The 4th KIIT University National Moot Court Competition, 2016

Problem Drafted by J. Sagar Associates

Organized by:
School of Law
KIIT UNIVERSITY

Competition Information & Invitation Brochure
ABOUT KIIT UNIVERSITY

KIIT University is situated in Bhubaneswar, capital of Odisha, and is one of the premier self-financing Universities of the country. It caters to more than 20000 students from all across the nation and 22 other countries through more than 100 academic programmes like MBA, Engineering, Law, Bio- Technology, Rural Management etc., in more than 28 constituent campuses involving more than 1800 academic and research staff. The University has been accorded 'Category A status' by the Ministry of HRD, Govt. of India, and is accredited as 'A' Grade by NAAC and Tier 1 accreditation as per Washington Accord for Engineering streams by NBA of AICTE. The University has alliance with over 105 globally reputed foreign institutions, and had achieved the 16th position among all national level universities, and 5th position among all national level Self-financing Universities, more details of which are available at www.kiit.ac.in.

SCHOOL OF LAW, KIIT UNIVERSITY

The School of Law, an integral part of KIIT University, was established in the year 2007, and since then, we have consistently grown in stature and strength, and today we cater to a talent pool of over 1100 students from all across the country. We are one of the few law schools in India to provide conjoint degrees in the form of BA.LLB / BBA.LLB /BSc.LLB, and one of the very few Law schools providing for separate honours specialisations involving eight separate papers each in Business Laws, Intellectual Property Law, Taxation Law, Constitutional Law, Crime and Criminology and International Law, more details of which are available at www.kls.ac.in.
DIRECTOR'S MESSAGE

Dear Students,

Greetings from School of Law, KIIT University, Bhubaneswar.

It gives us immense pleasure to announce the 4th edition of The KIIT University National Moot Court Competition, hosted and organized by the School of Law, KIIT University.

As one of the upcoming law schools in India, we have constantly undertaken measures to provide holistic and meaningful legal education to bright young talent from across the country. In course of such endeavors, we have observed that strong advocacy skills, ability to think logically and rationally, combined with acumen for drafting, are some key characteristics that are very necessary for a lawyer in the present scenario.

Keeping in mind these requirements, we have tried to nurture these attributes in our budding talent pool of students and likewise, we have always encouraged students to participate actively in national and international co-curricular and extra-curricular events like moot court competitions, wherein we believe they can correctly assess, evaluate and nurture their potential to best serve the interests of the profession and the fraternity in the times to come.

In 2011, the School of Law was proud to be the host of the 52nd Phillip C. Jessup International Moot Court Competition (North India Rounds) and also the 1st Bar Council of India International Moot Court Competition. In 2013, we undertook the initiative to host our own national moot court competition, the KIIT University National Moot Court Competition, and buoyed by this success, we continued with the second edition of the event in 2014, wherein Nishith Desai Associates, one of the country's leading law firms, was kind to draft the problems for the event. In the third edition of the event in 2015, wherein, Jyoti Sagar Associates, Mumbai, an exceedingly reputed law firm of the country was kind to draft to the problem for that edition.

Encouraged by the overwhelming response of the past competitions, we are proud to declare that we will be hosting the 4th KIIT University National Moot Court Competition, 2016, in continuation of the overwhelming response received in terms of participation during the 3rd Edition, from the 16th to 18th of September, 2016, to be hosted and organized at the KIIT University campus. J Sagar Associates, an exceedingly reputed law firm of the country, has drafted the problem for this competition, and we expect this to be a great learning opportunity for the upcoming legal talent of the nation.

We hereby extend a warm and cordial invitation to participate in this event, and we look forward to your enthusiastic participation.

Wishing you the very best

Prof. (Dr.) N.K. Chakrabarti
Director,
School of Law, KIIT University
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ABOUT 1st KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2013

The 1st KIIT University National Moot Court Competition, 2013, was our first initiative at organizing a national level moot court competition and it turned out to be very successful and encouraging, for which we thank the twenty four participating teams for their enthusiasm and participation.

The competition's objective was to nurture academic excellence amongst the students, and it was to our pleasure and honour to have a seven-panel bench for judging the final round of the competition. The competition was weaved around two moot problems, one for the preliminary and quarterfinal rounds and another problem for the semi-final and final rounds, and the active participation of the teams were of great motivation to us in our decision to organize this moot competition in a slightly different format.

The final round of the event witnessed a stiff competition between National Law Institute University, Bhopal, and Christ University, Bengaluru, and the success of the event encouraged us to host and organize the next edition of the moot in 2014.
ABOUT THE 2nd KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2014

The 2nd edition of the competition upheld the essentials of the first moot which were challenging mooting, erudite judging, high stake prizes and great hospitality and at the same time, there were significant improvements based on our learning experience from the past edition. One of India's best know law firms, Nishith Desai Associates, drafted the problems for the competition, while SCC Online and Lawctopus also partnered with us in different capacities like the earlier edition, the competition had two problems – one for the preliminary and quarter final rounds, and another problem for the semi-final and final rounds. Participation by teams from across the country had increased substantially for this event and by the conclusion of the moot, KIIT University National Moot Court Competition had made a name for itself and had become a much-awaited mooting event.

Before a panel of eminent judges like Justice Altamas Kabir, Former Chief Justice of India, Justice Pinaki Chandra Ghose, Judge, Supreme Court of India and other Justices of the Orissa and Calcutta High Court, the grand finale witnessed some intense advocacy by Hidayatullah National Law University, Raipur and Rajiv Gandhi National University of Law, Patiala, pleading on behalf of petitioner and respondent respectively and the success of that event encouraged us to conduct the 3rd Edition.
ABOUT 3rd KIIT UNIVERSITY NATIONAL MOOT COURT COMETITION, 2015

The 3rd National Moot Court Competition was privy to an unprecedented 46 teams from across India who came here to battle it out and earn the coveted winners’ place turned down all criticisms and the young, dynamic and dedicated Organising Committee was full of praises from everyone. The event took place in between 18th September - 20th September, 2015. Mr. Zerick Dastur, partner at JSA, gave the thematic address by stressing upon the importance of mooting skills for law students.

The Preliminary Rounds witnessed an impeccable research technique, excellent speaking skills and an overall prowess of court room etiquette. The rounds were judged by many eminent personalities of the legal field. The knock-out rounds witnessed the advocacy skills of the budding lawyers with utmost perfection which also involved the best adjudicating panels involving of sitting HC and Lawyer Court Judges, Senior Advocates, Legal Counsels and Academicians. The teams were assertive yet concrete in their approach with their persuasive contentions and convincing arguments and at the end of the Semis, the two best teams namely- CMR Law College, Bangalore and Campus Law Centre, Delhi University entered the finals.

The Final was chaired by ex-CJI J. Altamas Kabir, along with a panel consisting of J. Ruma Pal, former Judge, SC; J. Indira Banerjee, Judge, Calcutta HC; Mr. U.K. Chowdhary, Sr. Advocate, SC and Mr. Somaasekhar Sundaresan, Senior Partner at J Sagar Associates.
OFFICIAL RULES FOR THE COMPETITION

1. COMPETITION FORMAT
1.1 The Competition is structured the following format:
   a) Preliminary Rounds
   b) Quarter Finals
   c) Semi finals
   d) Grand Finale

2. ELIGIBILITY
Students of three year and five year law degree courses from any University / Law School / College / Department are eligible to apply for registration of their team. However, a maximum of One team shall be allowed to participate from any one University / Law School/College/Department.

3. TEAM COMPOSITION
1. Each team shall consist only of three members, comprising of two speakers and one researcher.
2. Any alteration of the names of the team members shall be informed in writing to that effect, addressed to the Director, School of Law, KIIT University, by the Vice Chancellor / Dean / Director / Head of the Department of the University / School / Department / College of Law, of the team requesting such alteration. However any such alteration shall be permitted only once.
3.3 Once the Competition commences, the team composition cannot be altered under any circumstances whatsoever. Inability of any team member to participate in accordance with the rules of this Competition shall lead to immediate disqualification of the team from the Competition.

4. PARTICIPATION AND REGISTRATION
PROCEDURE
4.1 The teams interested to participate are required to confirm their participation by sending an email attaching the scanned copy of Annexure-A(Registration form), duly filled, to kiitmoot2016@kls.ac.in by the 5th of August, 2016. Please note that such email has to be sent only through the University / School / College / Department official email address. Emails sent through personal / non-official email addresses and emails sent to any other address other than will be ignored. Annexure A is available at is www.kls.ac.in and also attached herewith this brochure.
4.2 The teams shall then send -
   (a) the printed copy of AnnexureA and
   (b) a non-refundable participation fee of Rs. 3000/- (Rupees Three Thousand only) in the form of a Demand Draft drawn in favour of KIIT, and payable at as per Bhubaneswar(clearly stating the name of the institution at the reverse side of the demand draft), addressed to:
   Mrs. Pratiti Nayak
   Faculty Convenor
   4th KIIT University National Moot Court Competition, 2016
   School of Law, KIIT University, Patia
   Bhubaneswar, Odisha. PIN – 751024
   such to be received by the 10th of August, 2016.
   4.3 On receipt of the printed copy of Annexure-A and the Demand Draft, the team shall be formally registered as a participant for the event, and a team code shall be generated and a confirmatory email, together with the team code, shall be sent to such team on the 13th of August, 2016. Thereafter, for all further correspondence with the organizers of the Competition and otherwise, all the registered teams shall identify and refer themselves using the allotted team code only.
4.4 The teams shall also send a soft copy of Annexure – B (Travel details), duly filled, to kiitmoot2016@kls.ac.in by the 5th of September, 2016. Annexure – B is available at www.kls.ac.in and is also attached herewith this Brochure.

5. MEMORIALS
1. All memorials submitted for all purposes of the Competition shall strictly adhere to the rules as stated below.
2. Teams have to prepare memorials for both the sides, i.e., Petitioners and Respondents.
5.3 The registered teams shall submit the pdf copy of their memorial for both sides by email to kiitmoot2016@kls.ac.in by 23:59 hours of the 5th of September, 2016 and shall send twelve printed copies (for each side) of such memorials by the 8th of September, 2016, addressed to:
   Mrs. Pratiti Nayak
   Faculty Convenor
   4th KIIT University National Moot Court
   Competition, 2016
   School of Law, KIIT University, Patia
   Bhubaneswar, Odisha. PIN – 751024
5.4 When sending the memorials by email in pdf format, please name the file pertaining to the memorial for the respondent as R accompanied by the team code and the file pertaining to the memorial for the petitioner as P accompanied by the team code. For example, for a team assigned a code of 100, the pdf file for the respondent should be named as 'R100' and the pdf file for the petitioner should be named as 'P100'.

THE 4TH KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2016
5. The cover page of the memorials sent, for both the soft and printed copies, shall clearly mention the word “P” for memorials on behalf of the Petitioner, and the word “R” for memorials on behalf of the Respondent, followed by the team code for both the instances, such being clearly inscribed on the top right hand corner of the cover page of the memorial for the Petitioners and Respondents. For example, if a team had been assigned a code of 100, the memorials sent by such team shall have “P100” and “R100” clearly marked on the top right hand corner of the cover page of the respective memorials. The teams should not disclose the identity of their institution anywhere on the memorial. Violation of this rule will result in immediate disqualification.

6. The memorials have to be submitted on A4 size paper and must contain the following sections in the order as stated below:
   - Cover Page;
   - Table of Contents;
   - Index of Authorities;
   - Statement of Jurisdiction;
   - Statement of Facts;
   - Statement of Issues;
   - Summary of Arguments;
   - Arguments Advanced; and
   - Prayer.
Non-compliance with above criteria shall result in penalty of two marks per missing section.

5.7 The memorials must be printed in Times New Roman font with 12 font size and with 1.5 line spacing. The footnotes must be in Times New Roman font with 10 font size and with 1.0 line spacing. The memorials should have a margin measuring one inch on all sides of each page. To conserve paper, teams may print their memorials on both sides of the A4 sheet and submit accordingly.

5.8 The ‘Arguments Advanced’ section should not exceed 15 pages.

5.9 The memorials as a whole should not exceed 30 pages including the cover page.

10. The numbering should be on the bottom-centre of each page.

11. The cover page of the petitioner’s memorial shall be printed on Blue colour A4 size paper, and the cover page of the respondent’s memorial shall be printed on Red colour A4 size paper.

12. The teams have to use the citation method as stated in the 19th edition of the Harvard Blue Book, for citation throughout the memorial.

5.13 There shall be no speaking footnotes in the memorial.

5.14 The maximum scores for the memorials shall be 100 marks. The memorials shall be evaluated on the following criteria:
- Knowledge of Law and Facts: 30 Marks
- Proper and Articulate Analysis: 30 Marks
- Extent and Use of Research: 20 Marks
- Clarity and Organization: 10 Marks
- Grammar and Style: 10 Marks

6. PRELIMINARY ROUND
6.1 To determine the order of participation in the preliminary rounds of the event, all the registered and present teams shall participate in a draw of lots to be conducted for that purpose. Such draw of lots shall take place on the 16th of September, 2016, immediately after the inaugural function. The exchange of memorials and orientation of the teams shall be conducted immediately after the draw of lots.

6.2 For the preliminary rounds, every team shall argue twice: once for petitioner and once for respondent (Prelims-I and Prelims-II round).

6.3 No two teams shall face each other more than once in the preliminary rounds.

6.4 In determining the scores in the preliminary rounds, memorial scores will be added to the oral scores.

7. QUARTER-FINALS, SEMI-FINALS AND FINALS
7.1 The top eight teams of the preliminary rounds shall qualify for the Quarter-final rounds.

7.2 From the Quarter final rounds, winning teams from each round shall proceed to the subsequent stages of the Competition on a knock-out basis, with the memorial scores of the teams taken into consideration at all stages, as per the formula stated below -
- (i) Quarter Finals = Preliminary Round Oral Scores + Memorial Scores
- (ii) Semi-Finals = Quarter Final Round Oral Scores + Memorial Scores
- (iii) Finals = Semi-Final Round Oral Scores + Memorial Scores

In case of a tie between two teams in any of the rounds, memorial scores will be taken into consideration to break the tie. In case the tie still subsists, the oral score of the best speaker of each team will be considered to break the tie. If the tie continues, the oral score of the other speaker of the team will be considered to break the tie. In case of further subsistence of the tie, the result will be decided by draw of lots.

8. RESULTS
8.1 The results shall be announced shortly after each round.
8.2 The results of the final round shall be announced at the valedictory and award ceremony, to be held on the 18th September, 2016.

9. ORAL ROUNDS
9.1 Each team will get a total of 60 minutes during the preliminary rounds (30 minutes for Prelims I & 30 minutes for Prelims II) to present their case. For the Quarter final rounds, each team will be permitted a total time of 45 minutes, while for the Semi-final and Final rounds, each team will be permitted a total time of 60 minutes. The time stated above includes the time required for rebuttal and sur-rebuttal.
9.2 Any team exceeding the time limit stated above shall be penalised with a deduction of one mark for every two minutes exceeded.
9.3 The division of time per speaker is left to the discretion of the team subject to a minimum of 10 minutes per speaker.
9.4 The oral arguments should be confined to the issues presented in the memorial.
9.5 The researcher shall be present with the speakers during the oral rounds.
9.6 Passing of notes to the speaker by the researcher is allowed.
9.7 Maximum scores for the oral rounds shall be 100 points per speaker, and which shall be judged on the following criteria:
Knowledge of Law : 20 Points
Application of Law to Facts : 20 Points
Ingenuity and Ability to Answer : 20 Points
Style, Poise, Courtesy and Demeanour : 20 Points
Time Management : 10 Points
Organization : 10 Points

10. SCOUTING
10.1 For the preliminary rounds, apart from the participant teams for any round, the members of the other teams are not allowed to observe such round. Scouting is strictly prohibited and scouting by any team shall entail instant disqualification.

11. AWARDS
1. Winning Team Award - The winning team will receive a trophy and a cash prize of Rs. 1, 00,000/- (Rupees One Lacs Only).
2. First Runners-Up Team Award – The first runners up team will receive a trophy and a cash prize of Rs. 50, 000/- (Rupees Fifty Thousand Only).
3. Second Runners up Team Award - The second runners up team will receive a trophy and a cash prize of Rs. 25, 000/- (Rupees Twenty Five Thousand Only).
4. Best Student Advocate/Counsel - The Best Student Advocate/Counsel will receive a trophy and cash prize of Rs. 10,000/- (Rupees Ten Thousand Only).
5. Best Memorial - The team submitting the best Memorial will receive a trophy and a cash prize of Rs. 10,000/- (Rupees Ten Thousand Only).
6. SCC Online and Eastern Book Company, as the exclusive knowledge partners for the Competition, have declared the following awards amounting to more than Rupees Two Lacs in equivalent value, in the form of SCC Online Web Edition- Special Student Access Card for each of the individual members of the winning team; SCC Online Web Edition- Special Student Access Card for each of the individual members of the first runners up team; SCC Online Web Edition- Special Student Access Card for the Best Mooter (male), Best Mooter(female) and the Best Memorial.

12. ANONYMITY
The student counsels shall not state their names during the oral rounds and must use the assigned team code for all correspondence. All team members must refrain from disclosing the identity of their institutions at any time and in any manner during the entire Competition. Non-compliance with this Rule will result in immediate disqualification of the team.

13. FINALITY OF DECISIONS
The decision of the judges with regard to the outcome of the rounds shall be final. For all purposes and in any dispute, the decision of the Chairman of the Organizing Committee of the Competition shall be final and binding.

14. ACCOMMODATION, FOOD AND TRANSPORT
The University shall provide for pick-up from the airport/ railway station / bus terminus for all teams participating in the Competition, along with accommodation and food in the University premises from the afternoon of the 15th of September, 2016, till the forenoon of the 19th of September, 2016. Participating teams must make their own arrangements for their departure from the University premises.

15. CLARIFICATIONS
Any query pertaining to the Moot Problem should be sent to kitmoot2016@klsac.in by the 18th of August, 2016. Questions submitted / clarification sought through any other means other than by e-mail shall not be entertained. A consolidated response for all questions and clarifications shall be emailed to all the participating teams on the 30th of August, 2016.
## TIMELINE FOR THE COMPETITION

<table>
<thead>
<tr>
<th>SL. NO.</th>
<th>PARTICULARS/EVENTS</th>
<th>DATE/TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Last Date of Registration (Soft Copy) along with Scanned Copy of the demand draft (Rs. 3000)</td>
<td>5th August, 2016</td>
</tr>
<tr>
<td>2.</td>
<td>Last Date of Registration (Hard Copy) along with the original demand draft</td>
<td>10th August, 2016</td>
</tr>
<tr>
<td>3.</td>
<td>Confirmation of registration/participation, together with allotment of team-codes.</td>
<td>13th August 2016</td>
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<tr>
<td>4.</td>
<td>Clarification for Moot Problem (Last Date)</td>
<td>18th August, 2016</td>
</tr>
<tr>
<td>6.</td>
<td>Memorial submission (Soft copy)</td>
<td>05th September, 2016</td>
</tr>
<tr>
<td>7.</td>
<td>Memorial submission (Hard copy) (For Competition) &amp; Travel Plan (Hard Copy of Annexure “B”)</td>
<td>08th September, 2016</td>
</tr>
<tr>
<td>8.</td>
<td>Inaugural function/draw of lots/exchange of memorials, etc (09:30 AM to 12:30 PM)</td>
<td>16th September, 2016</td>
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<tr>
<td></td>
<td>Preliminary (Round-1) (03:00 PM to 06:30 PM)</td>
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<tr>
<td>9.</td>
<td>Preliminary (Round-2) (09:00 AM to 12:30 PM)</td>
<td>17th September, 2016</td>
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<td>Quarter-Final Rounds (03:00 PM to 05:30 PM)</td>
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<tr>
<td>10.</td>
<td>Semi-Finals (09:00 AM to 01:00 PM)</td>
<td>18th September, 2016</td>
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<tr>
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<td>Final Round (02:30 PM to 04:30 PM)</td>
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<tr>
<td>11.</td>
<td>Prize Distribution/Valedictory Function (04:30 PM to 06:30 PM)</td>
<td>18th September, 2016</td>
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MOOT PROBLEM

Drafted By
J. Sagar Associates

Goodenough Limited ("Goodenough") is a public limited company registered under the laws of the Republic of Islandia. Goodenough has been listed on various stock exchanges since 1997 and has more than 250,000 public shareholders as on date.

Mr. James McLinden was appointed as Whole-Time Director ("WTD") of Goodenough for a period of 5 years with effect from 12th February 2013 by an ordinary resolution passed by the shareholders of Goodenough at the Annual General Meeting held on 25th March 2013. The appointment was validly made as per the requirements of the Companies Act 1956 ("1956 Act").

On 1st April 2013, the Companies Act 2013 ("2013 Act") was brought into force. Section 196 of 2013 Act inter alia provided that:

"196. [...] (3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —
is below the age of twenty-one years or has attained the age of seventy years:
Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;
is an undischarged insolvent or has at any time been adjudged as an insolvent;
has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or
has at any time been convicted by a court of an offence and sentenced for a period of more than six months."

On 15th April 2013, Mr. McLinden attained the age 70 years.

On 12th May 2016, Mr. Christopher Ryland (a shareholder of Goodenough) filed a Suit before the High Court of the State of Winchester challenging the continuation of Mr. McLinden as WTD under Section 196(3)(a) of the 2013 Act on account of his having attained the age of 70 years. By the Suit, Mr. Ryland sought a declaration that the continuation of Mr. McLinden as WTD of Goodenough from 15th April 2013 was illegal and void ab-initio. The Suit was filed along with a Notice of Motion of the same date seeking urgent interim relief restraining Mr. McLinden from functioning or continuing to exercise powers as WTD, pending disposal of the Suit.

In response to the Notice of Motion, Mr. McLinden filed a detailed reply dated 19th May 2016, denying that Section 196(3)(a) of the 2013 Act could have the effect of invalidating his appointment for a period of 5 years w.e.f. 12th February 2013, which was validly made as per the provisions of the 1956 Act. Mr. McLinden also raised a preliminary issue under Section 9A of the Code of Civil Procedure 1908 ("CPC") (as inserted by the State of Winchester) challenging the maintainability of the Suit on account of being barred by the law of limitation and contended that the said issue ought to be decided first before the Notice of Motion could be heard.

By an order dated 13th June 2016, a learned Single Judge of the High Court of Essos held that that the word ‘jurisdiction’ used in section 9A of the CPC did not include issues of limitation as an issue of limitation was not one that pertained to the inherent jurisdiction of the High Court. Accordingly, the learned Single Judge concluded that the issue of limitation was not required to be decided as a preliminary issue under Section 9A of the CPC and proceeded to decide the Notice of Motion on merits.

On the merits, the Single Judge held that the language of the Section 196(3)(a) of the 2013 Act is plain, simple and unambiguous and does not admit of more than one meaning, namely that after the commencement of the 2013 Act, no person who has suffered one of the disqualifications therein, can be appointed or continued in appointment as a WTD. The learned Single Judge drew a distinction between an
eligibility condition and disqualification, to conclude that where an additional eligibility criterion is added after the initial appointment, a vested right is created and the new eligibility criterion could not be applied retrospectively; however, where an additional disqualification is added, the disqualification would operate as an immediate discontinuation of the WTD. According to the Single Judge, Section 196(3)(a) of the 2013 Act prima facie operated as an immediate statutory disqualification of a WTD upon attaining the age of 70 years. Accordingly, the learned Single Judge allowed the Notice of Motion and issued an interim injunction restraining Mr. McLinden from continuing as WTD of Goodenough pending disposal of the Suit.

The judgment of the learned Single Judge was challenged by Mr. McLinden in an appeal before a Division Bench of the High Court of Winchester. By an order dated 28th July 2016, the Hon’ble Division Bench upheld the order of the Single Judge and dismissed the appeal. Being aggrieved, Mr. McLinden challenged the judgments of the High Court of Winchester before the Hon’ble Supreme Court of Islandia (the apex court of Islandia), by way of a special leave petition.

In the petition for special leave to appeal, Mr. McLinden contended that the issue of limitation which was a facet of jurisdiction ought to have been decided by the High Court as a preliminary issue in accordance with Section 9A CPC (as inserted by the State of Winchester). On the merits of the matter, it was submitted that Section 196(3)(a) of the 2013 Act cannot operate retrospectively to terminate an existing appointment of a WTD, particularly when vested rights are in place. Further, it was contended that the requirements of Section 196(3)(a) of the 2013 Act are only required to be fulfilled at the time of appointment of a WTD, and as such, Section 196(3)(a) does not operate to interrupt the appointment of any WTD. It was also argued that a purposive interpretation of Section 196(3) would show that the word “continue” in the said Section would apply only in context of clauses (b), (c) and (d) of Section 196(3) and not Section 196(3)(a). It was urged that attaining the age of 70 years could not be equated with persons who have been adjudged undischarged insolvents, failed to make payment to creditors, or convicted by a court of an offence and sentenced for a period of more than 6 months. All these arguments had also been raised before the lower courts but had been rejected.

On 6th August 2016, after hearing the parties, the Hon’ble Supreme Court issued the following directions: UPON hearing counsel, the Court made the following

ORDER

Leave granted.

The following issues arise for consideration in the present proceedings:

Whether the issue of limitation was required to be heard as a preliminary issue in terms of Section 9A of the Code of Civil Procedure?

Whether Section 196(3)(a) of the 2013 Act operates as an immediate disqualification on the appointment and continuation of a person as Whole-Time Director or whether the same is an eligibility condition which only applies at the time of appointment, and whether there is any distinction between the two?

Whether the age limit of 70 years under Section 196(3)(a) of the Companies Act 2013, can apply to a Whole-Time Director validly appointed prior to 01.04.2013?

Whether the word “continue” used in Section 196 (3) ought to be construed in context of 193(3) (b), (c) and (d) alone and not 196(3) (a).

The laws of the Republic of India shall be applicable to the present proceedings, including the Companies Act 1956, Companies Act 2013, and the Code of Civil Procedure 1908.

Parties to file their Written Submissions / Memorandums by 8th of September, 2016. List for hearing during 16th to 18th of September, 2016.
ORGANISING COMMITTEE

**Chief Patron**
Dr. Achyuta Samanta
Hon’ble Founder, KIIT & KISS

**Patrons**
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Chancellor
KIIT University

Prof. (Dr.) P.P. Mathur
Vice Chancellor
KIIT University

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Director, School of Law, KIIT University

**Vice Chairman**
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Professor, School of Law, KIIT University

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Mrs. Pratiti Nayak

**Faculty Co-Convenor**
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Mr. Nimain Charan Swain
Mrs. Ipsita Das
Mr. Sudipto De Sarkar
Ms. Diya Sarkar
Dr. Shreya Chatterjee
Mrs. Parimita Dash
Dr. Puranjoy Ghosh
Mr. Amarendra Pattanaik

**Student Committee**
Ms. Ashna Siddiqui
Student Convenor
Mob : +919778992522
ABOUT KISS

Started with just 125 students way back in 1993 by eminent educational and social entrepreneur Achyuta Samanta, Kalinga Institute of Social Sciences (KISS), Bhubaneswar has today grown into the largest free Residential Tribal Institute of the world. KISS provides food, accommodation, health care and all other basic necessities of life to 25,000 tribal children of the poorest of the poor background absolutely free to pursue education from Kindergarten to Post Graduation (K.G. to P.G.). Students are enrolled from 62 tribes of Odisha, including 13 Primitive Tribes.

The course curriculum designed for KISS is unique, for it incorporates vocational training with formal education, thus making a child educated and self-sufficient. Achievements of KISS students in examinations and other academic events speak volumes about high quality of education at the institute. KISS students have been achieving cent percent pass record in annual examination for Class 7th, Class 10th and +2 Arts, Science and Commerce for consecutive ten years. Students of KISS have been representing State in the prestigious National Children's Science Congress every year since 2005. They have not only been qualifying in reputed institutions like NITs and IITs on the basis of their own merit, but have also been selected by top corporate names like Accenture, TCS and Wipro in campus placement. Students of KISS have proved their mettle not only in academics, but also in sports and cultural activities. Highpoints of these achievements have been their becoming Champion in Under 13 International Rugby Tournament held in Manchester, U.K. (19th June 2011) and participation of KISS students in Asian Games at Guanzhou (China) and Commonwealth Games (New Delhi). More details are available at www.kiss.ac.in

KISS is the finest expression of KIIT's social commitment. It plans to educate 2,00,000 tribal children during the next decade.