

7TH KIIT NATIONAL MOOT COURT COMPETITION

ABOUT KIIT



KIIT Deemed to be 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 30,000 students from all across the nation and 50 other countries through more than 100 academic programmes like MBA, Engineering, Law, Bio-Technology, Rural Management etc., in more than 23 world class campuses involving more than 2500 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. The University has alliance with over 175 globally reputed foreign institutions. KIIT is the first self-financing institution in Odisha and eastern India to enter the Times Higher Education World University Rankings 2019 and QS World University Rankings. It has also been ranked 2nd among self-financing institutions of the country by the Ministry of HRD, Govt. of India in Atal Ranking of Institutions on Innovation Achievements (ARIIA). More detail are available at kiit.ac.in.

ABOUT SCHOOL OF LAW

The School of Law, an integral part of KIIT Deemed to be 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 more than 1200 students from all across the country. We are one of the few law schools in India to provide conjoint degrees in the form of B.A,LL.B / B.B.A,LL.B / B.Sc,L.LB, and one of the very few Law schools providing for separate honours specializations involving eight separate papers each in Business Law, Intellectual Property Law, Taxation Law, Constitutional Law, Crime and Criminology and International Law. In 2019, KIIT Law School was placed 12th rank among Indian Law Universities and Colleges ranked by National Institution Ranking Framework (NIRF), Govt. of India. More details are available at law.kiit.ac.in.



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DIRECTOR'S MESSAGE



Dear Students,

Greetings from School of Law, KIIT Deemed to be University, Bhubaneswar.

It gives us immense pleasure to announce the 7th edition of The KIIT National Moot Court Competition, hosted and organized by the School of Law, KIIT Deemed to be 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 1st 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, drafted the problem for the event. In the third, fourth, fifth and sixth edition of the event held in 2015, 2016, 2017 & 2018, Jyoti Sagar Associates, Mumbai, one of the top law firms of the country partnered with us and drafted the problem for the said editions. Encouraged by the overwhelming response of the past competitions, we are proud to declare that we will be hosting the 7th KIIT National Moot Court Competition, 2019, at KIIT Deemed to be University campus. Mr. Zerick Dastur, partner, ZD Advocates & Solicitors has extended his gracious support to us by drafting the problem for this competition, and we expect it 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

A handwritten signature in black ink, appearing to read 'N.K. Chakrabarti', written over a horizontal line.

Prof. (Dr.) N.K. Chakrabarti
Director,
School of Law,
KIIT Deemed to be 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, 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.



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ABOUT 2ND KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2014

The 2nd edition of the competition upheld the essentials of the first moot which were challenging mootings, 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 known law firms, Nishith Desai Associates, drafted the problems for the competition, while SCC Online and Lawtopus 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 mootings 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.



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ABOUT 3RD KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2015

The 3rd National Moot Court Competition was privy to an unprecedented 46 teams from across India who came here to argue before the erudite judges, at a shot to earn prizes worth over 2 Lacs. The teams' experienced great hospitality by the young, dynamic and dedicated Organising Committee which received praises from everyone. The event took place from 18th September - 20th September, 2015 and marked the beginning of our association with J Sagar Associates. Mr. Zerick Dastur, partner at JSA, gave the inaugural address by stressing upon the importance of mooting skills for law students. The Preliminary Rounds witnessed 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 comprising of sitting High Court and Lower 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, Bengaluru and Campus Law Centre, Delhi University entered the finals.



The Final was chaired by Justice Altamas Kabir, former Chief Justice of India along with a panel consisting of Justice Ruma Pal, former Judge of Supreme Court; Justice. Indira Banerjee, Judge, Calcutta High Court; Mr. U.K. Chowdhary, Sr. Advocate, Supreme Court and Mr. Somasekhar Sundaresan, Partner at J Sagar Associates.

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ABOUT 4TH KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2016

In continuation of our collaboration with J Sagar Associates, the 4th edition of the national moot court competition saw a participation of 56 teams from all across the country. Various national law schools as well as top private university battled it out for the ultimate prize money of 2 lakhs rupees. The event was organised from 16th to 18th September, 2016. The inaugural address was given by Hon'ble Justice (Retd) A. S. Naidu enlightening the people about the core values of a lawyer and professional perseverance. After two intense preliminary rounds 8 teams proceeded to the quarter-finals and then 4 teams to the semi-finals, where they were put in front of a panel consisting of sitting High Court Judges, Senior Counsels, Senior Partners & Associates from leading law firms of the country. The finals saw the teams of School of Law, Christ University & School of Excellence in Law, Chennai pitted against each other.



The Final was chaired by a panel consisting of Hon'ble Justice Pinaki Chandra Ghosh, (Judge, Supreme Court of India), Hon'ble Justice Sanjib Banerjee, (Judge, Calcutta High Court), Justice (Retd.) S.J. Mukhopyadhay (Chairman, National Company Law Appellate Tribunal) and Mr. Somasekhar Sundaresan, Senior Partner at J Sagar Associates.



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ABOUT 5TH KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2017

After the unprecedented success of the previous edition, the 5th edition was a much anticipated event among the mooting fraternity and it did not disappoint. The problem, drafted by J Sagar Associates, was based on competition law, which was well received by participants and the judges. The preliminary rounds saw teams putting up a tough fight against each other. However, only 8 teams could proceed into the quarter final rounds. During the Quarter-final Rounds, the teams argued in the presence of Senior Advocates and academicians, who tested the erudite participants to the limit. However, the only the unfathomable 4 could proceed to the Semi-Final Rounds where sitting High Court Judges tested their resolve. Ultimately Amity Law School Delhi and Christ University were pitted against each other for the Finals.



The Bench for the Final Round consisted of Justice P.C. Ghose, Retired Judge, Supreme Court of India, Justice S.J Mukhopadhyaya, Retired Judge, Supreme Court of India, Justice A.S Naidu, Retired Judge, High Court of Odisha, Mr. Pramod Kumar Singh, Advisor, Competition Commission of India, Mr. Ashish Ahuja, Partner, Wadia Ghandy & amp Co., Mumbai, Mr. Sujit Ghosh, Partner, Advaita Legal, Mumbai and Mrs. Shabnum Kajiji, Senior Advocate, Wadia Ghandy & Co., Mumbai.

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ABOUT 6TH KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2018

Enthused by the success of five magnanimous events, the 6th KIIT National Moot Court Competition was yet another feather on the cap for the KLSMCS. The subject matter of the competition revolved around Arbitration, and the problem, drafted impeccably by J. Sagar Associates, Mumbai, intrigued many young minds and the event saw a participation of 44 teams from all across the country. The judge-pool for the preliminary and qualifying rounds of the competition saw practitioners from High Courts across the country, academicians from the best law schools and senior associates from top firms like Wadia Ghandy & Co., Dua Associates, and many more. The teams put their best foot forward, and the top 8 qualified for the quarter finals. The quality of the research and drafting skills of the teams, in addition to the speaking skills was appreciated by leading names in the profession. After a panel of 5 judges testing their knowledge, resolve and demeanor, the teams representing SASTRA University and Rizvi Law College came out as finalists for the competition.



The Finals Bench comprised Hon'ble Justice Sanjib Banerjee, Justice, Calcutta High Court, Mr. Surya Prasad Misra, Advocate General, Cuttack High Court, Mr. Somasekhar Sundaresan, Sr. Advocate, Bombay High Court, Mr. Siddharth Datta, Sr. Partner, Shardul Amarchand Mangaldas and Prof. Indrajit Dube, Professor, Rajiv Gandhi Institute of Intellectual Property Laws, IIT Kharagpur. Both teams put their best foot forward and put up a performance par excellence. The judges were impressed to see young legal minds engage in such in-depth analysis of the position of law, and present their cases with such poise and articulation in their argumentation. The Valedictory Ceremony saw Hon'ble Justice Debabrata Dash, Justice, Cuttack High Court share his feedback on the final rounds and felicitate the winners of the competition.

OFFICIAL RULES FOR THE COMPETITION

1. COMPETITION FORMAT

The Competition is structured in the following format:

- a) Preliminary Rounds
- b) Quarter Finals
- c) Semi finals
- d) Grand Final

2. ELIGIBILITY

Students of three year and five year integrated law degree courses from any University / Law School / College/Department are eligible to participate in the competition. However, a maximum of one team shall be allowed to participate from any one University / Law School/College/Department.

3. TEAM COMPOSITION

3.1 Each team shall consist only of three members, comprising two speakers and one researcher.

3.2 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 Deemed to be 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 e-mail attaching the scanned copy of Annexure-A (Registration form) and the Demand Draft as mentioned in Rule 4.2, duly filled, to **kiitmoot2019@kls.ac.in** by **22nd July 2019**. Please note that such e-mail has to be sent only through the University / School / College / Department official email address. E-mails sent through personal / unofficial e-mail addresses and e-mails sent to any other address other than the above mentioned will be ignored. Annexure-A is available at **law.kiit.ac.in** and also **attached here with this brochure**.

4.2 The teams shall then send (a) the printed copy of Annexure-A and (b) a non-refundable participation fee of **Rs. 4000/- (Rupees Four Thousand only)** in the form of a Demand Draft drawn in favour of **KIIT**, and **payable at Bhubaneswar** (clearly stating the name of the participating institution at the reverse side of the demand draft), addressed to:

Ms. Pratiti Nayak

Faculty Convener

7th KIIT National Moot Court Competition, 2019

School of Law, KIIT, Patia, Bhubaneswar,

Odisha. PIN-751024

such is to be received by **30th July 2019**.

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

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generated and a confirmatory e-mail, together with the team code, shall be sent to such team on the **1st August, 2019**. Thereafter, for all further correspondence with the organizers of the Competition, 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 **kiitmoot2019@kls.ac.in** by **28th August, 2019**.

Annexure –B is available at law.kiit.ac.in and is also attached here with this Brochure.

5. MEMORIALS

5.1 All memorials submitted for the purposes of the Competition shall strictly adhere to the rules as stated below.

5.2 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 e-mail to **kiitmoot2019@kls.ac.in** by **17:00 hours of 28th August, 2019 and shall send twelve printed copies (for each side) of such memorials by 5th September, 2019**, addressed to:

Ms. Pratiti Nayak

Faculty Convenor

7th KIIT National Moot Court Competition, 2019
School of Law, KIIT, Patia Bhubaneswar, Odisha.
PIN-751024

5.4 When sending the memorials by e-mail 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'.

5.5 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.

5.6 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;
- 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 25 pages.

5.9 The memorials as a whole should not exceed 40 pages including the cover page.

5.10 The numbering should be on the bottom-center of each page.

5.11 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.

5.12 The teams have to use the citation method as stated in the 20th edition of the Harvard Blue Book, for citation throughout the memorial, with strict adherence.

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 **12th September 2019**, 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

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(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, oral 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 memorial score of the team will be considered to break the tie. In case the tie further subsists, the result shall be decided by toss of coin.

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 **15th September 2019**.

9. ORAL ROUNDS

9.1 Each team will get a total of 30 minutes during the preliminary round 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 penalized 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, upon discretionary rejection by the Judges.

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 Demeanor: 20 Points

Time Management: 10 Points

Organization: 10 Points

10. SCOUTING

10.1 For the preliminary rounds, apart from the participant teams for such 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

11.1 Winning Team Award – The winning team will receive a trophy and a prize worth

Rs. 1,00,000/- (Rupees One Lakh Only).

11.2. First Runners-Up Team Award –The first runners up team will receive a trophy and a prize worth **Rs.50,000/- (Rupees Fifty Thousand Only).**

11.3. Second Runners up Team Award -The Second runners up team will receive a trophy and a prize worth **Rs.25,000/- (Rupees Twenty Five Thousand Only).**

11.4. Best Student Advocate/Counsel – The Best Student Advocate/Counsel will receive a trophy and a prize worth **Rs.10,000/- (Rupees Ten Thousand Only)**.

11.5. Best Memorial -The team submitting the best Memorial will receive a trophy and a prize worth **Rs. 10,000/- (Rupees Ten Thousand Only)**.

11.6. 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 Student Advocate 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

All the participating teams shall be provided with the transport facilities during arrival from the Airport/ Railway Station/ Bus Terminal. Teams shall also be provided with accommodation and food by the University from the **morning of 12th September, 2019 till the forenoon of 16th September, 2019.**

*** Accommodation and food shall be taken care of as per university rules**

15. CLARIFICATIONS.

Any query pertaining to the Moot Problem should be sent to **kiitmoot2019@kls.ac.in** by **1st August 2019**. 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 mailed to all the participating teams on **8th August 2019**.

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S.No.	PARTICULARS	DATE & TIME
1	Disclosure of Proposition & Information Brochure	June 05, 2019
2	Last Date of Registration (via e-mail) along with a scanned copy of Annexure- A & Demand Draft.	July 22, 2019
3	Last Date of Registration (hard copy) along with Annexure – A & original demand draft	July 30, 2019
4	Confirmation of Registration & Team code allotment	August 01, 2019
5	Last Date for Seeking Clarifications	August 01, 2019
6	Release of Clarifications	August 08, 2019
7	Soft-copy Memorial & Travel Plan (Annexure B) Submissions	August 28, 2019 By 5:00 PM
8	Hard-copy Memorial & Travel Plan (Annexure B) Submissions	September 05, 2019
9	Registration/Inaugural Ceremony/Draw of Lots/Exchange of Memorials	September 12, 2019 4:30PM–8:30 PM
10	Preliminary Round -1	September 13, 2019 9:00AM–12:30 PM
11	Preliminary Round – 2 Followed by Draw of Lots & Memorial Exchange for Quarters	September 13, 2019 3:30 PM – 7:30 PM
12	Quarter Final Rounds Followed by Draw of Lots & Memorial Exchange for Semis	September 14, 2019 9:30AM–1:00 PM
13	Semi Final Rounds	September 14, 2019 3:00 PM – 5:30 PM
14	Final Rounds	September 15, 2019 10:00 AM – 12:30 PM
15	Valedictory Ceremony	September 15, 2019 1:00 PM – 2:30 PM

MOOT PROBLEM

1. “Aaryavarta” is an economically and industrially developed state of the “Indusland”. Meghnad Metro Rail Corporation Limited (“MMRCL”) is a joint venture between the Government of Indusland and the Government of Aaryavarta. MMRCL proposes to construct a metro rail which is known as the Meghnad Metro Rail Project.
2. The proposed metro project involves phases where the project will be implemented underground. A part of the Meghnad Metro Line, which also runs along a stretch in South Meghnad, has been proposed to run directly under one of the fire temples (“Ankuran”) of the highest grades for the Saras Community in Indusland. Certain members of the Saras community got together and filed a Writ Petition before the Aaryavarta High Court in connection with the proposed construction of the metro tunnel directly under the Ankuran. It was submitted that the Ankuran was a 188 year old heritage structure with special religious and spiritual significance for Saras across Indusland and that the proposed construction directly below the Ankuran would violate the fundamental rights of the Petitioners under Article 25 and Article 29 of the Constitution of Indusland (“**Constitution**”). It was submitted that the Petitioners had made various representations before the Government which did not bear any result, as a result of which the Petitioners were constrained to move the Hon'ble Aaryavarta High Court to protect their fundamental rights.
3. By the time the Petition was filed, the proposed construction was around 100 mtrs away from the said Ankuran. When the Petitioners moved the Hon'ble Aaryavarta High Court, the Hon'ble High Court appreciating the serious challenge raised by the Petitioners and considering that the issue involved serious aspects of Constitutional law, granted an ad- interim stay on the proposed construction, pending the hearing and final disposal of the Petition.
4. The Petition was thereafter heard by the Hon'ble Aaryavarta High Court over a period of 1 (one) month, where arguments on establishing the fundamental right under Article 25 and Article 29 of the Constitution were put forth. During the course of the hearing, the Petitioners argued that:
 - a) The fire is the central focus of the Saras religion. No Saras rituals can be complete without the presence of fire.
 - b) Ankurans/fire temples represent the divinity presiding over the fire and consecrated physical forms of ever-burning fires were installed in the respective Ankurans/fire temples.

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- c) The Petitioners stated that the process of consecration of an Ankuran is an elaborate and intricate procedure involving highly-trained priests performing various complex rituals. In modern times, it is virtually impossible to consecrate a fire temple of the Highest Degree viz. an Ankuran. Therefore, its rarity has to be preserved.
- d) There are only 8 such Ankurans in Indusland. In fact, the last Ankuran was consecrated over 122 years ago. Thereafter, there has never been a consecration of any Ankurans in Indusland or in the world. During the process of consecration and enthronement, the holy fire is connected spiritually to the Mother Earth from which it draws sustenance.

Beliefs Which According To Petitioners Were Fundamental To Sarasism:

- a) The belief of laying down spiritual circuits (“**Ankurs**”) while consecrating an Ankuran was highlighted as being fundamental to the Saras religion. These circuits act as a barrier and protective ring. The Ankurs extend to and cover the entire premises of the Ankuran and also extend below the ground. If a tunnel is allowed to pass under the Ankuran premises it will amount to a breach of the Ankurs, which are the protective spiritual circuits protecting the sacred fires, consecrated and enthroned within the Ankuran premises.
 - b) It was further argued that the belief was that the ceremonies cannot be performed on an elevated place. They are to be necessarily performed on the ground floor, that too, with direct connection to Mother Earth. The belief is that there should be no motion or movement beneath it. If a tunnel were to be bored under the Ankuran premises, that would result in the premises being considered to be on an elevated level and the connection with the ground would be considered breached.
 - c) If a tunnel is allowed to be bored under the Ankurans, it would result in the complete desecration of the Ankurans in turn leading to a spiritual disaster for the entire Saras community.
 - d) It was argued that the above spiritual aspects and beliefs form an essential and integral part of the Saras religion. The same form an inextricable part of the belief system of the religion.
5. The Petitioners were supported by all the five High Priests of the Saras community who filed affidavits in support of the Petition stating that the issues raised in the Petition were part of the fundamental belief system of Sarasism and that construction of a tunnel under the Ankuran would destroy its spiritual sanctity.

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The Petitioners also argued that the proposed construction would violate their fundamental rights under Article 29 of the Constitution.

6. With this the Petitioners requested that the MMRCL should be directed to shift the proposed alignment of the metro tunnel by merely 5 meters, which would result in the tunnel presently proposed directly under the Ankuran ceasing to run under the said Ankuran and, consequently, the right under the Article 25 of the Constitution would be preserved.
7. MMRCL, on the other hand, argued that the Petitioners had failed to establish any right under Article 25 of the Constitution and that there was no scriptural material produced which would show that boring a tunnel 60 feet below the Ankuran would violate the spiritual sanctity of the Ankuran. No scriptures were presented to substantiate the beliefs highlighted in the Petition. MMRCL argued that not all religious rights can claim constitutional protection, which protection is extended only to essential religious practices. In the present case, the Petitioners had failed to establish that the issues raised in the Petition are essential or integral to the Saras religion. They contended that merely filing affidavits of High Priests would not show that there was any right under Article 25 of the Constitution which was being violated.
8. Additionally, it was submitted that rights under Article 25 of the Constitution are subject to other fundamental rights under Chapter III of the Constitution and that the citizens of Meghnad have a right under Article 21 of the Constitution to use a metro line and have access to the benefits and convenience associated with it. It was submitted that the rights under Article 25 of the Constitution are subservient to the rights under Article 21 of the Constitution.
9. It was further argued that shifting the tunnel from its present alignment would entail further cost and burden the state exchequer. Hence it was submitted that the reliefs prayed for ought not to be granted.
10. The Petitioners, to this, argued that scriptures are not the sole requirement for determining a right under Article 25 of the Constitution. It was submitted that the protection of Article 25 of the Constitution includes matters of doctrine or belief and that what constitutes an essential part of a religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion and includes practices which are regarded by the community as a part of its religion. It was argued that all 5 (five) High Priests had taken the same stand and various Saras associations and institutions across Indusland had sent support letters supporting the stand of the Petitioners. Hence, it was submitted that the rights under Article 25 of the Constitution were established.
11. Further, it was argued that a large majority of the Saras scriptures had been destroyed in the course of history and, therefore, a test of scriptures should not be applied in the case of Sarasism. In any event, there was no conflict between the rights under Article 21 and Article 25 of the Constitution. It cannot be said

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that citizens have a right under Article 21 of the Constitution to have a metro line exactly under the same proposed alignment when a mere shift of 5 meters would address the issue. The Petitioners were not challenging the metro project, which is a necessity. It was submitted that two fundamental rights should be balanced and that total extinguishing of a right under Article 25 of the Constitution would not amount to balancing of fundamental rights.

12. After a detailed hearing, the Hon'ble High Court disposed off the Writ Petition and permitted MMRCL to continue with the construction of the tunnel under the present alignment without any change. The Hon'ble High Court upheld the contentions of MMRCL and rejected the contentions of the Petitioners. The Hon'ble High Court held that the Petitioners had failed to establish that there was any violation of any fundamental right under Article 25 and Article 29 of the Constitution.

13. The Petitioners have now approached the Hon'ble Supreme Court of Indusland by way of a Special Leave Petition. The Supreme Court has granted an injunction on the proposed construction pending the hearing and final disposal of the case. The matter is being finally heard. The following questions of law were framed:

- a) *Whether the beliefs of the Petitioners as contended in the Writ Petition and pertaining to the Ankurans, form an “essential” and “integral” part of the Saras religion?*
- b) *Whether the construction of a tunnel under the Ankuran will desecrate the spiritual sanctity of the Ankuran and violate the Petitioners’ fundamental rights under Article 25 of the Constitution?*
- c) *In the event it is established that there is a fundamental right under Article 25 of the Constitution in the present case, whether there will be any conflict with any fundamental rights under Article 21 of the Constitution or whether the two fundamental rights can be balanced?*
- d) *Whether the Petitioners had established a fundamental right under Article 29 of the Constitution and whether there was any violation thereof?*

** Listed for hearing from 12th to 15th September 2019.*

** Parties to file their Written Submissions / Memorandums by 28th August 2019.*

** It must be noted that all laws applicable in the present case shall be pari-materia to the laws of the Republic of India.*

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ABOUT KISS

Started with just 125 students' way back in 1993 by eminent educationist & social activist Prof. 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 more than 27,500 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. KISS has been declared a Deemed to be University by Ministry of HRD, Govt. of India making it the first University exclusively for tribal students in India and the entire world.

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 Guangzhou (China) and Commonwealth Games (New Delhi). More details are available at 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.

