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KARTAVYA

CELEBRATION OF 70TH CONSTITUTION DAY MOOT COMPETITION 2020



MOOT PROPOSITION

COORDINATING AND ORGANIZING UNIVERSITY:

NATIONAL LAW UNIVERSITY, DELHI

70th CONSTITUTION DAY NATIONAL MOOT COMPETITION 2020

PROPOSITION

1. Republic of Purabdesb (“**Purabdesb**”) is a country in South Asia. In terms of land mass, it is the world’s fifth largest country. However, it is the second most populous country with more than 60 % of its population working in the agriculture sector with reliance on traditional methods of agriculture. Bound by sea on three sides i.e. east, west, south, and the highest mountain range on its north, the country enjoys unique geographical and ecological benefits.
2. Purabdesb gained independence from Oshiyana around 70 years back. The Constitution of Purabdesb (“**Constitution**”) declares Purabdesb to be a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty. Purabdesb takes great pride in the Constitution which draws inspiration from various countries and some international conventions.
3. Purabdesb is a quasi-federal coastal country embracing a rich cultural history and existence of varied religious and ethnic groups. It has 12 States and 3 Union Territories, with the Union Territory of Dilprastha as its capital city. Historically, Dilprastha has served as the capital of several kingdoms and empires before Purabdesb’s Independence from Oshiyana. Due to its rich cultural and ethnic heritage, the city of Dilprastha is one of the world’s most popular tourist destinations and every year attracts an average 8-10 million tourists.
4. Though a Union Territory, the political administration of Dilprastha today more closely resembles that of a state of Purabdesb. Dilprastha has its own legislature, high court and an executive council of ministers headed by a Chief Minister and is jointly administered by the Central Government of Purabdesb and its local government.
5. In the post-independence era, especially the last four decades, the city of Dilprastha has seen massive infrastructural development in order to provide sustenance to its ever increasing population and to further meet the global standards of being the capital city of the largest democracy in the world.
6. Policy of Liberalisation, Privatisation and Globalisation (“**LPG**”) adopted by the government of Purabdesb in early 1970s further quickened the pace of development in the city of Dilprastha. It is noteworthy that post LPG era saw several multi-national

companies (“MNCs”), small/ large scale industries and manufacturing units mushrooming in and around the city of Dilprastha.

7. Omnipresent development in Dilprastha offered huge employment and livelihood opportunities to people belonging to all classes and sectors. Inevitably, the city expanded significantly resulting in a threefold rise in population and a seven-fold rise in the number of vehicles between 1990 and 2019. Though Dilprastha is the most populous city in Purabdes, it ranks third amongst the States and other Union Territories in the country in human development index.
8. In order to promote balanced and harmonized inter-state regional development, the National Capital Region (“NCR”) was constituted in the year 1995, spanning over 12 districts in the neighbouring states of Dilprastha, including the city of Dilprastha itself. The main aim was to contain haphazard and unplanned urban growth by channelizing the flow and direction of economic growth along more balanced and spatially oriented paths.
9. As of 2020, with the largest and busiest metro network in Purabdes the urban area of Dilprastha is considered to have extended beyond boundaries of the NCR. Development hallmarks of the capital city include 3 airports (including 1 international airport), 4 important railway stations and three inter-state bus terminals. Dilprastha has not only become the largest commercial centre in northern Purabdes, but also boasts of second highest GDP amongst all the States and other Union Territories in the country. Tourism has been a major source of revenue for the capital city.
10. With the passage of time the city of Dilprastha has become a vast conglomeration of commercial, industrial, unauthorised colonies, resettlement colonies and unplanned housing. Increasing population and pollution keep Dilprastha forever in the news. In the last two decades, the pollution has soared to such levels that from the year 2015 onwards Dilprastha has been consistently ranked amongst top three most polluted cities in the world. Quality of ambient air in the whole NCR has become so hazardous that lung and respiratory diseases are on a constant rise.
11. In the absence of any definite measures taken by the past governments to prevent and control the increasing pollution in the NCR, the Hon’ble Supreme Court of Purabdes

- (“**Supreme Court**”) over the last two decades, in several matters of public interest litigation (“**PIL**”) has passed judgments/ orders to improve the situation of environment in the NCR.
12. Some remarkable decisions taken by the Supreme Court include direction of conversion of all public transport in Dilprastha from petrol to CNG, ban on use of plastic, stricter guidelines on environmental clearances/compliances for construction activities in the NCR and removal of industries from the city of Dilprastha. The successive governments have always claimed to implement these landmark directions and orders in the NCR.
 13. As per a legal analysis, the Hon’ble Supreme Court in its environment related judgments has steadily shifted its focus from enforceability of fundamental rights of the citizens to the fulfilment of fundamental duties by every citizen of the country. The Constitution originally provided only for the fundamental rights and the concerned safeguards thereof. Article 51A which enumerates fundamental duties of citizens was added in the Constitution, by way of an amendment in the year 1996 to *inter alia* foster the sense of collective responsibility towards socio- environmental development of the nation.
 14. Some areas of Dilprastha along with four surrounding states – Rajputana, Unnati Pradesh, Gharyana and Sindhujab, which are commonly referred to as ‘Krishi Pradhan Pradesh’ (“**KPP**”), cover around 20% geographical area of Purabdes and contribute on an average 40-45% to the total food grains production of the country and hold nearly 40% of the total population of the country. A major section of population of KPP region is primarily dependent on the income earned from high agricultural production because of fertile soils and adoption of agricultural advances from post-independence Green Revolution in the country.
 15. KPP region has two crop cycles- one from May to September and another from November to April. Around 60-70% of the total agricultural land available in the KPP region is employed towards rice-wheat crop rotation. Harvesting of these food crops with combine harvesters is very popular with the famers of this region. These combine harvesting techniques in rice-wheat system leaves behind large quantities of straw residue in the field.

16. Crop residue are burnt openly by the farmers to clear the field for the next sowing season. Scientific data shows that burning of straw leads to emission of gases like CO₂, CH₄, CO, N₂O, NO_x, SO₂ and large amount of particulates which cause adverse impacts on environment and health.
17. To tackle the manifold rise of air pollution in the NCR due to large scale stubble burning in the States forming KPP, the Central Government with the help of State Governments is taking several steps. Some notable long term policies framed in this regard include monetary incentives to farmers to use the latest technologies (like installing artificial intelligence, internet of things, soil cards etc.) in farming, to shift to alternate methods of disposal of agricultural waste, to opt for biomass utilization for power generation through co-firing in pulverised coal-fired boilers etc. The government is also taking steps to popularize zero tillage farming where the crop seed will be sown through drillers without prior land preparation.
18. Despite taking such measures, there is no sign of reduction of harmful pollutants in the air. To the contrary, from 2013 onwards, the last quarter of every year has been witnessing very high level of pollutants in the NCR. 'Light Festival', one of the most important religious festivals is celebrated every year in the month of October across the whole northern Punjab to commemorate the victory of Lord Vikrant over the demon king Dahanan. The festival is celebrated with great pomp and show, sweets are exchanged, houses & buildings decorated with lights and crackers are burnt.
19. In October 2019, in the week following the celebration of 'Light Festival', as per news reports, Air Quality Index ("AQI") plunged to 'Severe' and 'Hazardous' categories in many stretches of NCR. On the night of Light Festival, many areas in Delhi recorded an AQI of 999, beyond which a reading is not possible. According to some experts this catastrophic situation is attributable to the large-scale stubble burning done by the farmers in the KPP region to clear the fields for wheat crop. However, a few argue that the sudden rise in air pollution is due to vast amount of cracker burning on occasion of Light Festival and the humongous number of vehicles plying on the roads of NCR.
20. Due to heavy smog in air of capital which was aggravated due to onset of winters in the NCR, major airlines both domestic and international suspended their flights for a week, schools and offices were shut down for a month, an international cricket match series

between Purabdesh and its rival country Nooristan got cancelled and government hospitals reported a sudden increase in the cases of serious respiratory problems. Around 50 people including some children were reported to have died across the NCR in the last two weeks of October due to respiratory problems.

21. Shut down of major economic activities in the capital severely affected the national market. A news report dated November 5, 2019 published in the most popular national daily 'PurviExpress' titled as "*Dilprastha - Heartland of Purabdesh is choking to death by every passing day*", alarmed the people of the NCR. A lot of working class people living in the NCR, fearing for their lives, left their jobs and returned to their home towns.
22. Considering the gravity of the situation in the NCR, the Central Government in consultation with the government of Dilprastha declared a public health emergency in the capital city. As an immediate measure, government of Dilprastha rolled out an Odd-Even scheme (*a traffic rationing measure under which private vehicles with registration numbers ending with an odd digit will be allowed on roads on odd dates and those with an even digit on even dates*), and ordered the industries running in the NCR to suspend their operation for 15 days.
23. Further, in exercise of its powers under the Environment Protection Act, 1986 the Central government brought a notification dated November 10, 2019 ("**Notification**") to be implemented with the immediate effect, putting an absolute and immediate ban on the activities of stubble burning and prescribing a fine of Rupees 1,00,000/- per incidence of stubble burning by a farmer in NCR. As per the Notification, the existing benefits under minimum support price scheme ("**MSP Scheme**") will be withdrawn from such farmers who are found to be indulging even in a single incidence of stubble burning.
24. In the aftermath of the Notification, KPP saw a huge outburst of farmers' agitations. Reportedly, 7 farmers committed suicide as a mark of protest against the Notification. The farmer groups are agitating that poor farmers are bizarrely and conveniently seen as responsible for urban pollution in NCR, and are forced to bear disproportionate costs of switching to alternate means of stubble disposal.

25. An NGO known as “Kudreti Kheti Abhiyan” (“**KK Abhiyan**”) working in the KPP region for the rights of farmers for the last 15 years, has filed a public interest litigation before the Hon’ble Supreme Court under Article 32 of the Constitution *inter alia* for the issue of appropriate writ/ order/ direction quashing the Notification.
26. After getting satisfied on the maintainability of the PIL, the Hon’ble Supreme Court has issued the notice to the parties and has fixed the matter for hearing on the following issues:
 - a. Whether the Notification is arbitrary, disproportionate, and amounts to violation of the fundamental right of the farmers to equality?
 - b. Whether the Notification amounts to violation of the fundamental right of the farmers to life and livelihood?
 - c. Whether the State has failed in its duty and obligation to protect and improve the environment?

Notes:

- A. The parties are allowed to raise and plead the additional issues incidental to the facts of the moot proposition.
- B. The Petitioner i.e. the NGO shall present arguments on behalf of farmers and the Respondent shall present arguments on behalf of the Union of Purabdesh.
- C. The national and international laws, policies, obligations/ commitments (*inter alia* relating to climate change, sustainable development, rights of farmers and tribal population) of Purabdesh are *pari materia* to that of Republic of India. Parties are independent to cite case laws from Indian Courts as persuasive precedent.

Disclaimer: This case is purely fictional. Any resemblance to names, properties and associations is purely co-incidental.

Webportal: https://kartavya.ugc.ac.in/com_event_activity_details.aspx?eid=MOOT

Information is also available on the webpage of National Law University, Delhi.

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