

Artificial Intelligence in Judiciary

BUILDING AN AI ALGORITHM

JUSTICE MADAN B. LOKUR (RETIRED)

AND

KARAN KALIA

MANAGING ARTIFICIAL INTELLIGENCE

- Artificial Intelligence is Machine Learning plus Natural Language Processing run on big data.
- Artificial Intelligence needs a large volume of datasets to be effective
- Machine learning algorithms can assist in generation of datasets and identification of keywords

GENERATING ARTIFICIAL INTELLIGENCE

- Computer does not have cognitive ability – it can provide options and choices – narrow intelligence
- Through ML and NLP algorithms and use of keywords, bias in an individual judge can be identified
- Alternatively, large datasets can be generated by many judges taking the same test to arrive at a median response

INFERENCE AND PREDICTION

- Draw inferences which will enable answers to questions which have no direct evidence
- Information extraction algorithm to automatically extract key pieces of information
- ML and reasoning algorithms to make predictions about the likely outcome of yet untested intervention

LIMITATIONS

- There will be algorithmic bias - a behaviour test by a large number of judges invites their bias which can result in generation of biased median
- A consensus on the questions will not necessarily be easy. The frame of the questions itself may be prone to encouraging a bias.

CHALLENGES

- An AI program of this nature will require a sophisticated self-learning algorithm which means.
 1. human resource
 2. time and
 3. expense
- Some rudimentary training for data entry will also be required.
- Analysis of answers which are beyond Yes and No will be a challenge in the initial stages of the program.

ADVANTAGES

- Big data collected over months and years will speed up the evaluation process.
- The algorithm is scalable in the sense that it will not be limited to only one Bangalore Principle - an analysis of a combination of Principles is possible.
- The scalability can encompass the judgment itself and not only the judge.

HYPOTHETICAL

- A judge of the Superior Court delivers a few judgments that are not to the liking of the government, for political reasons. While criticizing these judgments, the government decides that the judge may deliver some more uncomfortable judgments.
- In consultation with the Chief Justice, the government transfers the judge to a different city altogether. The judge challenges this decision contending that the transfer is punitive and impinges on the independence of the judiciary.
- In your opinion, is the transfer justified ?

Yes

No

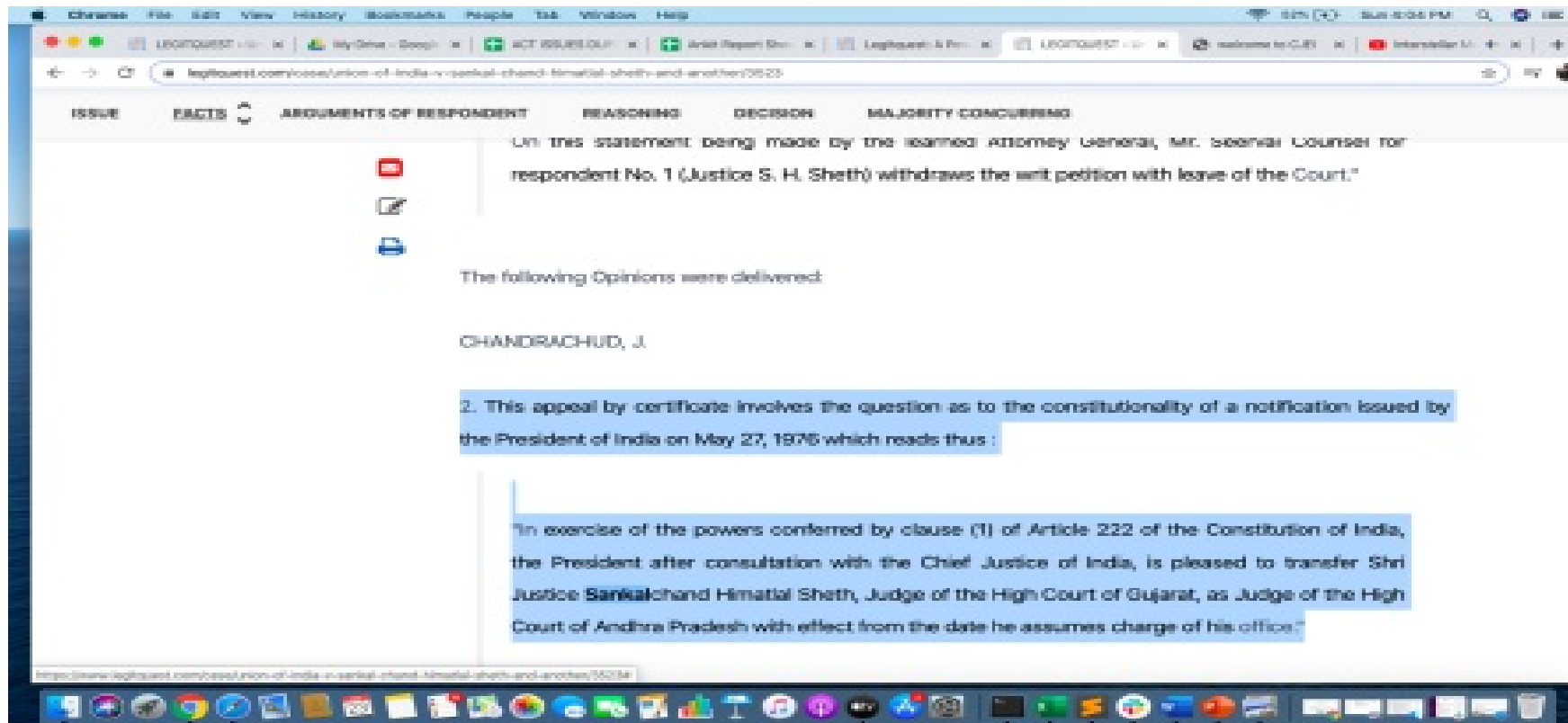
1-CLICK JUDGMENT INSIGHT USING AI

In India, Legitquest, a specialised team working on Artificial Intelligence in Judiciary have developed this one click judgment insight system called the iDRAF (iDraf stands for Issue, Decision, Reasoning, Arguments, Findings and Facts).

It took Legitquest 3.5 years to read, analyse, apply Machine Learning and Natural Language Processing through more than 3 million Indian Court judgements of Supreme Court and High Courts to create the iDRAF feature.

SCREEN SHOTS

iDRAF - FACTS



The screenshot shows a web browser window displaying a legal case page on legiquest.com. The page title is "Union of India v. Bankalchand Himatlal Sheth and another". The navigation tabs include ISSUE, FACTS, ARGUMENTS OF RESPONDENT, REASONING, DECISION, and MAJORITY CONCURRING. The "FACTS" tab is active. The text on the page includes:

On this statement being made by the learned Attorney General, Mr. Jeevan Lal, Counsel for respondent No. 1 (Justice S. H. Sheth) withdraws the writ petition with leave of the Court."

The following Opinions were delivered:

CHANDRACHUD, J.

2. This appeal by certificate involves the question as to the constitutionality of a notification issued by the President of India on May 27, 1976 which reads thus :

"In exercise of the powers conferred by clause (1) of Article 222 of the Constitution of India, the President after consultation with the Chief Justice of India, is pleased to transfer Shri Justice Bankalchand Himatlal Sheth, Judge of the High Court of Gujarat, as Judge of the High Court of Andhra Pradesh with effect from the date he assumes charge of his office."

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legquest.com/cases/union-of-india-v-sardul-chand-himatl-sheth-and-another/2622

ISSUE FACTS ARGUMENTS OF RESPONDENT REASONING DECISION MAJORITY CONCURRING

that such transfer may be made by the President "after consultation with the Chief Justice of India" ?

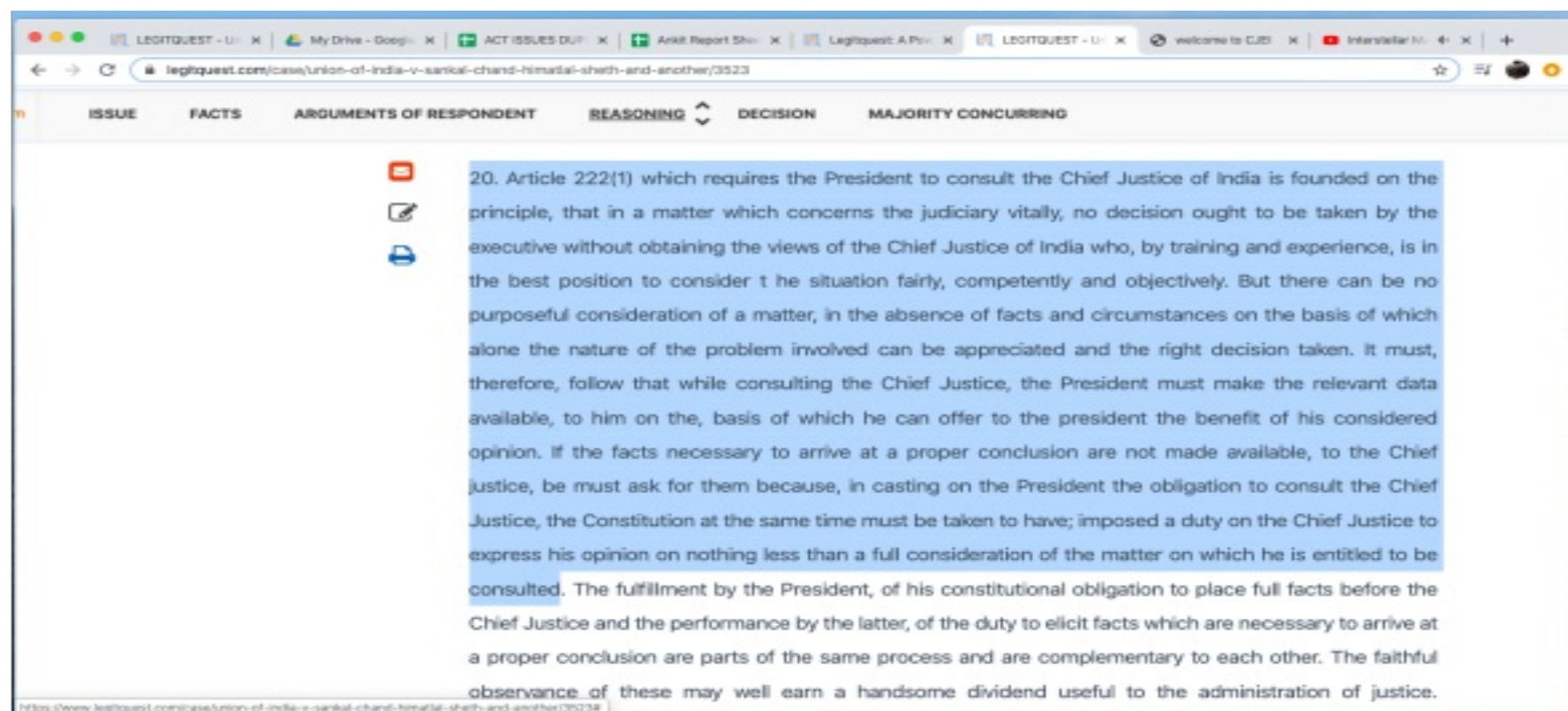
What is the scope and content of this consultation and what are its basic essentials ? These are the questions that arise for determination in this appeal and they have been argued before us with great passion and fervor, not ordinarily seen in humdrum and routine cases, since they admittedly raise issues of the gravest character affecting the independence of the judiciary which is one of the cardinal features of our Constitution sustaining the rule of law and infusing it with life and meaning. The decision of these questions may not be strictly necessary for disposing of this appeal, since at the close of the arguments an agreed formula was put forward on behalf of the parties and in pursuance of this formula, the first respondent withdrew his petition, but having regard to the great constitutional importance of these questions, I think the Court ought to express its opinion upon them, now that they have been raised and fully argued before us. The first respondent Mr. Justice S. H. Sheth, who was a Judge of the Gujarat High Court since 23rd April, 1969, was, by a Presidential Order dated 27th May, 1976, transferred "as Judge of the High Court of Andhra Pradesh with effect from the date he assumes charge of his office". The order was purported to be made by the President in exercise of the powers conferred under Art. 222, clause (1) of the Constitution. The first respondent immediately filed Special Civil Application No. 911 of 1976 in the High Court of Gujarat challenging the validity of this order and he joined the Union of India as

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Union of India as party respondents to the petition. The petition was admitted and rule

SCREEN SHOTS

iDRAF - REASONING



The screenshot shows a web browser window with multiple tabs. The active tab is titled "legitquest.com/case/union-of-india-v-sankal-chand-himatal-sheth-and-another/3523". The browser's address bar shows the URL. Below the browser window, there is a navigation menu with the following items: ISSUE, FACTS, ARGUMENTS OF RESPONDENT, REASONING (which is highlighted with a double-headed arrow), DECISION, and MAJORITY CONCURRING. The main content area displays a paragraph of text, which is highlighted in blue. The text is as follows:




20. Article 222(1) which requires the President to consult the Chief Justice of India is founded on the principle, that in a matter which concerns the judiciary vitally, no decision ought to be taken by the executive without obtaining the views of the Chief Justice of India who, by training and experience, is in the best position to consider the situation fairly, competently and objectively. But there can be no purposeful consideration of a matter, in the absence of facts and circumstances on the basis of which alone the nature of the problem involved can be appreciated and the right decision taken. It must, therefore, follow that while consulting the Chief Justice, the President must make the relevant data available, to him on the basis of which he can offer to the president the benefit of his considered opinion. If the facts necessary to arrive at a proper conclusion are not made available, to the Chief Justice, he must ask for them because, in casting on the President the obligation to consult the Chief Justice, the Constitution at the same time must be taken to have imposed a duty on the Chief Justice to express his opinion on nothing less than a full consideration of the matter on which he is entitled to be consulted. The fulfillment by the President, of his constitutional obligation to place full facts before the Chief Justice and the performance by the latter, of the duty to elicit facts which are necessary to arrive at a proper conclusion are parts of the same process and are complementary to each other. The faithful observance of these may well earn a handsome dividend useful to the administration of justice.

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ISSUE FACTS ARGUMENTS OF RESPONDENT REASONING DECISION MAJORITY CONCURRING

High Court from where he is transferred. Now, it is difficult to believe that the constitution-makers could have ever intended that appointment of a Judge to a High Court or to the Supreme Court could be made without his consent. How would such appointment become effective unless the Judge who is appointed makes and subscribes an oath or affirmation before the Governor, in case of appointment to the High Court and before the President, in case of appointment to the Supreme Court. And that would plainly be a matter within the volition of the Judge. It is, therefore, obvious that the volition of the Judge who is transferred is essential for making the transfer effective and there can be no transfer of a Judge of a High Court without his consent. This is the position which emerges clearly from a consideration of the conspectus of the relevant constitutional provisions. It was, however, contended on behalf of the Government that this narrow interpretation of the provision in clause (1) of Article 222 permitting transfer only with consent would stultify the power of transfer conferred on the President and rob it of its practical content, because by a large no High Court Judge would give his consent to transfer to another High Court. But this apprehension does not appear to be well founded because the history of almost a quarter of century after the commencement of the Constitution shows that during this period no less than 25 High Court Judges were transferred with their consent in exercise of the power conferred under this constitutional provision and it did not remain dormant or sterile. The, annexure

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SCREEN SHOTS

iDRAF - DECISION

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ISSUE FACTS ARGUMENTS OF RESPONDENT REASONING **DECISION** MAJORITY CONCURRING

On the facts and circumstances on record the present government do not consider that there was any justification for transferring Justice Sheth from Gujarat High Court and propose to transfer him back to that High Court.

On this statement being made by the learned Attorney General, Mr. Seervai Counsel for respondent No. 1 (Justice S. H. Sheth) withdraws the writ petition with leave of the Court.

The following Opinions were delivered:

CHANDRACHUD, J.

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ISSUE FACTS ARGUMENTS OF RESPONDENT REASONING **DECISION** MAJORITY CONCURRING

what he has said on this point and hold that unless there is previous consultation with the Chief Justice of India of the kind indicated by him in his judgment, the exercise of the power of transfer would be invalid.

30. This brings me to the close of my judgment. It is not necessary to work out the final order in the case in accordance with the view taken in the judgment in regard to the two points raised before us, since as already pointed out in the beginning of the judgment, the parties settled the matter between them after the arguments were ended and we accordingly passed an order on August 26, 1977 disposing of the appeal in terms of the settlement. Since, however, there was full debate before us and elaborate arguments were advanced on the two points arising for consideration, we decided to give a considered judgment dealing with both the points. This judgment sets out my conclusions on the two points and gives my reasons for reaching those conclusions.

KRISHNA IYER, J.

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