



## 1<sup>st</sup> AVTAR SINGH MEMORIAL INTER COLLEGIATE MOOT COURT COMPETITION

### Moot Proposition

1. Westros is a commonwealth country with a democratic form of government. It has a sovereign, socialist, secular character envisaged in its Constitution. It has a federal form of government and an independent judiciary.
2. In May 2014, The Humanist Party of Westros (hereinafter referred as HPW) won a sweeping victory in the parliamentary elections. Subsequently it also won several assembly elections taking almost 60% of the country under its rule. Since the formation of the government there have been a lot of contentions and divisions that ruling party is trying to paralyze the organs of the government, especially Judiciary through its policies and actions by inducting persons who subscribe with the ideology of party at positions of eminence.
3. The Central government brought 99<sup>th</sup> Constitutional amendment, which decisively altered the erstwhile Collegium system for the appointment of judges of SC and HC and transfer of judges of HC. However, a bench headed by then Chief Justice of Westros (hereinafter referred as CJW) Justice Davos declared it unconstitutional. He, writing for majority held that “inclusion of Union Minister in charge of law and the two eminent person in the body responsible for appointment and transfer of judges infringes the independence of judiciary as well as separation of power, it was meant to replace the two – decade old collegium system of judges.”.
4. In another episode, the recommendation of collegiums to elevate Justice Stannis was sent back by the government which is a rare practice, which is seen as an interference with the independence of Judiciary. After the retirement of Justice Davos on 21<sup>st</sup> August 2016 next senior most Judge Justice Anthony Stark became CJW. He has given several landmark Judgment in his career which promotes individual liberty and freedom. However, he is alleged by the opposition parties to be a sympathizer of the ruling party and only a puppet in the hands of the government.
5. Mr. Tyrin Lannister, the National President of HPW is the prime accused among others in the 2012 fake encounter case of Jacob. At that time, Lannister was Cabinet minister in the State of Saintfield. In 2013, the apex court ordered that the trial of the case be shifted to another state and be heard by the same judge from start to finish in order to maintain the integrity of trial. Judge Joffrey was known to be a very strict and dutiful judge, therefore, he was assigned the case. During the trial of the case he kept Mr. Tyrin in custody for a day and also reprimanded him for seeking exemption from appearing before the court. He had duly completed the proceeding and reserved his judgement for 26 November 2016 directing him to be present at the time of judgment. On 25 November 2016 he was transferred to Session Court of Harrenhal and the case was assigned to Judge Eddard for the fresh trial.
6. Judge Joffrey after joining Session Court Harrenhal wrote a letter to the CJW stating his grievance against his transfer and mentioned about the threat calls and bribery offers made to him to give “positive decision” in the case. Joffrey before leaving the Session court of Gotham met Eddard and told him about the gravity of matter and threat calls he received. After 3

months on 24<sup>th</sup> February, 2016 Joffrey was elevated to the High Court of Harrenhal on the recommendation of Collegium.

7. Eddard gave exemption to Tyrin from appearing in hearings on the condition that if he is in the State on the date of hearing he needs to be present in the court. On 25<sup>th</sup> October 2017, Judge Eddard was reported dead at Eyrie, where he along with his fellow judges Jaime, Robert and Grey had gone to attend wedding of Judge Cersei's daughter. According to his friends, they stayed at Ninja Inn where at night Eddard complained of chest pain. He was rushed to Frankfurt hospital where ECG and medication was done and then he was referred to Queensmarry hospital for specialized cardiac care where he was declared dead on arrival and the event was followed by inquest post mortem which stated cardiac arrest as probable reason of death and after completion of formalities his body was taken to Westerland, his village, near Trident where the cremation took place and the same was attended by Justice Joffrey.
8. The family of Judge Eddard rose suspicion upon his death thereafter, his father Mr. Peter approached the police after seven days for lodging FIR but they were paid no heed. Ultimately, he went to the NGO named Civil Reform Activism, which was famous for aiding people against corrupt action and helping people in seeking justice. They gave an application to Superintendent of Police, Eyrie and then an FIR was lodged. The case headed by Eddard was assigned to Judge Wayne who acquitted Tyrin within 5 days. Police investigated the death of Justice Eddard and within 3 days, it completed its investigation and presented a final report before the Session Court and whereby Magistrate ordered for closure of case as there was no material evidence to support that death of Eddard was unnatural. [ Annexure 1 & 2]
9. Seeing all the happenings, Joffrey wrote a second letter to the CJW demanding probe in the case of Eddard and drew attention towards the political threat on lower judiciary and acquittal of Tyrin. At the same time Bar Council of Westros filed a petition in the High Court of Harrenhal demanding fresh investigation in the case of Eddard. The HC considering seriousness of the matter ordered for the formation of Special Investigation Team which was headed by Retd. Justice Samwell.
10. On 31<sup>st</sup> November 2017, a writ petition was filed by Jon, Brother of Jacob before the Harrenhal High Court questioning the role of Administrative Committee in transferring the case of Jacob's fake encounter case against the Supreme Court order of 2012. The case was heard by single bench of High Court presided over by Justice Joffery. Against this, he wrote another letter to CJW stating the violation of rule of transfer and persistent arbitrariness in the courts. No reply came from CJW against his letters. In his judgment, he criticized the administrative style and conduct of Chief Justice of High Court and Chief Justice of Westros and accused them for committing fraud on the Constitutional values. He wrote that "An honest man who was performing his duty rising above the monetary offers and life threats was stabbed by his own fellows."
11. In the petition, it has been alleged on the testimony of Judge Eddard's family that there was blood on the collar and neck, when the dead body was brought to Westerland home. His belt was twisted in opposite direction and the pant clip was broken. But in the postmortem report, under the category described as condition of the clothes, a hand-written entry read "simply dry" [Annexure 3]. According to the post mortem report, date and time of the death was 25<sup>th</sup> October, 2017, 6:15 AM. But, according to the family, they started receiving calls around 5 AM. The authenticity of report of the ECG conducted at Frankfurt Hospital has also been contested. The time stamp reads 24<sup>th</sup> October, 2017 a full day prior to Judge Eddard's death but hospital claimed that anomaly was due to a technical glitch.

12. According to affidavit filed by Judge Jaime and Judge Robert, the suite in Ninja Inn was booked in the name of Judge Grey and they all stayed in the same room. However, each room at inn had only two beds. Apparently, on the same day there were 3 unoccupied suites available there. According to them, when Judge Eddard Samuel claimed of Chest pain, Judge Robert called Judge Bren posted in Eyrie and he came to Ninja Inn and they all took Judge Eddard to Frankfurt Hospital in his car. On the other hand, the family claimed that caller who informed them of Eddard's death told that they took him in auto rickshaw.
13. The petitioner has also pointed out that the post-mortem report has been signed by Gardon Cook, alleged cousin of Judge Eddard, while he had none in Eyrie. The mobile phone was never recovered by Police and was given to the family by Cook in which all call records and messages were erased.
14. While re-investigating the case, Mr. Peter told the Investigating Officer about the threat calls and bribery offers made to his son. Mrs. Catelyn, wife of Eddard told that he used to stay tensed and was not willing to go to Eyrie and that he called her at 10 p.m. on the day of his death. Judge Jaime told that they all stayed at Ninja Inn in the same room after coming back from Wedding. At around 1 a.m. Eddard went to washroom and came back complaining about Chest pain, Judge Robert told Investigating Officer that they quickly rushed him to hospital. Sansa, sister of Eddard complained that body of Eddard when arrived was accompanied by no one and that there was blood stains on his shirt and during post mortem no blood oozes out of body. Mr. Peter also complained about initial investigation being completed within 3 days. At many instances Judges Jaime, Robert, Grey did not cooperate with the SIT stating the workload on them.
15. To maintain the sanctity of the Judiciary, the CJW discharged Joffrey from his administrative work and issued a contempt notice against him and asked him to appear before Court. Joffrey boycotted all the proceeding and gave no reply to any notice. On 25<sup>th</sup> April 2018, SC passed a judgement stating "Each Chief Justice performs his role by consensus and consultation after taking into account various factors including individual judges, their interest and abilities. Justice Joffrey constituted the grossest and gravest actions of contempt of court; he has turned the judicial system into a laughing stock and the judgement passed by him is against the principles of Natural Justice. He, therefore is liable to be punished for his above action, with imprisonment of six months. Ordered accordingly."
16. On 28<sup>th</sup> April, 2018 two senior most judges of SC called for a press conference whereby they showed their agony towards the arbitrary acts of CJW stating that "there have been instances where cases having far reaching consequences for the nation have been assigned by the CJW selectively to the benches of "of his preference" excluding the senior judges." [Annexure 4]. They rose concerns about issues which has adversely affected overall functioning of justice delivery system and also raised substantial question over conviction of Justice Joffrey by releasing the letter which he wrote to the CJW and showed suspicion on death of Justice Eddard. [ Annexure 5]
17. Following all the events, a public-spirited advocate Mr. Banning filed a PIL in the SC questioning administrative style of CJW and mysterious death of Eddard. Simultaneously, Joffrey filed a review of judgement made in his case. The matter of discussion in all petitions being same and involving interconnected question of law, the SC transferred the Eddard's case from HC to itself and asked the SIT to submit to them all the reports. Clubbing up all the cases the Hon'ble Supreme Court decided to adjudicate on the following issues:
  - i. Whether CJW is the master of Roaster.

- ii. Whether reprobe in the death of Judge Eddard is required.
- iii. Whether decision in contempt proceedings against Judge Joffery, be reviewed.

**Note: Laws of Westros are analogous to the laws of India**



My son, Eddard had come to Eyrie to attend a wedding on 24.10.17. At about 5:00 a.m. on 25/10.17, we were informed by J. Grey that he died of heart attack. In light of following circumstances, I find his death suspicious.

i. The Frankfurt Hospital where he is alleged to have been admitted does not have entry of his admission, instead one Edward's name is entered. The ECG report shows date of one day before. Also, they have no record of medication given to him.

ii. According to the call we received from Judge Grey, he complained of Chest pain at around 01:00 am, while the entry in hospital is of 02:08 a.m., which is just 15 minutes away from the inn, they were staying at.

iii. The body delivered at our home had blood stains and injury marks.

iv. The post mortem report has shown presence of Bupropion in his body, which he was never prescribed earlier.

Therefore, I seek your help and request you to register the case and investigate in the matter.

9. Action Taken: Registered the Case and took up the investigation

FIR read over to the Complainant /Informant, admitted to be correctly recorded and a copy given to the Complainant /Informant free of cost.

R.O.A.C.

10. Signature/ Thumb impression

of the Complainant/ Informant

Sd/-

Name: Peter Samuel

Signature of Officer in charge , Police Station

Sd/-

Name: David Frawley

Rank: PSI

## ANNEXURE 2

### Final Investigation Report

(under Section 173 of Code of Criminal Procedure, 1973)

Court: IN THE COURT OF SESSIONS AT EYERIE

1. District:	Eyerie
P.S.:	Koga
Year:	2017
C.R. No.:	0321
Date:	24.10.17
2. Final Report/ Charge sheet no.	054321
3. Date	13.11.17
4. Sections of Law:	Sections 120B, 302, 304A of I.P.C., 1860
5. Type of Final Report Charge sheet:	Final Report
6. If Final Report Unoccurred/ false/ Mistake of fact/Mistake of law/Non-Cognizable /Civil Nature	Mistake of Fact
7.If Charge-sheeted: Original / Supplementary	N/A
8. Name of Investigating Officer:	PSI David Frawley
9. Name of the Complainant/ Informant	Peter Eddard
10. Details of Properties /Articles/ Documents Recovered/seized during the Investigation and relied upon	Nil
11. Particulars of accused person charge sheeted:	N/A
12. Particulars of accused persons not charge sheeted:	Nil
13. (i) Particulars of witnesses examined:	As per the list enclosed
(ii) List of documents:	Post mortem report of J. Eddard
(iii) List of material objects: Nil	
14. If FIR is false, action taken:	N/A
15. Result of laboratory analysis:	N/A
16. Brief facts of the case:	
There was a First Information Report registered in Koga police station of Eyerie District on the 10.11.17, this FIR No. 65/2014 was lodged against unknown raising suspicion in the death of J. Eddard on 25.10.17. The complainant was Mr. Peter Eddard who is the father of J. Eddard. The Officer-In-Charge of the police station took up the investigation and forthwith initiated the process of investigation.	
The investigation has clarified that it was purely a natural death owing to coronary artery deficiency as reported in the post mortem report.	
Therefore, IO recommends the case to be closed.	
17. If notice is issued to concerned persons:	N/A

Dated:  
18. Date of sending the notice:

N/A  
N/A

Endorsed by the Senior Officer:  
Sd/-  
Name: API Nicole Sebastian  
Designation: API

Officer Presenting the final report  
Sd/-

Name: PSI David Frawley  
Designation: PSI

**Annexure 3**

**Department of Forensic Medicine,**

**Woodsworth Government Medical College,**

Post Mortem Report No :23 . Ref. No. 765

Body Identified by: (Relative of deceased): Gardon Cook

Date and Hour of Receipt of Inquest Paper and Dead Body: 25/10/17, 7:15 a.m.

Date and Hour of Starting Autopsy: 25/10/17, 7:35 a.m.

Date and Hour of Concluding Autopsy: 25/10/17, 8:30 a.m.

Body Brought and Identified by:

P.C. .... No. .... I.O. ....

P.C. .... No. .... P.S. ....

**SCHEDULE OF OBSERVATION**

**A- GENERAL**

1. Name : Eddard Samuel S/o Peter Samuel

Age 48 years                      Sex : Male

2. Address:Village: Westerland near Trident

3. Height: 5'10''      Weight: 70 kg

4. Special Identification Features( in an Unknown Body): N/A

5. External Appearance: Normal

6. Injuries: Head Small Cut

**B. HEAD AND NECK**

1. Skull, brain, meninges and cerebral vessels: None

2. Orbital, Nasal and aural cavities: None

3. Mouth, tongue: None

4. Neck, larynx, thyroid and other neck structures:None

**C-CHEST (THORAX)**

1. Ribs and Chest Wall:Normal

2. Diaphragm: Normal

3. Oesophagus: Normal

4. Trachea and Bronchi: Normal
5. Pleural Cavities: Normal
6. Lungs: Normal
7. Heart and Pericardial sac: enlarged
8. Blood Vessels: Artery clogged with cholesterol deposits

#### **D-ABDOMEN**

1. Abdominal wall: Normal
2. Peritoneal cavity: Normal
3. Stomach and content: undigested food, Bupropion
4. Small Intestine:undigested food
5. Large intestine, vermiform appendix, mesentery and pancreas: Normal
6. Liver, gall bladder, biliary passages: Normal
7. Spleen: Normal
8. Kidney, renal pelvis, ureters: Normal
9. Pelvic wall: Normal
10. Urinary bladder and urethra: Normal
11. Genital organs: Normal

#### **E- SPINAL COLUMN**

1. Spinal column and spinal cord (the spinal cord need only be opened and the cord examined if special indications are present):.nil

**E- ADDITIONAL REMARKS:** none

#### **G-SPECIMEN COLLECTED FOR TOXICOLOGICAL ANALYSIS**

##### **SI. Nature of specimen Preserved**

1. Stomach with contents:
2. Small intestine and contents
3. Sample of Liver
4. Kidneys(one half of each)
5. Sample of Blood
6. Preservative Used

##### **H- Items handed over to Police**

1. Post Mortem Report
2. Inquest Papers- Total No. 2
3. Dead Body
4. Simply dry Clothes and Bupropion tablets

**I- TIME SINCE DEATH:1 hour 15 minutes**

**J- OPINION: The cause of death to the best of my knowledge and Belief is coronary artery deficiency**

**On 25.10.17 at 06:15**

**Signature: Sd/-**

**Name and Designation: Dr. Rey D'souza**

Department of Forensic Medicine and Toxicology,  
Woodsworth Government Medical College,

\

## ANNEXURE 4

Dear Chief Justice,

From the date of establishment of the three chartered High Courts certain traditions and conventions in the judicial administration have been well established. The traditions were embraced by this Court which came into existence almost a century after the establishment of the chartered High Courts. These traditions have their roots in the Anglo-Saxon jurisprudence and practice.

One of the well settled principles is that the Chief Justice is the master of the roster with a privilege to determine the roster, necessary in multi-numbered courts for an orderly transaction of business and appropriate arrangements with respect to matters with which member/bench of this Court (as the case may be) is required to deal with which case or class of cases is to be made. The convention of recognising the privilege of the Chief Justice to form the roster and assign cases to different numbers/benches of the Court is a convention devised for a disciplined and efficient transaction of business of the Court but not a recognition of any superior authority, legal or factual of the Chief Justice over his colleagues. It is too well settled in the jurisprudence of the country that the Chief Justice is only the first amongst the equals – nothing more or nothing less. In the matter of the determination of the roster there are well-settled and time honoured conventions guiding the Chief Justice, be it the conventions dealing with the strength of the bench which is required to deal with a particular case or the composition thereof.

A necessary corollary to the above mentioned principle is the members of any multi-numbered judicial body, including this court, would not arrogate to themselves the authority to deal with and pronounce upon matters which ought to be heard by appropriate benches, both composition wise with due regard to the roster fixed.

Any departures from the above two rules would not only lead to unpleasant and undesirable consequences of creating doubt in the body politic about the integrity of the institution. Not to talk about the chaos that would result from such departure.

We are sorry to say that off late the twin rules mentioned above have not been strictly adhered to. There have been instances where case having far-reaching consequences for the Nation and the institution had been assigned by the Chief Justices of this court selectively to the benches “of their preference” without any rational basis for such assignment. This must be guarded against at all costs.

We are not mentioning details only to avoid embarrassing the institution but note that such departures have already damaged the image of this institution to some extent.

A Bench of Judges of this Court decided In Hon’ble Justice Joffrey [(2018)]. In that decision, two of us observed that there is a need to revisit the process of appointment and transfer of judges and to set up a mechanism for corrective measures other than impeachment. No observation was made by any of the learned judges with regard to the memorandum of procedure.

Any issue with regard to the Memorandum of Procedure should be discussed in the Chief Justices Conference and by the full court. Such a matter of grave importance if at all required to be taken on the judicial side should be dealt with by none other than a Constitution bench.

The above development must be viewed with serious concern. The Hon'ble Chief Justice of India is duty bound to rectify the situation and take appropriate remedial measures after a full discussion with the other members of the Collegium and at a later stage, if required, with other Hon'ble Judges of this court.

With kind regards,

Justice Luwin

Justice Benjamin

## ANNEXURE 5

Dear Chief Justice,

It is with great anguish and concern that I have thought it proper to address this letter to you so as to highlight certain judicial orders passed by this Court which has adversely affected the overall functioning of the justice delivery system.

As per the Westros Constitutional Law the judiciary is the highest branch in our Constitutional set up, as such other branches such as the Legislature, the Executive including the general public cannot be involved with judiciary orders and administrative methods. As such the judiciary is purely an independent body, so taking advantage of this many Judges are tarnishing the image of the judiciary for their own personal gains.

As mentioned earlier in my previous letter how I was being tortured, bribed and threatened to give a favourable and positive Judgment in Jacob's encounter case and a day judgment I was transferred by the CJ of Winterfall. In the Writ Petition Before me there is a substantial question regarding a judge's transfer and as per law a judge before being transferred is given due time to complete his case which I was deprived of and CJ is responsible for this as he has acted arbitrary in support of HPI.

The news of death of Eddard too is related to this case. I made him aware about the calls and bribe and now here he is found dead with grave negligence on part of Police in his investigation. Within five days proceedings against Tyrin was completed and he acquitted is a matter of suspicion.

Judiciary seems no more independent especially the lower judiciary to maintain the basic structure of our constitution you quickly need to take cognizance of all these events and happenings.

Mahatma Gandhi said that the earth provides enough to satisfy every man's needs, but not enough to satisfy every man's greed. The conflict needs to be mediated upon. Institutions that fail to mediate between private wealth and public power run the risk of becoming dysfunctional and trapped by wealthy interests. Corruption is one 19 symptom of such failure whereby personal interests overcome public goals.

With kind regard,  
Justice Joffrey