# 1ST IMS LAW COLLEGE NOIDA, ONLINE NATIONAL MOOT COURT COMPETITION 2020.

**MOOT PROPOSITION**

Sindhusthan is a constitutional democracy with a parliamentary system of government, and at the heart of the system is a commitment to hold regular, free and fair elections. There are four major religions in Sindusthan viz Sindu, Mislam, Kristain, Jarsi. Every five years the elections are held. The general elections to constitute 17th Loksabha were held on 15June 2017.

There are around 7 national parties, 40 state /regional parties and hundreds of local parties which are registered. 2017 elections have been home ground for many allegations from different parties over rivals and particularly whistle blowers who claimed corrupt practices at many instances during elections. The use of all the modern means of communication have been the key formula for campaigning including the prospective fourth pillar of democracy i.e. social media

In the aftermath of election, the Sindhusthan Janata Party (SJP) has formed the government with majority. However the opposition is led by Rational Nongrace And Alliance (RNAA). Meanwhile there have been three different instances where the election petitions are filed for corrupt practices and similar charges. Interestingly the election commission has cancelled the candidature of the returned candidates.

The instances are as follow, PLOT 1

Aladdin Mosai is a Sindhustan politician, who is the President and chief of the ASMA (All Sindhusthan Mislamic Alliance). He contested and won election to Loksabha 2017 from the Sindiabad constituency. On date 25th May 2017 he made a poll pitch to woo his Mislam vote bank promising them Rs 5,500 crore allocation in the budget of the richest civic body in the country.

During his speech at the rally, Mosai said “Mislams account for around 23 per cent of the population in the Metropolis. If the budget of SMC (Sindiabad Municipal Corporation) is around Rs 34,000 crore, then Rs 5,500 crore should have been allotted for the development of Mislams” he further stated that “Mislamic population has always been suppressed in terms of proper representation and development by other higher communities who are holding the power for decades”.

The ruling SJP candidate who lost from the Sindiabad constituency filed an election petition to probe the speech on the ground of communal and sectarian appeals. He condemned divide on the communal lines and objected to the statements by Mosai. This petition was also joined by Mahasena an old regional party having good hold in the state. The High Court passed its orders against Mosai cancelling his candidature. The aggrieved ASMA leader has appealed to Supreme Court of Sindusthan. The question is before the Apex court of the country to decide the constitutional validity of s. 123 of Representation of People Act.

PLOT 2

In the state of Northern Pradesh, a state which is known for caste politics, Mr. Bhootnath Jogi, a candidate of ruling SJP party contested and won from the constituency of Luckpur a town with major Mislamic population campaigned on various grounds like Mow Animal protection, (Mow is an animal worshiped by Sindhus) Jam Temple (Temple worshiped by Sindhus), and protecting the dignity of women of Sindusthan against Mislamic aggressors. One of the social activist named Bistakettlewad challenged his elections on the ground of corrupt practices and spreading communal hatred amongst the community. He filed an election petition, which was decided in favour of Bistakettlevad.

The aggrieved leader of SJP has now appealed to Supreme Court.

Plot 3

Kamlawati the first Malit (Malit is a weaker section of society) Chief Minister of Chhatarpradesh belonging to SSP (Sahujan Samajwadi Party) had reigned as the Chief Minister of the State for three continuous terms thriving on support from the Malit community. Fearing her loss with incumbency factor, the party strategically developed Malit specific appeasement

agendas. To regain the support of the self-proclaimed downtrodden community her election campaign speeches often reflected appeasement in the garb of hatred and biases towards upper caste of the society.

In her fiery speech she lambasted Grahmins, telling Malits that they were kept enslaved by upper caste conspiracies and should beat the Grahmins with their shoes. We all know that upper caste (Grahmins) do not want Malits to eat well, dress well or do well. She promised to replace more than 1000 upper caste civil servants with lower caste ones while neglecting almost equally deprived ones with higher caste population. She even promised that the manual scavengers in the state most of which are Malits or people of other lower caste will not be required to do such degrading menial labour job and instead people from other caste and particularly the people from upper caste are also capable to carry out the same task and should as and when required. She also assured that once she is in power the she will reserve 30% of the funds for the welfare of Malits and ensure that police and prosecutors to rigorously enforce a law that made it easier for Malit victims of caste based violence to bring charges against their assailants and promised stiff jail terms for those convicted, in a way playing on the basis of caste to achieve their personal goal of amassing more wealth through being in or around the seal of power. She won election from constituency.

An organization named People’s Upliftment Organization working for clean politics filed an election petition in Chattar Pradesh High Court along with an affidavit in Form 25 of PRA, 1951.

The High Court set aside the election of Kamlawati under the corrupt practices. The decision of High Court came as a shock to the leader and her party. They have appealed to Supreme Court and have claimed that a person who is from a minority community can appeal to his own community as the constitution of Sindhustan itself provides right to represent. They have further claimed that section 123 of PRA, 1951 violates the principle of protective discrimination and right to religion under the Constitution and hence it should be invalidated.

Thus the matter is before the apex court to decide the validity of said section 123 of RPA, 1951 Apex court

These appeals have come before the Supreme Court of Sindhustan in similar period and considering the timing and the circumstantial similarity of the instances the Apex court has decided to try all these matters jointly to the extent the scope and interpretation of Section 123 of RPA 1951 is concerned.

The major issues before the Apex court are;

1. Can sectarian appeals during election campaign be brought under corrupt practices?
2. Whether an act said and done in exercise of right to religion and freedom of speech can be brought under corrupt practices?
3. Whether an appeal from a person from minority community will amount to corrupt practice in the light of protective discrimination principle enshrined under the constitution of India?

Note:

1. The laws of republic of Sindhustan are in *parimaterial* with the laws of the republic of India.
2. Use of precedents, authorities and framing of other issues including the above stated ones is encouraged.
3. Please note that the said moot problem is just for the purpose of conducting moot court competition for developing skills of law students and does not have any resemblance to any Individual, Society, Political Party ,Institution or Company.