

Chapter 1:- Indian Regulatory Framework

* Introduction :

* Business law.

→ In Ancient times, India was hub of business.

→ To conduct the Business in a smooth way, so govt. need some protocols that needs to be followed to carry business.

→ Rules, Regulations, Principles & framework made by Govt. for smooth conduct of Business activities are called Business law.

* Why law is to be studied from viewpoint of CA?

→ Law is not studied because it is a subject, law is to be studied as we are first contact point for any legal matter who can advise to the management.

* Law :-

→ Law is a set of obligations and duties imposed by the Govt. for securing public welfare and providing justice to the society.

Law Guides us :-

1. Right course of Action.
2. Identify the violation.
3. Punish the culprits.

* History of law :-

1. Code of Hammurabi.

→ Code of Hammurabi is the oldest written law.

→ It was made by King Hammurabi in the year 1758 BC.

→ He ruled over a city known as Babylon.

→ He instructed to write down the law on the Bulky stone & put these Bulky stone all over the city.

→ So that the public of Babylon

must be aware of these laws made by king.

→ He also appoint judges to check whether public is following laws or not.

2. Twelve Tables law :-

→ The twelve tables law is the first most detailed code of any of the civilisations.

→ These law was made for Rome in year 450 BC.

→ These laws are engraved on 12 bronze tablets.

→ So, the public of Rome must be aware about these twelve tables laws.

→ The purpose of this law was :

- (i) To protect the right of public and
- (ii) To provide remedy for wrongs.

→ Over the time many amendments were done as per requirement.

* Process of Making a law :-

- Govt. of India (Council of Minister) propose a law in Parliament that is called Bill / Draft.
Rajyasabha Lok Sabha
- Now after discussion and debate on such bill in Lok Sabha and Rajyasabha.
- After that such bill will be passed in Lok Sabha & Rajyasabha.
- Now this bill will get Assent of President of India.
- Afterwards this law will be published in Official Gazette.
- Once any law is published in Official Gazette, then it will be applicable on every citizen of country.
- Once notified it will be called Act passed by Parliament.
- This Act will be effective from the date mentioned in Official Gazette.

Central Acts

State Acts

Passed by Parliament

Passed by State Assembly

Representative are
called as MP

Representative are
called as MLA

These laws are
applicable throughout
the country.

These laws are applicable
only on the states in
which such laws are
passed.

India is a Federal system.

↓

Powers are divided Btwn Centre &
State to avoid the dispute

various other countries follows
'Unitary system'

* List divide on basis of powers

Center
list

State
list

Concurrent /
Joint list

Income
Tax.

Health
Sanitation
water.

GST
stamp duty.

* Sources of law :-

→ Laws passed by Parliament

→ Laws passed by state

→ Constitution of India

→ Indian case laws

→ Foreign case laws

Govt. of India Act, 1935

1937

Federal court

157 case.
12 years.

Appellate

Advisory

Appeal against
any wrong doing

Governor General
of Council

federal court → Supreme court
(Apex court)

* Types of laws :-

1. Criminal law

2. Civil law

3. Common law

4. Principles of Natural Justice

3m 1. Criminal Laws :-

→ These laws deals with violation of Rule of law, Public wrongs & its punishment.

Criminal laws include :-

Indian Penal Code
(IPC) 1860

Code of Criminal
Procedure (CrPc) 1973

Type of
Crime

Nature
of crime

Punishment
of crime

procedure of
investigation /
punishment

E.g. Murder, rape, theft, fraud,
cheating, assault, etc.

2. Civil laws :-

→ Matters between two persons or Organisations, where one party has dispute with other party.

→ Civil law focus on resolving the dispute rather than punishment.

→ Civil suits are filed in civil courts.

→ Various civil laws :- Indian Contract Act 1872
Sales of Goods Act, 1930
Family law, law of Torts

→ Process of investigation :- Code of Civil Procedure (CPC) 1908.

→ E.g. - Breach of contract, non payment, non delivery, etc.

3. Common Law :-

→ A decided case law is called common law.

→ Any decision given by Supreme Court of India is applicable on every court in India.

→ Courts has to follow same principle which they used in any previous case which is almost similar i.e. Stare Decisis.

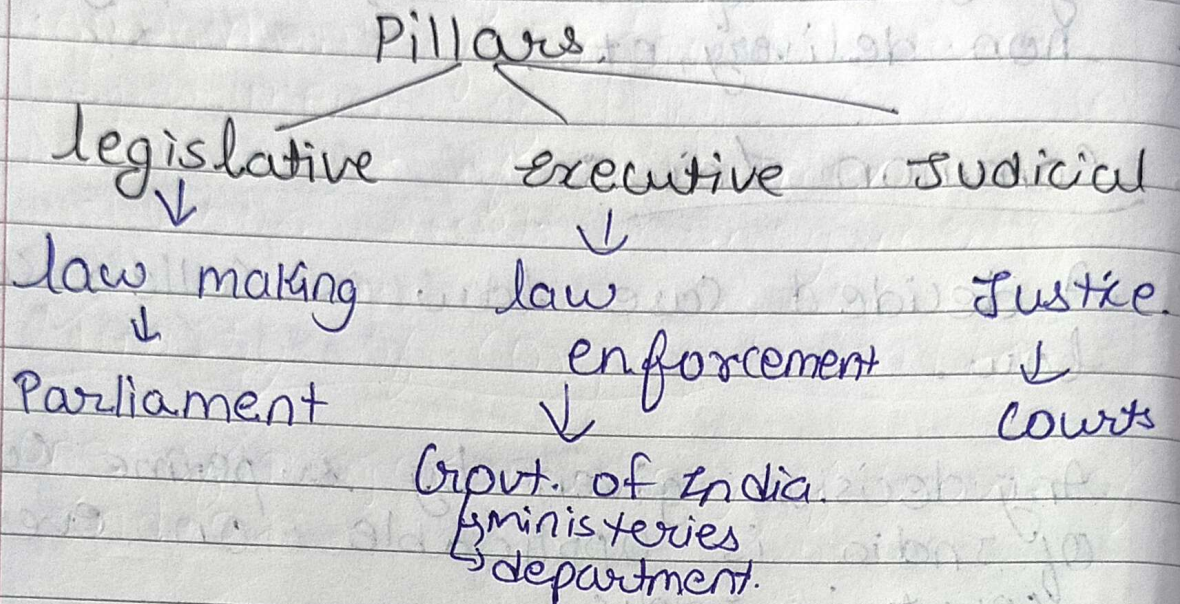
→ Facts of case are similar :- On all four legs.

4. Principle of Natural Justice :-

→ Courts can give decision by over-seeing the common law.

→ No one can be Judge in his own case i.e. Nemo Juxex in Causa Sua.

→ Every party has to give opportunity of being heard (Audi - Altrium)



→ Law made by Parliament has now to be enforced in India.

→ Now it should be checked whether law is being followed or not.

* Who is responsible:- State Govt :- State Govt.
Govt. of India

headed by
Cabinet
Ministers

← Different Ministeries

↓
Minister of
State

↓
Different
Department

→ Headed
by civil
servant
elected from
UPSC.

Major Ministries

Major Department Authority

1. Ministry of Finance
2. Ministry of Corporate Affairs
3. Ministry of Home Affairs
4. Ministry of Law & Justice

1. SEBI
2. RBI
3. IBBI

* Ministry of Finance *

- Headed by Smt. Nirmala Sitharaman
- One of major ministry of Govt. of India.
- Ministry who handles economy of India, Treasury of India.

* Major Areas

- Tax laws
- Capital market
- State & centre finance
- Financial laws & Institution
- Union budget.

→ Budget is presented by this ministry

(Civil Services) (Commerce)

Indian Revenue Service

Indian Economic Services

Indian Audit & Account service.

Indian Civil account service.

Indian cost & mgmt account service

* Department under MOF.

- Department of Economic Affairs.
- Department of Revenue
- Department of Expenditure
- Department of Financial Services
- Department of Public Enterprises
- Department of Investment and Public Asset management.

* Ministry of Corporate Affairs

- one of major ministry of Govt. of India.
- Headed by Smt. Nirmala Sitharaman

* Major Areas:- The Companies Act, 2013
Limited Liability Partnership Act, 2008.
Insolvency & Bankruptcy code, 2016.

- major department:- Registrar of Companies (ROC).
- Administered by → Public servant
I.C.L.S:- Indian Corporate Law Service
- High post:- Director general of Corporate Affairs.

→ MCA also regulate
3 major Institute

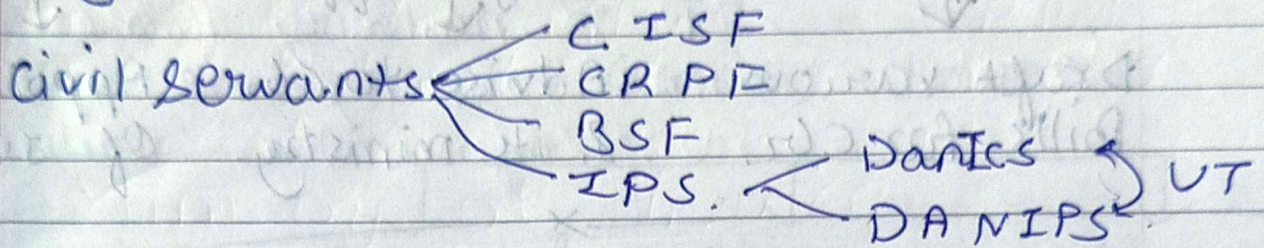
ICAI
ICSI
ICMAI

* Ministry of Home Affairs :-

→ Headed by Mr. Amit Shah

→ Home ministry → Gurah Mantralaya.

* Major Areas Internal & Domestic Security



Departments of M H A :-

→ Department of Border Management

→ " " Internal Security

→ " " Home

→ " " States

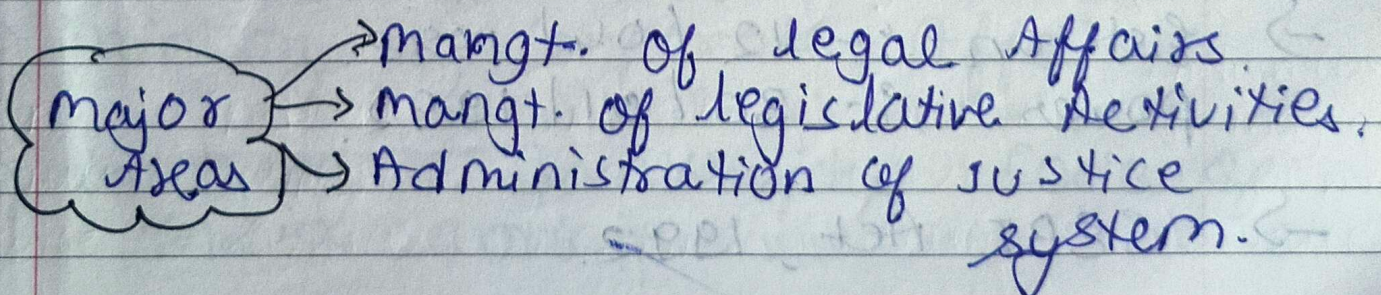
→ " " official language

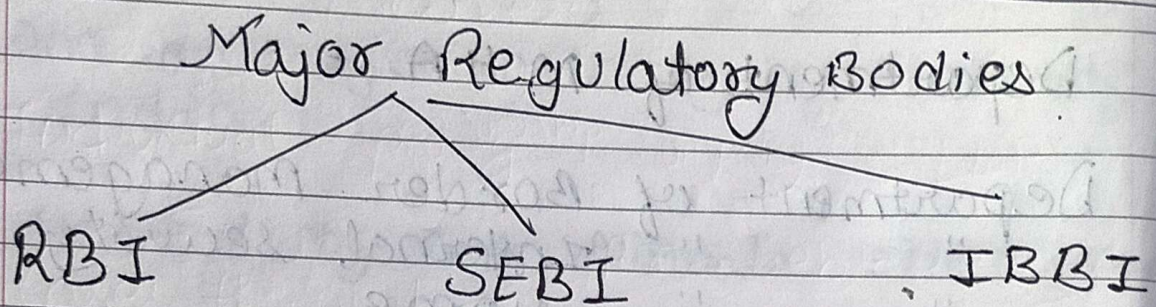
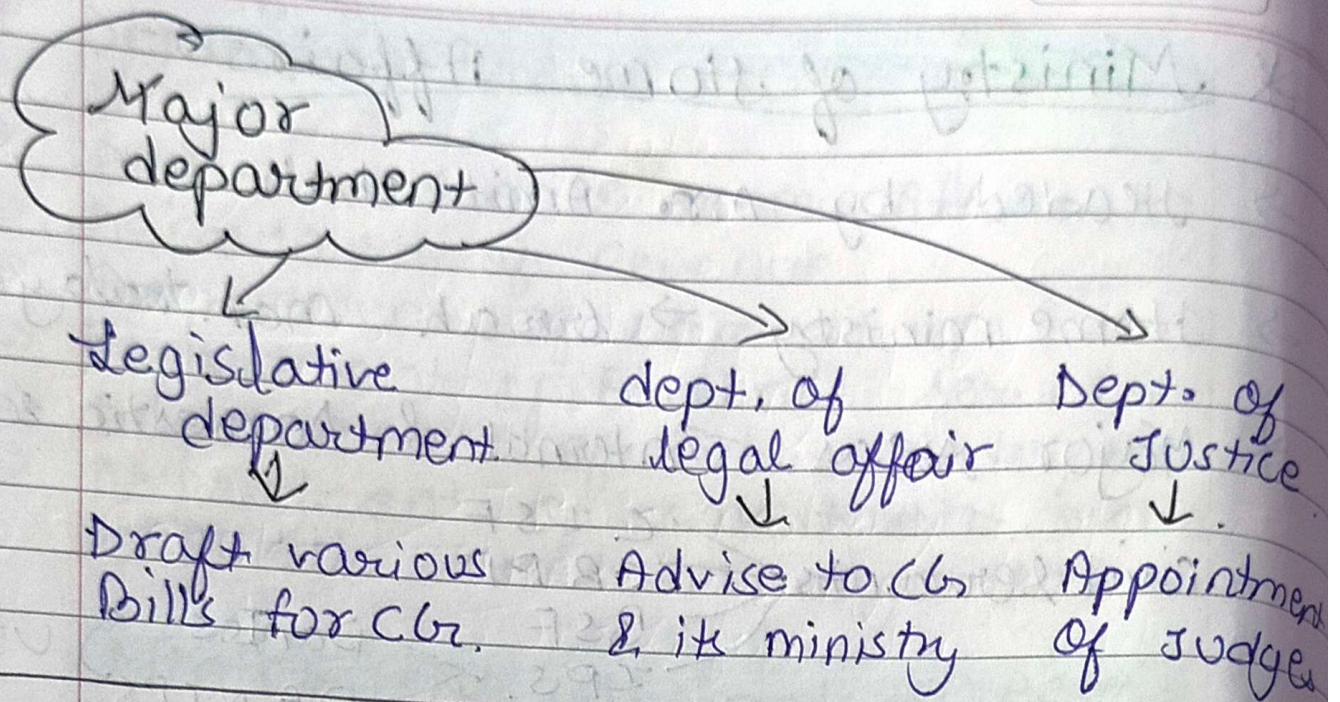
→ " " Jammu, Kashmir, and Ladakh Affairs.

* Ministry of Law & Justice :-

→ one of major ministry of Govt. of India

→ Headed by Mr. Arjun Ram Meghwal.





* SEBI

→ Securities & Exchange Board of India.

→ Ministry of Finance.

→ Regulation of Capital Market in India.

→ Est. on :- 12/04/1988.
power :- 30/01/1992.

→ SEBI Act, 1992.

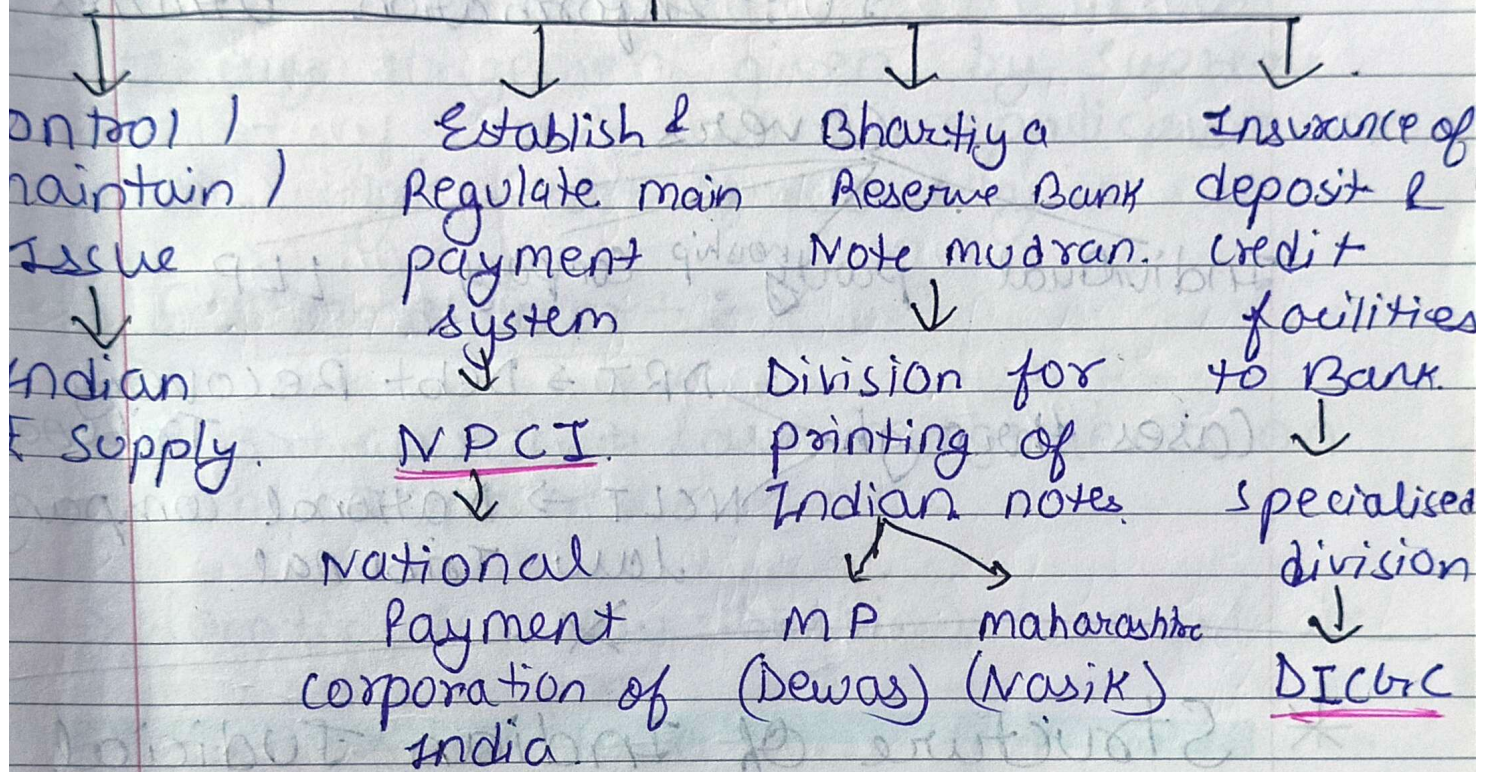
* RBI

→ Reserve Bank of India.

→ Ministry of Finance.

→ Regulate Banking system of country.

→ Apex Bank - Central Bank.



* IBBI

→ Insolvency & Bankruptcy Board of India.

→ Ministry of Corporate Affairs.

→ Insolvency & Bankruptcy Code of India, 2016.

Law :- 5/5/2016.

Body :- 1/10/2016.

→ Oversee, Speed up, simplify the insolvency proceedings.

Regulate $\left\{ \begin{array}{l} \text{IP :- Insolvency Professionals} \\ \text{IPA :- Insolvency professional Agency} \\ \text{IU :- Information utilities} \end{array} \right.$

Covers
Individual partnership company LLP.

Cases through $\left\{ \begin{array}{l} \text{DRT} \rightarrow \text{Debt Recovery Tribunal} \\ \text{NCLT} \rightarrow \text{National company law Tribunal} \end{array} \right.$

* Structure of Indian Judicial System

→ If dispute arises between one citizen and another citizen or with Govt. then these disputes will be resolved by Judiciary in India

* Function of Judiciary :-

→ Interpretation of laws

- Dispute resolution.
- Providing fairness to the society.

Supreme Courts



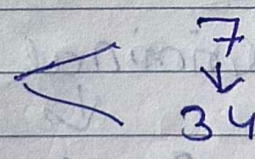
High Court



District Court.

- If any judgement given by Supreme Court of India, It is applicable on all High Court of Country.

* Supreme Court :-

- Apex court. → last judgement on any matter.
- located in New Delhi.
- Est. :- 26/01/1950.
- Preceding body :- Federal court.
- lead by :- Chief justice of India
- Bench of judge  34 No. of suits ↑
(workload)
- Any individual can seek relief from Supreme Court by filing Writ Petition.

* High Courts :-

- state highest court of appeal in any state
- Every state must have at least one high court.
- In India, supervisory powers of high courts are limited.
- Can an individual file writ petition in high court?
 - yes — violation of fundamental right.
 - 25 high courts common.
 - High court of Haryana & Punjab

* District Court :-

- Below high court → District court
- ↓
- suit file.

Judge.

civil law

↓

District Judge

criminal law

↓

Session Judge

→ value of suit → max. 2 cr.

→ Area fix → local limit.

* Metropolitan Court

→ Court of metropolitan magistrate.

→ Limit :- more than 10 Lakh population in any district.

→ Approval → High court is required.

→ Judge → metropolitan magistrate.

Overview

