



भगवते न्याय देशाय च

Jogesh Chandra Chaudhuri Law College Students' Union

Organizes

2nd B. R. Ambedkar National Moot Court Competition, 2018

ABOUT THE COMPETITION

Jogesh Chandra Chaudhuri Law College believes that the impeccability of the diction of a law student weighs more in comparison to the valuation of depictions by ink and paper. Keeping that morality as precedent we, the Students' Union organize an annual Moot Court Competition to bring the competence of all the colleges nationwide under a roof.

Our institution, bearing its name before the eminent personality Jogesh Chandra Chaudhuri was constructed by Late Ranadeb Chaudhuri and his family members in 1970 in affiliation with the Calcutta University. The institution is being graced by the contributions of its alumnus Smt. Mamata Banerjee, Hon'ble Chief Minister of West Bengal. The institution is fortunate to have been able to contribute to the legal realm of the country through the works of its notable alumni- Hon'ble Justice Bhaskar Bhattacharya, Hon'ble Justice Pranab Kumar Chatterjee, Justice Jayanta Kumar Biswas, Justice Ashok Kumar Dasadhikary and Justice Mir Dara Seko.

The **1st edition** of the moot court competition was organized in the year 2017 where 16 colleges consisting 3 local colleges of the State, 12 national and private colleges from the other States and 1 college from the neighbouring country- Bangladesh. Upon the acute colloquy of a panel of 9 judges for the preliminary and semi-final rounds 4 teams succeeded in securing their positions for the Final Round. The Final day of the competition was judged by Hon'ble Justice Acting Chief Nishita Mhatre, Mr. Kishore Datta, Learned Advocate General of West Bengal and Sri Kalyan Bandhophadyay, Learned Senior Advocate & Hon'ble Member of Parliament (Lok Sabha) and ennobled one team as the Winner after an hour of nail biting argumentation between both the teams. Therefore, for the **2nd edition** we are stoked for provided bigger podium for the worthy competition among the institutions nationwide. In addition to that commemorating the beginning of the **150 Years of Mahatma Gandhi's Birth Anniversary**, we have decided to award a special category prize for overall performance, i. e. **'The Barrister who changed the World'**.

SCHEDULE ON THE SLATE

Last Date for Registration of the Teams of the Institutions	Wednesday, 7 th November, 2018 (23:59 Hours IST)
Last Date for submission of soft copy of Memorial	Monday, 12 th November, 2018 (23:59 Hours IST)

Date of Competition	15 th , 16 th & 17 th November, 2018
Valediction and Awards Distribution	Saturday, 17 th November, 2018 (Time to be declared)

NB: *The Organizing Committee might change the dates if and only if due to occurrence of any serious and critical emergencies.*

CANONS & RULES

1. DATE: The 2nd B. R. Ambedkar National Moot Court Competition, 2018 which has been organized by Jogesh Chandra Chaudhuri Law College, Students' Union will be held **between 15th and 17th November 2018.**

2. VENUE: All the participants shall report at Jogesh Chandra Chaudhuri Law College (33, Prince Anwar Shah Road, Kolkata- 700 033, Landmark: near Navina Cinema Hall)

3. ELIGIBILITY: Students pursuing the three or five year courses of the LL.B. Degree in the academic year 2018-2019 from any University is eligible to participate.

4. TEAM COMPOSITION: Any Institution shall be entitled to send only one team to the Competition. The participating team shall comprise of a three members, two as the Speakers and one as the Researcher. Any other additional member of such team shall not be permitted for any such participation in the Competition. Any alteration/change in the names of the team members shall be intimated in a written application to the Organizing Committee via e-mail at **jcclcsu.moot.18@gmail.com** addressing to the Organizing Committee positively by **Wednesday, 7th November, 2018 (23:59 Hours IST).**

5. LANGUAGE: The Official Language of the Competition shall be English

6. DRESS CODE: The participating team members shall be dressed in black and white formals for the Competition.

Men: Shirt and Trousers, Coat and Tie

Women: Shirt and Trousers, Salwar-kameez, kurti or knee-length skirts.

7. REGISTRATION:

7.1. The Teams of the Institutions shall register themselves by sending a scanned copy of the filled Registration Form via e-mail to **jcclcsu.moot.18@gmail.com** by **Wednesday, 7th November, 2018 (23:59 Hours IST).** The hard copy of the duly

filled Registration Form shall be submitted on the date of competition 15th November, 2018 to the Organizing Committee upon arrival at the College Campus at 8:30 AM

7.2. No registrations will be entertained after **Wednesday, 7th November, 2018 (23:59 Hours IST)** and thus will be cancelled by the Organizing College.

8. REGISTRATION FEE:

8.1. The Registration fee is Rs. 300/ team.

8.2. Participating Teams will make the payment on the date of the competition **15th November, 2018** to the Organizing Committee upon arrival at the College Campus at 8:30 AM.

9. COMPETITION FORMAT: The competition is structured as the following format: (1) Qualifying Rounds and (2) Final Round

10. MEMORIALS

10.1. Teams have to prepare memorials for both the sides- Petitioner and Respondent.

10.2. The teams shall send one soft copy of both the Memorials (in PDF format) by mailing at **jcclcsu.moot.18@gmail.com** with subject as "Memorials of College Name....."

10.3. The Memorials for both the parties – Petitioner and Respondent shall be sent in only two different files and not multiple files. Violation of this will lead to disqualification of such team.

10.4. Two hard copies for each side of the Memorial must be submitted on **15th November, 2018** to the Organizers at the time of submitting Registration Form and fee at **8:30 A.M.**

10.5. The hard copies must be identical to the soft copy.

10.6. Violation to this rule would result in disqualification of such team.

11. FORMAT OF MEMORIALS:

11.1. The Memorials shall consist of only and one and only the following mentioned sections:

Cover Page

Table of Contents

List of Abbreviations

Index of Authorities

Statement of Jurisdiction

List of Dates

Statement of Facts (not exceeding 4 pages)

Arguments Presented

Summary of Arguments (not exceeding 3 pages)

Arguments Advanced (not exceeding 20 pages)

Prayer

11.2. The Cover page of the Memorials must contain:

- i. The Code allotted to the Participating Colleges, by the Organizers, shall be mentioned at the upper right corner of the Cover Page.
- ii. The name of the Competition: (2nd B. R. Ambedkar National Moot Court Competition, 2018)
- iii. The name of the Court
- iv. Name of parties and their status in the middle of the page
- v. Memorial Filed on Behalf of just below the name of the parties
- vi. The word 'Petitioner' must be written and printed in RED, Font size- 14, Bold
- vii. The word 'Respondent' must be written and printed in PURPLE, Font size- 14, Bold
- viii. The relevant legal provisions under which it is filed on the lower right corner

11.3. The Memorials must be printed on A4 size paper, with the following mandatory clauses:

- i. Font: Bookman Old Style
- ii. Font Size: 12
- iii. Font Color: Black
- iv. Line Spacing: 1.5
- v. Alignment: Justified
- vi. Margins: 1.5 inch on each side
- vii. Footnotes (if required): Bookman Old Style, Font size: 10, single line spacing
- viii. Pagination: upper center of each page

11.4. Scores of the Memorials shall be 100 marks. The evaluation of following criteria is as follows:

- i. Knowledge of Law and Fact: 30 Marks
- ii. Proper and articulate analysis: 20 Marks
- iii. Extent and Use of Research: 15 Marks
- iv. Presentation and Organization: 15 Mark
- v. Novelty of arguments: 10 marks

vi. Grammar and Style: 10 Marks

11.5. The Memorial shall be in spiral binding or hard bound.

12. ORAL SUBMISSIONS:

12.1. The time split between the Speakers must be communicated to the Court Bailiff before the commencement of each round.

12.2. Team scores will not be revealed after every round. Teams must not make any attempts to gather such information, until notified.

12.3. No electronic gadgets can be used while proceeding

12.4. Evaluation shall be done in following ways: -

i. Knowledge of Law: 20 Marks

ii. Application of Law to Facts: 20 Marks

iii. Ingenuity and Ability to Answer Questions: 20 Marks

iv. Style, Poise, Courtesy, Demeanor: 20 Marks

v. Time Management and Organization: 10 Marks

vi. Effective Rebuttals: 10 Marks

13. PRELIMINARY ROUND:

13.1. Time limit: 10 minutes for each team. This shall include submissions of both the Speakers from the team

13.2. Rebuttals: 5 minutes for each team. No sure-rebuttals shall be allowed.

14. FINAL ROUND:

14.1. Final Round will be between two qualified teams

14.2. Time limit: 20 minutes for each team. This shall include submissions of both the Speakers from the team

14.3. Rebuttals: 5 minutes for each team. Sur-rebuttals may be allowed.

15. RESEARCHER'S TEST:

15.1. The Test shall take place on the College Campus before the commencement of Oral Submissions.

15.2. The test will only be given by the Researcher of the team.

15.3. A speaker can take the Researcher Test only in the absence of the Researcher.

15.4. Evaluation will be on the basis of:

i. Grammar: 10 marks

ii. Representation: 5 marks

iii. Neatness: 5 marks

iv. Knowledge of Law: 10 marks

16. SCOUTING: No member of any team will be permitted to hear the arguments in any court room in which that team is not one of the contesting teams whilst that team is still in the competition. Scouting by any team in any manner shall result in instant disqualification.

17. AWARDS:

Winning Team: Medals, certificates and a gift

1st Runner up: Medals and certificates

2nd Runner up: Medals and certificates Best Memorial: Medal and certificate Best

Speaker: Medal and certificate Best Researcher: Medal and certificate

18. ANONIMITY:

18.1. The teams will be provided with a code through which they will only disclose to the Organizing Committee at the time of submission of memorials and registration form and fee.

18.2. The teams shall in no way disclose their identities during the entire competition to any other institution. Violation to this will lead to disqualification.

18.3. The decision of the Organizing Committee will be final.

19. MISCELLANEOUS:

19.1. The decision of judges will be final and binding on all the participants with regard to the outcome of the entire round.

19.2. Clarifications (if any) regarding Moot Competition will be sought through e-mail: jcclesu.moot.18@gmail.com.

19.3. The organizing committee shall have the sole discretion to assess penalties or disqualify teams for failing in abiding by any of the following rules.

19.4. Registration fee paid are non-refundable.

19.5. The Organizing Committee reserves the right to amend, alter, vary or change, in any manner whatsoever, the Rules governing the Competition, which would be communicated to the teams within a reasonable period of time

19.6. All the decisions of the Organizing Committee regarding Rule interpretations are final.

19.7. Accommodation and food shall be provided by the Organizers.

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DISCLAIMER REGARDING MOOT PROBLEM

The facts and circumstances as made out in the Moot Problem of the 2nd B. R. Ambedkar National Moot Court Competition does not resemble the facts of any living and/or adjudicated litigation. Further, the characters created in the veil of the facts and circumstances of the Moot Problem do not resemble any person dead or alive. If any resemblance is so found the same is pure coincidence and not intentional. However, if any person finds that similar set of facts and circumstances prevails in any institution of higher education, it is the moral and fundamental responsibility / duty of the said person to take steps in accordance with law to eradicate illegality and under-qualification from the said institution at once. The instant Moot Problem is framed to ensure that the Law Students gets an academic approach and takes advantage of Clinical Method of learning of implementation of laws. It is essential that a Law Student get an opportunity to look into a legal problem with a 360-degree view.

MOOT PROBLEM

1. In 1956, the **University Regulatory Commission Act** was enacted. Under Section 4 of the Act of 1956, the University Regulatory Commission (URC) was established. With the passage of time, despite education being in the Concurrent List of the Constitution, the said Commission turned out to be the supreme superintending body as far as determining policy and standard of higher education in India is concerned. The URC for the purpose of maintaining standard of higher education introduced the **URC Regulations, 1991** laying down, "Minimum Qualification for Appointment of Teachers in Universities & Colleges". The said URC Regulations came into force on 19th September 1991. Subsequently, on 24th December 1998; the said Commission revised the URC Regulations, 1991 and published the **URC Regulations, 1998** on "Revision of Pay Scales, Minimum Qualification for Appointment of Teachers in Universities, Colleges & other measures for the Maintenance of Standards". The said URC Regulations, enforced time to time, laid down the minimum requisite qualifications for appointment of principal and teachers of colleges/institutions of higher education.
2. Schedule I of the URC (Qualifications required of a person to be appointed to the teaching staff of the University and institutions affiliated to it) Regulations, 1991 prescribes the 'Minimum qualifications for the posts of Professors, Readers and Lecturers in Subjects other than Fine Arts, Management, Engineering and Technology in Universities or Colleges for appointment of persons through open

advertisement and for promotion' of persons as Reader and placement in Selection Grade Lecturer and Senior Scale Lecturer'.

“Principal: *Master’s Degree with at least 55% of marks or equivalent grade in the relevant subject from an Indian University or an equivalent degree from a foreign University, Doctor of Philosophy (Ph.D.) or equivalent qualification and total experience of 10 years of teaching / research in Universities / Colleges and other institutions of higher education.*

Lecturer (in Arts, Sciences, Social Sciences, Commerce, Education, Physical Education, Foreign Language and Law): *Good academic record with at least 55% marks or an equivalent grade at Master's degree level in the relevant subject from an Indian University or an equivalent degree from a foreign University. Candidates besides fulfilling the above qualifications should have cleared the eligibility test for lecturers conducted by URC, CSIR or similar test accredited by the URC.”*

3. The URC Regulations for Revision of Pay Scales, Minimum Qualification for Appointment of Teachers in Universities, Colleges & other measures for the Maintenance of Standards, 1998 amended the requisite qualification for appointment of Principal and Lecturers in Colleges and the same is as follows:

“Principal (Professor-Grade): *A Master’s Degree with at least 55% of marks or equivalent in grade of B in 7-point scale with latter grades, O, A, B, C, D, E and F, Doctor of Philosophy (Ph.D.) or equivalent qualification and total experience of 15 years of teaching / research in Universities / Colleges and other institutions of higher education.*

Principal (Reader-Grade): *A Master’s Degree with at least 55% of marks or equivalent in grade of B in 7-point scale with latter grades, O, A, B, C, D, E and F, Doctor of Philosophy (Ph.D.) or equivalent qualification and total experience of 10 years of teaching / research in Universities / Colleges and other institutions of higher education.*

Lecturer (in Arts, Sciences, Social Sciences, Commerce, Education, Physical Education, Foreign Language and Law): *Good academic record with at least 55% marks or, an equivalent in grade of B in 7-point scale with latter grades, O, A, B, C, D, E and F at the Master’s degree level, in the relevant subject from an Indian University or an equivalent degree from a foreign University. Besides fulfilling the*

above qualifications, candidates should have cleared the eligibility test (NET) for lecturers conducted by URC, CSIR or similar test accredited by the URC.”

4. In March, 2000, the URC further introduced the “URC Regulations on Minimum Qualifications for Appointment and Career Advancement of Lecturers, Readers and Professors in the Universities and Colleges” and the same was circulated to all concerned vide Memo dated 4th April 2000. In terms of the said **URC Regulations, 2000**, the qualification for appointment of Principal remain unchanged, however the following words were added with the requisite qualifications for Lecturer in Law, besides other subjects:

“Note: National Eligibility Test (NET) shall remain the compulsory requirement for appointment as Lecturer even for candidates having Doctor of Philosophy (Ph.D.) Degree. However, the candidate who has completed M.Phil. Degree or have submitted Doctor of Philosophy (Ph.D.) thesis in the concerned subject up to 31st December, 1993, are exempted from appearing in the NET examination.”

5. The State of West Land is a province within the territory of the Union of India where in the Constitution of India as well as all other laws, thereto, are enforced. Hon’ble Supreme Court of India has every jurisdiction under the Constitution over the State of West Land identically to that of any State within the Union. Calipattu is the capital of the State of West Land and the Hon’ble High Court at Calipattu is the High Court for the State of West Land established under Chapter V of the **Constitution of India**.

6. In 1978, the Government of West Land for making provisions for regular payment of salaries to persons employed in West Land and matters connected therewith, enacted the **West Land Non-Government Colleges (Payment of Salaries) Act, 1978**. By the virtue of the said Act of 1978, the Government of West Land was empowered to extend financial aid to Non-Government Colleges and bring them under the “Salary Packet Scheme”. The ‘University of Calipattu’ is the oldest University in West Land and has been reconstituted under the **Calipattu University Act, 1979**. In terms of the University Act of 1979, the **Calipattu University First Statutes, 1979** came in effect laying down certain rules and regulations, specifically relating to the administration and governance of the Colleges affiliated under the University of Calipattu.

7. Janaki Chaturvedi Memorial Law College (herein after referred to as the said College) was a Private-Trust Managed Law College. Since establishment, the said College was affiliated under the University of Calipattu. The Secretary of the said Governing Body was Sri Jasbeer Chaturvedi, Bar-at-Law. The Governing Body of the said Private-Trust Managed College, on 7th June 1998, created certain substantive administrative and teaching posts, viz. one whole-time Principal and five whole-time teachers in law. Subsequently, an advertisement was published in 'The Newspaper' on 23rd June 1998 inviting applications for filling up the said declared vacancies. In the said advertisement dated 23rd June 1998, the required qualifications laid down for the post of Principal and whole-time Teachers in Law is as follows:

"I. For Principal – Consistently good academic record preferably with an LL.M. Degree of a recognized University with B+.

Age 55 years and below.

At least 10 years legal experience with adequate command over English language.

Salary: Rs. 4,500 per month plus usual College DA.

II. For Teachers – Good academic record preferably with an LL.M. Degree of a recognized University with B+.

Age 35 years and below.

At least 5 years legal experience with adequate command over English language.

Salary: Rs. 3,500 per month plus usual College DA.

Applications with name and address and other details to reach the Secretary of the College at 34, M. G. Road, Calipattu, PIN: C00 019, latest by 4th July, 1998."

8. Pursuant to the said advertisement dated 23rd June 1998, the Selection Committee of the College, on 16th July 1998, recommended the name of Dr. Mainak Bharadhwaj for the post of Principal whereas the name of Smt. Sugandha (Bharadhwaj) Ghorpade and one Sri Suresh Rai were recommended for the post of Whole-time Lecturers in Law. In terms of the said recommendation by the Selection Committee, Sri Jasbeer Chaturvedi, the then Secretary of the Governing Body, issued appointment letters dated 21st July 1998 to the recommended Principal and teachers. Accordingly, Dr. Mainak Bharadhwaj, Smt. Sugandha (Bharadhwaj) Ghorpade and Sri Suresh Rai joined the said College on and from 1st August 1998 on probation for a year.

9. Subsequently, on 7th February 2000, the University of Calipattu granted permanent affiliation to the said College and accordingly, on 8th February 2000, the Governing Body of the Private-Trust Managed College resolved to come out from the private control. In view of the said decision, the Governing Body of the said College was reconstituted in terms of Statute No. 91 of the University First Statutes, 1979. Upon reconstitution of the Governing Body, Dr. Mainak Bharadhwaj, being the Principal of the said College, became its ex-officio Secretary whereas Smt. Sugandha (Bharadhwaj) Ghorpade, along with three other teachers, became Members of the Governing Body as Teacher Representatives in the Governing Body. Smt. Sugandha (Bharadhwaj) Ghorpade was given the additional responsibility of being the Teacher-in-Charge, Students' Activities & Secretary of the Faculty Council. In short, after Principal Dr. Mainak Bharadhwaj, Smt. Sugandha (Bharadhwaj) Ghorpade was second in command being the Senior Most Teacher of the College.

Meanwhile, Dr. Mainak Bharadhwaj and Smt. Sugandha (Bharadhwaj) Ghorpade completed the probation period and their service was put on confirmation. However, Sri Suresh Rai had resigned from the College on 15th June 2000. It is noteworthy to mention that, the Governing Body of the said College, while appointing and/or confirming the service of Dr. Mainak Bharadhwaj in the post of Principal took into consideration the admitted fact that Dr. Mainak Bharadhwaj had taught as a Part-time Lecturer (Law & Commerce) in few Colleges for past 16 years, i.e. since 1982. It is also noteworthy to mention that while confirming the service of Dr. Mainak Bharadhwaj, the Governing Body accorded him with the URC Scale of Pay for Principal (Professor-Grade).

10. Before moving forward the Curriculum Vitae of Dr. Mainak Bharadhwaj and Dr. Sugandha (Bharadhwaj) Ghorpade is given herein below:

Dr. Mainak Bharadhwaj

- i. Passed B.Com. (Hons.) in 1974 with 40.50% marks.
- ii. Passed M.Com. in 1976 with 45.5%.
- iii. Passed LLB (3 Years) in 1979 with 49% marks.
- iv. Passed B.Ed. in 1983
- v. Registered for Ph.D. in Commerce in July, 1994.
- vi. Awarded Ph.D. in Commerce on 3rd December 1997.
- vii. Passed LLM (2 Years) in the year 1998 with 63% marks.
- viii. Neither qualified NET/SET/SLET in Law nor in Commerce till the date of retirement i.e. 31st May 2014.

- ix. Served as an Assistant Teacher of Bijoysangh Vidyamandir (Government Aided Senior Secondary School) between 12th March 1981 and 31st July 1998 and joined the said College as the Principal on 1st August 1998.
- x. Served as Part-time Lecturer of various Colleges, including the said College, between 1982 and 31st July 1998. Taught Commerce and Law.

Dr. Sugandha (Bharadhwaj) Ghorpade

- i. Passed LLB (5 Years) in 1996 with 46.93% marks.
 - ii. Passed LLM (2 Years) on 29th July 1998 with 57.12% marks (with grace)
 - iii. Joined the said College on 1st August 1998.
 - iv. Awarded Ph.D. in Law on 5th October 2008.
 - v. On and from, 3rd July 2015 has joined as the Principal of the said College.
 - vi. Neither qualified NET/SET/SLET in Law nor in any other subject till date.
11. Upon reconstitution of the Governing Body in terms of University First Statutes, 1979, the Governing Body on 23rd March 2000 applied before the Government of West Land praying for benefits under the Act of 1978. Considering the said application, the Government of West Land, vide G. O. dated 12th January 2001, extended the benefit of the 'Salary Packet Scheme', to the *'Principal, Teachers and Librarian/Assistant Librarian having U. R. C. prescribed qualifications and drawing U. R. C. Scales of Pay on the date of the said order'*, with effect from 1st April 2000. By virtue of the benefit extended to the said College, vide G. O. dated 12th January 2001, the service of Dr. Mainak Bharadhwaj in the post of Principal (Professor Grade) and Smt. Sugandha (Bharadhwaj) Ghorpade in the post of Whole-time Lecturer in Law, amongst others, were regularized by the Government of West Land with effect from 1st April 2000, further extending notional benefit to them with effect from their dates of appointment, being 1st August 1998.
12. Despite various allegations and discontentment against Dr. Mainak Bharadhwaj, he retired from the post of Principal (Professor Grade) on 31st May 2014. Thereafter Dr. Sugandha (Bharadhwaj) Ghorpade took charge as the Teacher-in-Charge / Acting Principal of the College. Meanwhile, the West Land College Service Commission invited applications from Teachers, who has 15 years of teaching experience, for filling up vacancy in the post of Principal in various Colleges in West Land. Accordingly, Dr. Sugandha (Bharadhwaj) Ghorpade applied and the West Land College Service Commission, ignoring the fact that Dr. Sugandha (Bharadhwaj) Ghorpade has never cleared NET/SET/SLET in Law,

recommended her name for appointment in the post of Principal of the said College and pursuant to such recommendation Dr. Sugandha (Bharadhwaj) Ghorpade was appointed as Principal of the said College, on and from 3rd July 2015, by the Governing Body. At the material point of time, Sri Jasbeer Chaturvedi was the President of the Governing Body, formed in terms of University First Statute, 1979, whereas Dr. Sugandha (Bharadhwaj) Ghorpade was the ex-officio Secretary of the Governing Body. It is pertinent to mention that after the Governing Body of the said College was constituted in terms of the University First Statute, 1979, Sri Jasbeer Chaturvedi had been the Member of the statutorily formed Governing Body as a Donor Member and it was only in 2010 when Sri Jasbeer Chaturvedi was elected the President of the Governing Body of the said College.

13. Nevertheless, the difficulty arose when a English daily, namely "The Newspaper" published an article, on 5th September 2018, under the headline, "AFTER FRAUD DOCTORS AND ADVOCATES, IT'S NOW FRAUD TEACHERS – HAPPY TEACHERS DAY". In the said news article, it was stated that a magnum fraud has been committed relating to faculty appointment in Janaki Chaturvedi Memorial Law College wherein under qualified persons have been imparting legal education for past two decades or so. Apart from the allegations of personal corruption and under-qualification leveled against Dr. Mainak Bharadhwaj and Dr. Sugandha (Bharadhwaj) Ghorpade, the news article stated that since the constitution of the Governing Body of the said College in terms of the Calipattu University First Statute, 1979, Sri Prashant Surana, an influential political leader, had been the President of the Governing Body. It was alleged that the entire scam of illegally appointing and extending Government's Salary benefit to under-qualified persons draws its source much deep within and had taken place during the presidency tenure of Sri Prashant Surana, since deceased. The entire State of West Land was shocked to see that the responsibility of imparting legal education in the State of West Land was in such terrible hands.

14. Pursuant to the said news article, in September, 2018, Advocate Arun Kumar Nagpal, a social worker and also an ex-student of the said College, after sufficient research and field work moved the Hon'ble High Court at Calipattu inter alia primarily praying for as follows:

- i. Appointment of Dr. Sugandha (Bharadhwaj) Ghorpade as Principal of the said College w. e. f. 3rd July 2015, to be declared void and to be set aside along with the recommendation of the West Land College Service Commission.

- ii. Appointment (w. e. f. 1st August 1998) and regularization (w. e. f. 1st April 2000 in terms of G. O. dated 12th January 2001) of Dr. Sugandha (Bharadhwaj) Ghorpade as a Whole-time Lecturer in Law in the said College to be declared void and to set aside all consequential effects thereto.
- iii. To declare that Dr. Mainak Bharadhwaj, who retired from service on 31st May 2014, did not possess minimum qualification to be appointed and regularized in post of the Principal of the College, that to in Professor-Grade, and hence his appointment is to be declared void and to set aside all consequential effects thereto.
- iv. To issue appropriate orders so that the salary illegally drawn by Dr. Mainak Bharadhwaj and Dr. Sugandha (Bharadhwaj) Ghorpade be recovered and utilized for the benefit and progress of the said College.
- v. To direct an impartial agency to investigate the entire matter in order to identify the source and path of the fraud and thereafter to take necessary steps permitted under the criminal law of the land.

The case made out against Dr. Mainak Bharadhwaj and Dr. Sugandha (Bharadhwaj) Ghorpade, is as follows:

A. **Dr. Mainak Bharadhwaj:** It was alleged that Dr. Mainak Bharadhwaj had been working as an Assistant Teacher in Bijoysangh Vidyamandir (Senior Secondary School) between 12th March 1981 and 31st July 1998. The said School was under the control of Government of West Land and the service of Dr. Mainak Bharadhwaj was permanent and substantive in nature. However, on 1st August 1998, without having even a day's experience of substantive teaching in any institution of Higher Education, Dr. Mainak Bharadhwaj was appointed as Principal of the said College that too in Professor-Grade for which at least 15 years of teaching experience in an institution of Higher Education, as laid down in U.R.C regulation, was required. It was also alleged that Dr. Mainak Bharadhwaj scored only 45.5% in M.Com. (in 1976) and was awarded Ph.D. in Commerce on 3rd December 1997 whereas he obtained Masters of Law (LLM) only in early 1998 with 63% marks. Hence, if Dr. Mainak Bharadhwaj had to be considered academically fit for the post of Principal, then he should be allowed to carry out 'degree shopping'. It was also contended that the entire fraud on the Government of West Land was committed at the juncture the said College was brought under the ambit of the G. O. dated 12th January 2001. At that relevant point of time, Dr. Mainak Bharadhwaj was the Principal and ex-officio Secretary of the Governing Body of the said College and had taken active part in forwarding his and Dr. Sugandha (Bharadhwaj) Ghorpade's

names for regularization, despite knowing that they were not eligible, and committed a tailor-made fraud on the Government thereupon and illegally acquired the benefits of the Act of 1978.

B. Dr. Sugandha (Bharadhwaj) Ghorpade: Similar allegation of under-qualification was leveled against Dr. Sugandha (Bharadhwaj) Ghorpade. It was stated before the Hon'ble High Court that for being appointed as a teacher (Lecturer) in Law in a College in 1998 clearing NET/SET/SLET in Law was essential. However, till the date of moving the Hon'ble High Court, Dr. Sugandha (Bharadhwaj) Ghorpade had neither cleared NET/SET/SLET in Law nor was falling under any exempted category. Hence, the appointment of Dr. Sugandha (Bharadhwaj) Ghorpade as a Whole-time Teacher (Lecturer) in the said College with effect from 1st August 1998 was illegal. It was also contended that pursuant to the same, the benefit of the G. O. dated 12th January 2001 extended to Dr. Sugandha (Bharadhwaj) Ghorpade, w.e.f. 1st April 2000, was also void. Furthermore, the recommendation made by the West Land College Service Commission, in 2015, in favor of Dr. Sugandha (Bharadhwaj) Ghorpade and subsequently appointment given to her in the post of Principal of the said College is also liable to be set aside as the West Land College Service Commission recommended her name considering her illegally acquired teaching experience in the said College since 1st August 1998. It was also contended that the entire fraud on the Government of West Land was committed at the juncture when the said College was brought under the ambit of G. O. dated 12th January 2001. At that relevant point of time, Dr. Sugandha (Bharadhwaj) Ghorpade was a Member of the Governing Body of the said College and had taken active part in ensuring that her name is forwarded for regularization in terms of the G. O. dated 12th January 2001, despite knowing that she is not eligible. In short, Dr. Sugandha (Bharadhwaj) Ghorpade also played an active role in committing a tailor-made fraud not only on the Government but also the students of the said College, once in the year 2001 and once again in year 2015.

15. The said matter was taken up by the Division Bench of the Hon'ble Chief Justice of the High Court at Calipattu where in the Hon'ble Chief Justice, upon considering the grave issue of illegally appointed under qualified faculty that too in the field of legal education, directed that a Larger Bench of the Hon'ble High Court shall hear the said matter. Accordingly, the Larger Bench of the Hon'ble High Court at Calipattu, presided by the Hon'ble Chief Justice, heard the matter

on several occasions and thereafter Their Lordships were pleased to fix it for final hearing on 17th November, 2018.

Additional Facts: The State Level Eligibility Test (SLET) or State Eligibility Test (SET), duly accredited by the URC, for 'Law' was introduced in West Land from the year 2016. Hence, NET in Law was the only available eligibility test for persons interested in pursuing profession as Law Teachers in the State of West Land.

Suggested Reference Reading:

- i. University Grants Commission Act, 1956
- ii. UGC Regulations, 1991
- iii. UGC Regulations, 1998
- iv. UGC Regulations, 2000
- v. West Bengal Non-Government Colleges (Payment of Salaries) Act, 1978
- vi. West Bengal College Teachers (Security of Service) Act, 1975
- vii. Calcutta University Act, 1979
- viii. Calcutta University First Statutes, 1979
- ix. Indian Penal Code, 1860
- x. Calcutta High Court Appellate Side Writ Rules including rules for PIL.

General Instructions:

- Prepare a detailed list of dates covering all minute facts.
- Frame the questions of law in reference to the facts.
- Frame the prayers of the petition in terms of the Writ Laws and provide legal support to the prayers.
- Refer to the basic structure pertaining to the intent of moving the Hon'ble High Court as specified in Paragraph 14 of the Moot Problem.
- The Statutes, rules and regulations mentioned under the heading 'Reference Reading' may be relied upon and cited, in toto, before the Bench along with any other law / laws / rule / rules the Mooters deem fit and proper.

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