiterate: (verb) to say again for emphasis दोहराना/पुनः कहना
- 20.immunity: (noun) protection from legal action न्यायिक उन्मुक्ति
- 21.prosecuted: (verb) (past participle) charged with a crime अभियोजित/मुकदमा चलाया गया
- **22.sued**: (verb) (past participle) taken to court for legal action मुकदमा किया गया
- 23.individual: (adjective/noun) single person or relating to one person व्यक्तिगत/एकल

- 24.personal: (adjective) relating to a particular person निजी/व्यक्तिगत
 - Accuracy Mantra: Don't confuse with word 'personnel' otherwise you will end up committing one full error. Personnel (noun) (plural) means staff or employees कर्मचारी/स्टाफ
- 25.allegations: (noun) (plural) claims without proof आरोप/अभियोग
- 26.mala fide: (noun) (Latin legal term) bad faith; correct spelling is "mala fide" (not "malafide") दुर्भावना/बुरा इरादा but in legal matters, you will fine both. Prefer mala fide while transcribing the matter.
- 27.partiality: (noun) unfair bias towards one side पक्षपात
- 28.bias: (noun) prejudice for or against पूर्वाग्रह/पक्षपात
- 29.misconduct: (noun) improper behavior दुराचार/गलत आचरण

- **30.threshold**: (noun) minimum level required सीमा/दहलीज
- 31.entertained (petition): (verb phrase) (past participle) accepted for consideration स्वीकार किया गया
- 32.proceedings: (noun) (plural) legal process or actions कार्यवाही
- 33.adjudicated upon: (verb phrase) (past participle) decided judicially निर्णय दिया गया
- 34.judicial proceedings: (noun phrase) court processes न्यायिक कार्यवाही
- 35.authoritative: (adjective) having official power or influence प्राधिकारिक/आधिकारिक
- 36.rendered: (verb) (past participle) given or delivered दिया गया/सुनाया गया
- 37. AIR: (noun) (abbreviation) All India Reporter ऑल इंडिया रिपोर्टर

Accuracy Note: Both forms i.e. A.I.R. or AIR are correct.

- **38.parting with**: (verb phrase) leaving behind छोड़ना/अलग होना
- 39.advert: (verb) to refer to or mention संदर्भ देना/उल्लेख करना
- 40.as well as: (conjunction) and also तथा/के साथ-साथ
- 41.Additional Civil Judge: (noun phrase) junior level civil court judge अपर सिविल जज
- **42.impleaded**: (verb) (past participle) joined as a party to proceedings पक्षकार बनाया गया
- **43.disposed of**: (verb phrase) (past participle) settled or decided निपटाया गया
- 44.civil proceedings: (noun phrase) non-criminal court cases दीवानी कार्यवाही
- 45.justification: (noun) valid reason or explanation औचित्य/न्यायसंगतता
- **46.disapproves**: (verb) (third person singular) expresses disapproval अस्वीकार करता है
- 47.as such: (phrase) therefore इसलिए/अतः

- **48.equated**: (verb) (past participle) considered equal समान माना गया
- **49.it is high time**: (phrase) it is urgently necessary अब समय आ गया है
- 50.under Article: (prepositional phrase) according to constitutional provision अनुच्छेद के अंतर्गत

Accuracy Mantra: Always capitalize "Article" when referring to constitutional provisions (e.g., "Article" 14, "Article" 21). For general references to articles, written pieces, or other non-constitutional contexts, use lowercase letters (e.g., article in a newspaper, transcribed articles).

- 51.completely: (adverb) entirely पूर्णतः/संपूर्ण रूप से
- **52.deprecated**: (verb) (past participle) strongly disapproved निंदा की गई
- **53.strongest terms**: (noun phrase) most emphatic language कड़े शब्दों में

- **54.superior**: (adjective) higher in rank or authority उच्च/वरिष्ठ
- 55. jurisdiction: (noun) legal authority क्षेत्राधिकार
- **56.calls for**: (verb phrase) requires or demands मांगता है/आवश्यकता है
- **57.summoned**: (verb) (past participle) officially called तलब किया गया
- 58.stake: (noun) interest or involvement हिस्सेदारी/स्वार्थ
- **59.outcome**: (noun) result or consequence परिणाम/नतीजा
- 60.in any manner: (prepositional phrase) in any way किसी भी तरीके से
- 61.on the contrary: (phrase) opposite to what was said इसके विपरीत
- 62.impleadment: (noun) the act of joining as a party पक्षकार बनाना
- 63.legitimate purpose: (noun phrase) valid or lawful reason वैध उद्देश्य

- 64.embarrassment: (noun) shame or awkward situation शर्मिंदगी/असहजता
- **65.dejection**: (noun) sadness or low spirits निराशा/उदासी
- 66.unwarranted: (adjective) unjustified or unnecessary अनावश्यक/अनुचित
- 67.hurdles: (noun) (plural) obstacles or barriers बाधाएं/रुकावटें
- 68.independence: (noun) freedom from outside control स्वतंत्रता
- 69.Judiciary: (noun) the judicial system न्यायपालिका

By Sir AV Kushwaha,

Principal,

Krishna Shorthand Institute,

via online Telegram Class through 7355504435

Accuracy Builder: following words occurred in the dictation is to be capitalized;

1. Proper Nouns - Institutional Names:

- Civil Courts Capitalized when referring to specific judicial institutions or government bodies
- Tribunals Capitalized as specific government bodies/judicial institutions
- Court (when referring to specific court) Capitalized when referring to the specific court
 where litigation is occurring or the highest court in
 jurisdiction
- High Court Proper noun referring to a specific judicial institution
- Special Leave Petition Specific legal document type
- Constitution of India Proper noun, official document name
- District Judge, Gorakhpur Official title with specific location, referring to specific person/office
- Additional Civil Judge (Junior Division), Gorakhpur
 - Specific official title and position

2. Honorific Titles:

- Hon'ble Abbreviated form of "Honourable," a respectful title
- Apex Court Respectful reference to Supreme
 Court
- Presiding Officer Official title referring to specific judicial position

3. Legal/Constitutional References:

- Article 226 Specific constitutional provision, proper noun
- Article 136 Specific constitutional provision, proper noun
- AIR Acronym for "All India Reporter" (legal publication)

4. Case Law Citation:

 Savitri Devi v. District Judge, Gorakhpur and others - Legal case names are treated as proper nouns and capitalized

5. Abstract Concepts (Legal Usage):

Courts - When referring to the judicial system as an institution

 Judiciary - Capitalized as it refers to the entire judicial branch of government

Accuracy Builder: Analysis from the passage dictated today.

COMMA USAGE

1. Series/List Commas:

"mala fides, partiality, bias or other misconduct"

- · Reason: Separates items in a series of allegations
- Rule: Commas separate elements in a list (note: "or" replaces the final comma)

"embarrassment, dejection, and creates unwarranted hurdles"

- Reason: Separates parallel consequences in a series
- Rule: Oxford comma before "and" in final item

2. Appositive/Non-restrictive Commas:

"Civil Courts and/or Tribunals, as the case may be, through their Presiding Officers"

- Reason: Sets off the phrase "as the case may be" as non-essential explanatory information
- Rule: Parenthetical expressions are enclosed in commas

"the Hon'ble Apex Court rendered in Savitri Devi v. District Judge, Gorakhpur and others, AIR 1999 SC 976"

- Reason: Sets off the case citation as additional identifying information
- Rule: Appositives providing extra details are commaseparated

3. Conditional/Introductory Clause Commas:

"Before proceeding to adjudicate the application for condonation of delay in filing the present appeal, it is pertinent to notice"

- Reason: Separates lengthy introductory prepositional phrase from main clause
- Rule: Introductory elements longer than 4 words usually take commas

"Although this issue appears to have been settled more than 25 years ago by the Hon'ble Apex Court, the recent spurt"

- Reason: Separates introductory dependent clause from independent clause
- Rule: Subordinate clauses beginning sentences require commas

4. Participial/Descriptive Phrase Commas:

"Courts and Tribunals in this country, when acting in judicial capacity, enjoy a degree of immunity"

- Reason: Sets off interrupting temporal clause
- Rule: Interrupting phrases are enclosed in commas

OTHER PUNCTUATION

1. SEMICOLONS (;):

"prosecuted or sued as Courts in their individual or personal capacity; except in cases where allegations"

- Reason: Connects two related independent clauses without conjunction
- Rule: Semicolons join closely related complete thoughts

"disputes between parties; they have no personal stake in the outcome"

- Reason: Links two independent clauses explaining the same concept
- Rule: Alternative to period when thoughts are closely connected

2. PARENTHESES ():

"4th Additional Civil Judge (Junior Division), Gorakhpur"

- Reason: Encloses clarifying information about the judge's specific designation
- Rule: Parentheses contain supplementary details

4. FORWARD SLASH (/):

"Civil Courts and/or Tribunals"

- Reason: Shows inclusive alternative (both options possible)
- Rule: Legal writing uses "and/or" to indicate all possibilities

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(Increase your vocabulary:

Learn New and Important Words of the Matter)

Keep revising all new words learned.

Legal/General Matter

- 1.similarly: (adverb) in the same way समान रूप से/इसी तरह
- 2.similar: (adjective) alike in characteristics समान/सदश
- 3.Arbitrator: (noun) a person chosen to settle a dispute मध्यस्थ/पंच
- **4.Arbitration**: (noun) the settlement of a dispute by an arbitrator मध्यस्थता/पंचाट
- **5.Conciliation**: (noun) the process of settling a dispute amicably सुलह/मेल-मिलाप
- 6.Commercial Court: (noun) court dealing with business disputes वाणिज्यिक न्यायालय
- 7.analogy: (noun) a comparison between similar things समानता/तुलना

- 8.award: (noun) a decision given by an arbitrator निर्णय/प्रस्कार
- 9.instances: (noun) (plural) examples or cases उदाहरण/मामले
- 10.adjudication: (noun) the process of making a legal judgment न्यायनिर्णयन
- 11.consequently: (adverb) as a result परिणामस्वरूप/इसलिए
- 12.personally: (adverb) individually or in person व्यक्तिगत रूप से
- 13.unmindful: (adjective) not aware or not considering बेख़बर/अनभिज्ञ
- 14.embarrassed: (adjective) feeling awkward or ashamed शर्मिंदा/असहज
- 15.embraced: (verb) (past tense) accepted willingly अपनाया/स्वीकार किया
- **16.unrepresented**: (adjective) without legal counsel बिना वकील के
- 17.contesting respondents: (noun phrase) parties who actively oppose in legal proceedings विरोधी प्रत्यर्थी

- 18.Arbitral Tribunal: (noun phrase) panel of arbitrators मध्यस्थता न्यायाधिकरण
- 19.wholly: (adverb) completely पूर्णतः/संपूर्ण रूप से
- 20.specific: (adjective) clearly defined विशिष्ट/स्पष्ट
- 21.rare: (adjective) uncommon दुर्लभ/विरल
- **22.delivered**: (verb) (past tense) given or handed over सुनाया गया/दिया गया
- 23.functus officio: (Latin legal term) having discharged one's duty and lacking further authority कार्यमुक्त
- 24.ordinarily: (adverb) usually सामान्यतः
- 25.sole: (adjective) single or only एकमात्र/अकेला
- **26.accordingly**: (adverb) therefore तदनुसार/अतः
- 27.array of parties: (noun phrase) list or arrangement of legal parties पक्षकारों की सूची
- 28.it is well settled: (phrase) it is established law यह स्थापित है
- 29.expression: (noun) phrase or term अभिव्यक्ति/पदावली
- **30.stretched**: (verb) (past participle) extended beyond normal limits विस्तारित किया गया

- 31.cover: (verb) to include शामिल करना
- 32.inordinate: (adjective) excessive अत्यधिक/बेहद
- 33.merely: (adverb) only or just केवल/मात्र
- 34.confer: (verb) to give or grant प्रदान करना
- **35.condoned**: (verb) (past participle) forgiven or excused क्षमा किया गया
- 36.v.: (abbreviation) versus (in legal cases) बनाम

Accuracy Notes: All forms i.e. vs. v. versus, Vs. are correct. Prefer vs. or versus, which is more prevalent.

- 37.exception: (noun) something excluded from a rule अपवाद
- 38.bona fide: (Latin legal term) in good faith सद्भावना से

Accuracy Notes: Type it as two words. However, you will find it one word too in legal matters.

- **39.negligence**: (noun) failure to take proper care लापरवाही
- 40.object: (noun) purpose or aim उद्देश्य
- **41.construed**: (verb) (past participle) interpreted ट्याख्या की गई

- 42.strictly: (adverb) in an exact manner कड़ाई से
- **43.pleaded**: (verb) (past participle) argued in court दलील दी गई
- **44.borne in mind**: (phrase) remembered or considered ध्यान में रखना
- **45.discretion**: (noun) freedom to decide as one thinks fit विवेकाधिकार
- 46.sparingly: (adverb) in limited amounts संयम से
- **47. furtherance**: (noun) advancement or promotion आगे बढ़ाना
- **48.legislative**: (adjective) relating to making laws
- **49.expeditious**: (adjective) quick and efficient त्वरित/शीघ
- **50.instrumentalities**: (noun) (plural) means or agencies साधन/एजेंसियां
- **51.procedural**: (adjective) relating to procedure प्रक्रियागत
- **52.red tape**: (noun phrase) excessive bureaucratic procedures नौकरशाही की बाधाएं
- **53.process**: (noun) series of actions प्रक्रिया

- **54.obligation**: (noun) duty or responsibility दायित्व
- **55.ensure**: (verb) to make certain सुनिश्चित करना
- **56.diligence**: (noun) careful and persistent effort परिश्रम/तत्परता
- **57.commitment**: (noun) dedication or pledge प्रतिबद्धता
- **58.anticipated**: (verb) (past participle) expected पूर्वानुमानित
- **59.shelters**: (verb) (third person singular) protects आश्रय देता है
- 60.swirled: (verb) (past participle) twisted or manipulated घुमाया गया/मरोड़ा गया

Accuracy Builder: Capitalization

Following words to be written in capital letters:

- 1. Proper Nouns Institutional Names:
 - Arbitrator Capitalized when referring to specific arbitrator or the office/position
 - Commercial Court Proper noun referring to specific type of judicial institution

- Court (when referring to specific court) Capitalized when referring to the specific court hearing the case
- Arbitral Tribunal Proper noun referring to specific arbitration body
- Supreme Court Proper noun, specific judicial institution
- Sole Arbitrator Official title/position

2. Statutory/Legal References:

- Section 34 Specific provision in legislation
- Section 37 Specific provision in legislation
- Section 5 Specific provision in legislation
- Arbitration and Conciliation Act, 1996 Proper noun, official name of legislation
- Commercial Courts Act, 2015 Proper noun, official name of legislation
- Limitation Act Proper noun, official name of legislation

3. Case Law Citations:

- Borse Brothers v. State of Bihar Legal case names are treated as proper nouns
- State of Bihar Proper noun, specific government entity

4. Personal Names:

• Shri P.N. Gupta - Proper noun, individual's name

6. Abstract Concepts (Legal Usage):

- Act Capitalized when referring to specific legislation
- Courts When referring to the judicial system as an institution

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