

“NO DECISION AT ALL”: FAIR PROCEDURE AND THE JUDICIAL DUTY TO VERIFY AFTER POOJA RAMESH SINGH

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ABSTRACT

In July of 2026, the Supreme Court of India held that a decision based on an AI's hallucination as to what the law is, is "no decision at all." Although the Supreme Court made a good decision on a very limited constitutional basis, the Supreme Court's holding will be an ex post facto blunt instrument, unless there is a procedural obligation placed on the decision maker. Nullity is based on the constitutional rights to fair procedure (Articles 14 and 21) and the requirement of a reasoned decision. A default rule of nullity is better than a materiality test. The most appropriate response would be a technology-neutral duty to verify each authority relied upon against a primary source, to document that verification, and to notify the parties when the court relies upon authority that neither party has cited. When the Draft Regulations for Use of Artificial Intelligence in Courts (2026) are reviewed by the Supreme Court, the proposed regulations state that the verification exemption will not apply to legal authority.

Keywords: AI hallucinations, judicial reliability, fair procedure, reasoned decisions, verification duty, Supreme Court of India.

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I. Introduction

In 2024, the Mumbai Bench of the National Company Law Tribunal (NCLT) accepted an insolvency petition filed by a corporate guarantor. This decision, as well as the appellate decision that upheld it, were both based on six precedents of the Supreme Court. When the matter came before the Supreme Court, the Court examined all six precedents. Of these six, three did not exist; the other three were either cited with non-existent paragraphs or with incorrect citations.¹ The bank that won in the lower court submitted an affidavit that stated that their attorneys did not cite any of these cases; however, the adjudicating body found them through their own research.²

The Supreme Court reversed the decisions of the lower courts on July 2nd, 2026. The Supreme Court said that making decisions using false or imaginary information "does not make a decision at all, but rather is an act of subverting the rule of law."³ The court has found the right answer; however, this is just the beginning of the legal remedy and not the remedy. There are three issues that need to be resolved. What is the constitutional basis for declaring a decision null? Is the nullity absolute or will it be determined by the severity of the false authority? How can we prevent false authorities from being included in an order in the first place? The harm caused by this issue is a lack of fair process and reasoning in decision-making, and Articles 14 and 21 are applicable. A presumption of nullity may be justified based on this harm, and the solution is to impose a duty on the decision-maker to verify each legal authority used in making the decision, and to demonstrate that they have done so. We are currently looking at the bench (judges, tribunals, and quasi-judicial bodies). False citations by attorneys will be dealt with separately from all other matters; however, we will address them only when necessary for this case.

II. A Different Kind of Error

Judges have always made errors in applying the law. There are many ways that a judge can make an error such as: misinterpreting a precedent; failing to reference a relevant statute; using the wrong legal standard. All of these types of errors can be corrected because the foundation upon which the judge based his/her decision was actual and can be verified by both the litigants and the appellate court.⁴ However, a hallucinated authority is a completely

¹ Pooja Ramesh Singh v. Jammu & Kashmir Bank Ltd., 2026 INSC 668, ¶¶ 14–15 (India).

² *Id.* ¶ 16.

³ *Id.* ¶¶ 7, 17.

⁴ Himanshu Mishra, *Phantom Precedents: The Rise of AI-Generated Case Law in Indian Courts*, LiveLaw (Mar. 17, 2026), <https://www.livelaw.in/articles/phantom-precedents-ai-generated-case-law-indian-courts-526665>.

different type of error. Generative systems create text based upon likely word sequences rather than retrieving verified documents and therefore can generate a case name, a citation, a year and a quotation that do not exist. This is why generative systems are so dangerous; they write with such confidence and ease that there is no indication within the text that anything is wrong.

The issue is not with the judge's logic regarding the law but rather with the assumption upon which he based his logic. The order appears to be logically sound, and as such, the appellate court (which typically assumes that the cited cases are real) does not have any reason to check anything. In *Pooja Ramesh Singh*, the appellate tribunal cited the same cases as the first tribunal, and the Supreme Court noted that courts and tribunals rely on the citations provided to them, and that to require them to verify each citation would be too burdensome. Hallucinations are based on this same reliance.⁵ Furthermore, hallucinations do not fit well into the concerns that are present in the literature on algorithmic justice; an explanation of how a non-existent case leads to a conclusion is just a more elaborate story. Explainability will not correct a false assumption; verification will.

The most well-known examples of how other jurisdictions have responded to this issue relate to counsel. In *Mata v. Avianca*, a U.S. Federal Court sanctioned attorneys who submitted a brief relying upon cases generated by ChatGPT.⁶ The Divisional Court of England and Wales in *Ayinde* addressed fabricated authorities presented to the court by lawyers and examined the potential regulatory implications.⁷ Both of these decisions are based upon the assumption that the court is the verifier. However, the Indian cases create a much more complex scenario where the fabricated authority is coming from the bench's side of the table. The Karnataka High Court directed an investigation into a trial judge who denied an application for return of the plaint based upon decisions that, according to the High Court, were never rendered by the Supreme Court.⁸ The Assessing Officer in *KMG Wires* used decisions that did not exist. The Bombay High Court annulled the assessment and held that quasi-judicial bodies cannot simply use the output from AI tools but have to independently verify the accuracy of such output. *Pooja Ramesh Singh* appealed the decision to a tribunal and then to an appellate tribunal.

⁵ *Pooja Ramesh Singh*, 2026 INSC 668, ¶ 16.

⁶ *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023).

⁷ *R (Ayinde) v. London Borough of Haringey*, [2025] EWHC 1383 (Admin) (Eng.).

⁸ *Sammaan Capital Ltd. v. Mantri Infrastructure Pvt. Ltd.*, Civil Revision Pet. No. 49 of 2025, 2025 LiveLaw (Kar) 123 (Karnataka H.C. Mar. 24, 2025) (India), <https://www.livelaw.in/amp/high-court/karnataka-high-court/karnataka-high-court-action-against-trial-judge-citing-non-existent-judgments-return-of-plaint-application-rejection-287622>.

III. What Pooja Ramesh Singh Determined, and What It Left Unresolved

A. The holding

The Supreme Court (Narasimha and Aradhe JJ.) have said that they will not tolerate any advocate or judge using unverified AI generated material. The court stated that it is "a misconduct on the part of an advocate" to use such materials without verifying them, and that it is "a serious lapse" if a judge uses such fake or hallucinated material as precedent.⁹ The court set aside the orders of the NCLT and NCLAT, remitted the case back to the NCLT for a new decision and did not express an opinion on the merits.¹⁰ The Court directed the Bar Council of India (BCI) to form a committee to create guidelines and discipline for advocates.¹¹ In addition, the Court stated that AI can be used to help adjudicate cases as long as there is a human involved in each step of the process; however, this should be regulated by public policy and rules rather than judicial orders.¹²

B. What it left open

The judgment has three deficiencies. Firstly, there is no reference to Articles 14 or 21 or natural justice. "Subversion of the rule of law" is a conclusion; however, the principle which led to this conclusion is not explained. Secondly, there is no verification or disclosure process established for judges and tribunals. While the disciplinary action is directed at the Bar, no procedures have been established for the Bench other than a statement of "zero tolerance." Thirdly, there is no explanation in the judgment as to how the "bright-line" rule will be applied if the tainted authority is not the sole basis for making the order. An example would be where the NCLAT used a provision of the guarantee deed which remained after amalgamation – an independent reason for using it.¹³ However, the entire decision was set aside.

This aspect has been criticized. A commentator has suggested that a rule which invalidates a decision regardless of whether or not the hallucinated material was relevant to the decision's reasoning or outcome is disproportionate; and that a materiality approach should be used to determine whether a decision will fall based on whether the hallucinated material was relevant

⁹ *Pooja Ramesh Singh*, 2026 INSC 668, ¶ 7.

¹⁰ *Id.* ¶¶ 18–20.

¹¹ *Id.* ¶ 9.

¹² *Id.* ¶¶ 1, 5.

¹³ *Id.* ¶ 13.

to the decision's reasoning or outcome.¹⁴ The Andhra Pradesh High Court has previously made a decision in a case regarding four non-existent Supreme Court decisions, and did not reverse the order as the correct legal principles were used. After issuing notice in this case, the Supreme Court indicated that a decision based upon such judgments is "not an error in the decision making."¹⁵ Thus, the issue of materiality will remain unresolved until the defect is identified.¹⁶ Therefore, the issue of materiality remains open and can only be resolved once the defect is identified.

IV. The Missing Constitutional Foundation

A. Fair procedure and the reasoned decision

Since *Maneka Gandhi*, when the rights of a person are affected, the process used must be just, fair and reasonable, and the right to equal treatment under Article 14 is violated by arbitrary action.¹⁷ Court and tribunal adjudications are exercises of State authority. Whether Article 21 is applicable is dependent upon the liberty at issue. However, the prohibition against arbitrariness applies in all cases, and a decision made based on an authority that does not exist is difficult to characterize as anything other than arbitrary.

The need for reasons is also consistent with this. As stated by the Supreme Court in *Kranti Associates*, reasons link the evidence available to the decision maker to the decision; they show that the decision maker has considered the evidence; they reduce the possibility of arbitrary decisions; and they allow for appellate review.¹⁸ An order based upon an imagined authority appears to have justification; however, there are no justifications. There is no link between the premise and the conclusion. This may be even more problematic than an order without any justification because it creates the appearance of logical reasoning when none

¹⁴ Parth Maniktala, *Governing AI Hallucinations: Evaluating the Supreme Court's Zero-Tolerance Rule*, SCC Times (Sept. 4, 2026), <https://www.scconline.com/blog/post/2026/09/04/supreme-court-ai-hallucinations-zero-tolerance-rule/>.

¹⁵ Aakriti Bansal, *10 Cases That Show Indian Courts Have an AI Hallucination Problem*, MediaNama (July 3, 2026), <https://www.medianama.com/2026/07/223-10-cases-ai-hallucination-cases-in-indian-courts/> (reporting on *Gummadi Usha Rani v. Sure Mallikarjuna Rao*).

¹⁶ *Gummadi Usha Rani v. Sure Mallikarjuna Rao*, Special Leave Pet. (C) No. 7575 of 2026 (India Feb. 27 & May 5, 2026); Amisha Shrivastava, *Use of AI-Generated Fake Judgments: Supreme Court Urges BCI to Form Expert Panel to Examine Issue*, LiveLaw (May 5, 2026), <https://www.livelaw.in/amp/top-stories/use-of-ai-generated-fake-judgments-supreme-court-urges-bci-to-form-expert-panel-to-examine-issue-533023> (reporting on the May 5, 2026 order).

¹⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India); *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

¹⁸ *Kranti Assocs. (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496 (India).

exists, and misleads the parties involved as well as the appellate court into thinking that a legal basis exists.

The third consideration is natural justice. When a decision-maker makes a decision based upon information which the affected person has never seen and cannot refute, he/she is in violation of the audi alteram partem principle.¹⁹ courts may rely on cases (authorities) that the parties did not refer to; however, as the law is the court's responsibility, courts have a corollary obligation to ensure accuracy when they reach beyond the parties' authorities. An example of this can be found in *Pooja Ramesh Singh*, where the bank indicated that their attorney had not cited the authorities.²⁰ If the parties had been given advance notice that the Tribunal intended to use their submissions, a single statement by Counsel would have revealed the falsity. However, because of the unexpectedness of this event, the only way to determine if there was fraud was eliminated. Lord Hewart stated that "justice must be seen to have been done as well as being done." A judgment which can't be checked for its citations doesn't meet this requirement.²¹

B. Why nullity follows

In Indian law, nullity is used when there is a fundamental flaw that goes to the very heart of the decision-maker's authority; for example, a decree issued by a court without jurisdiction.²² A decision based upon a non-existent legal basis is of this type. Adjudication is the process of applying law to facts. If the "law" itself does not exist, then there has been no application of law. The Supreme Court's use of the term "no decision at all" should be interpreted in this manner and not as an exaggeration. The reason this rule applies to both Bench and Bar is because the mistake was made during the process of judging; it does not matter if the attorney gave the judge an incorrect reference.

V. Nullity or Materiality?

The criticism of materiality is valid. If a court can invalidate an order without regard to the effect of the invalidation on those parties who were not involved in the "hallucination," then it will be unfairly penalizing litigants who have done nothing wrong. In addition, this type of decision-making process will cost time during proceedings (such as insolvency), where time is critical. However, there are three reasons why the Court should follow this rule.

¹⁹ *Dhakeswari Cotton Mills Ltd. v. Comm'r of Income Tax*, AIR 1955 SC 65 (India).

²⁰ *Pooja Ramesh Singh*, 2026 INSC 668, ¶ 16.

²¹ *R. v. Sussex Justices, ex parte McCarthy*, [1924] 1 K.B. 256, 259 (Eng.).

²² *Kiran Singh v. Chaman Paswan*, AIR 1954 SC 340 (India).

First, the cost of the rule will be kept low. In *Pooja Ramesh Singh*, the Court did not make a decision on the merits; instead, it vacated the orders and sent them back for a new decision (preferably within two weeks) while maintaining the status quo.²³ Secondly, "nullity" was defined as "remand," not "dismissal." Materiality is also very difficult to determine. To state that the decision would have been the same regardless of whether or not the tainted authority was used, an appellate court would need to reconstruct the reasoning of a decision-maker who never verified their own authority; therefore, there is no way to know if they verified any other authorities. Lastly, a materiality test reduces the incentive to verify. If a decision-maker understands that an unverified citation will be forgiven if the decision is based on other grounds, then the cost of not verifying decreases, but the cost of verifying remains the same. The rule is more difficult to enforce when remand is expensive. When liberty is at issue, or when delay would make the right meaningless, a higher court may have to make a decision based upon the current record rather than send the case back. This is a question of remedy; it does not determine whether the challenged decision will be set aside. Therefore, the most accurate interpretation of *Pooja Ramesh Singh* is that when an individual uses false authority in their reasoning process; there will always be a presumption of vitiation, and the remedy provided should be based on each individual's circumstances. The primary point is that no remedy provided after the fact can resolve the underlying issue. The objective should be to reduce the number of defects, and that requires a process.

VI. The Missing Procedure: A Duty to Verify

A. What exists

The two instruments that directly affect the bench are the Kerala High Court's Policy of July 2025 for the District Judiciary which prohibits the use of AI tools to reach findings, relief, orders or judgments; requires complete verification of all AI generated results (including translations); and requires a record of what tools were used and how they were verified by humans. Judges will continue to be completely responsible for their orders.²⁴

The Supreme Court's proposed rules regarding the use of Artificial Intelligence (AI) in courts, 2026, which were issued for public comment in June 2026, go even further. The draft defines "hallucinations" as including the creation of fictional precedents; and places full responsibility for making decisions using AI assistance on the person making the decision. Additionally, the

²³ *Pooja Ramesh Singh*, 2026 INSC 668, ¶¶ 18–20.

²⁴ High Court of Kerala, *Policy Regarding Use of Artificial Intelligence Tools in District Judiciary* (July 19, 2025) (India).

draft states that AI output is only advisory and that reasonable effort should be made to verify it. Furthermore, the draft requires litigants to provide notice of any AI-assisted materials when submitting those materials to the court; and requires courts to notify litigants when AI has provided significant assistance with respect to either case management or document analysis.²⁵ There are three areas of concern regarding the Draft. First, the requirement to verify as per Regulation 8(3), is subject to an exemption; specifically, if the responsible officer provides a written explanation as to why he/she did not perform verification.²⁶ While administrative tools may be acceptable; however, for the purposes of providing a basis for decision making through legal authority, they are not. Confirming whether a cited decision exists and contains what is claimed is one of the most cost effective actions in adjudication. Therefore, permitting a discretionary option to skip this process will produce the exact same problem that Pooja Ramesh Singh has criticized. Secondly, the Draft includes "citation verification" as an example of an authorized use of AI.²⁷ A generative tool verifying citations of another generative tool is not considered verification unless the first tool obtains the original text from a reputable source. Secondly, although the Draft requires disclosure of the use of AI; the harm is the falsity of the authority. In Pooja Ramesh Singh, the source of the false citations was never determined beyond an allegation of AI generation, and the Court did not have to determine this.

B. A technology-neutral duty

This obligation should attach to the output and to the person who signs the order, not to the tool. It will have four components.

First, check the source. All authorities that support the basis for an order must be checked against a primary source (an official/accepted report; or an authoritative database). This requirement should be non-delegable when the issue is related to legal authority; and the proviso to Regulation 8(3) should only be used for administrative purposes. This applies regardless of how the citation was obtained (e.g., via a generative tool, a law clerk, a translation, a headnote, or by counsel).

Second, create a record of the verification. When creating an order (or when recording what accompanies the order), there needs to be a brief description of how the authorities relied

²⁵ Draft Regulations for Use of Artificial Intelligence in Courts, 2026, regs. 3(z), 8(1), 8(3), 43(1), 43(3) (Sup. Ct. of India, notice of June 3, 2026) (India), <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

²⁶ *Id.* reg. 8(3).

²⁷ *Id.* reg. 19(1)(d).

upon were checked by the source. The Kerala Policy currently requires a record of the human verification process used in conjunction with AI. This proposal would apply this same requirement to all cited authorities and make this description available to both parties. Therefore, if someone makes a false statement, it will be a separate and identifiable violation which can be held accountable pursuant to Regulation 8(1).

Third, provide notice. If the court plans to base its decision on an authority that was not referenced by either party, then the court should state this and provide a brief period for the parties to respond. The provision of notice will re-establish an adversarial review and provide for the natural justice issue referred to above. This can be accomplished with just one sentence in the order and a couple of minutes of argument.

Fourth, establish consequences. The Supreme Court has indicated that the most common consequence of issuing an order based upon unverified fabricated authority is that the person who issued the order will be held accountable. Advocates may face disciplinary action from the Bar Council Committee; while judicial officers may experience administrative consequences from their respective High Courts (as was done by the Karnataka High Court when they directed action against the trial judge).

C. Objections

The first objection to the use of such statements is that they add to the workload of the Indian Judiciary, which is already overloaded. Each new requirement will add to the workload of every single order. However, the workload is very small and proportional: a single order cites many authorities and verifying those authorities against a database takes minutes; whereas the alternative to verification is a remand and a complete repeat of the entire process. The second objection is institutional: the Supreme Court has stated that regulation should be accomplished through rules, and the Draft Regulations and the Bar Council Committee are not yet final. The reason why this responsibility should be included in both of those documents, and also in High Court Practice Directions, is because we cannot wait. My third objection is about judicial independence. The Verification Statement will not alter the substance of any decision; however, it will confirm that all authorities referred to in the statement exist. As illustrated by the Kerala Policy, courts can use the same level of discipline as other branches of government while still performing their judicial duties.

VII. Conclusion

Ultimately, Pooja Ramesh Singh states that decisions made based on hallucinated authorities will not be upheld. However, what she does not provide at this time is an explanation based upon the Constitution or a means to reduce the likelihood of this occurring. The explanation is found in the right to a fair hearing and the obligation to provide reasons for your decision. The means to reduce the likelihood of this occurring should be a technology-neutral obligation for the decision-maker to verify all authorities used in making her decision, to document that she has verified them, and to inform the parties if she relies on any authorities that were not provided by either party. The Draft AI Regulations are the best location for this obligation as long as the exception in Regulation 8(3) is not used to negate the obligation. conclusively , a court's authority is based upon the actual law being applied; therefore, regardless of the technology used to assist in adjudication, the verification of that law must be performed by someone who is accountable for the outcome.

