



SASTRA
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UNIVERSITY
(A UNIVERSITY U/S 1 OF THE UGC ACT, 1956)
SCHOOL OF LAW

PRESENTS



5th NATIONAL MOOT COURT COMPETITION

18TH SEPTEMBER – 20TH SEPTEMBER, 2015

MOOT PROPOSITION

FACTS OF THE CASE

1. God's Island, the most populous peninsular subcontinent off the coast of the Canopy Sea, is a multireligious, multicultural and multilingual parliamentary democracy elected by universal adult suffrage. This country is home to one of the world's most ancient and diverse cultures, which is built on the basis of mutual coexistence and secular tolerance.
2. God's Island experienced migrations across and from the central territories of *The Continent*, including the conquest from the *Dark Isles* of the *Ghost Sea* in 1700 AD, which created a lasting impact on the law and the state in God's Island. The tactical implantation of governance and administrative structures by the *Dark Islanders*, who became the colonial rulers of God's Island caused significant differences in the regulation and management of the indigenous institutions.
3. Of particular interest to the colonial rulers, was the temple treasure at *Deer's cave*, (situated in the state of Leoland) which was the local name that was given for the highly revered sacred shrine of God's Island. Famed for its material riches of antique nature, the treasure encompassed gold and platinum alloyed idols, diamond brocades, silken clothing bordered with hillcrest sapphire and rare, coal black ocean diamonds. Prized among its secrets, was a thirty feet, five hundred kilogram golden deer, studded with giant pearls and a precise one thousand and eight solitaire diamonds.
4. *The Deer Temple* belonged to a religious denominational sect, which originated as a clan in the plateaus of God's Island, long ago in 550 AD. The denominational sect is represented by a family, which inherited the hereditary and lineal rights of worship and the appropriation of corpus and anonymous donations, the receipt of which was substantially used for the maintenance of its three kilometre long, thousand pillared amphitheatre, constructed with architectural creativity and artistic genius. The denominational sect was a patriarchal joint family with vast properties, comprising agricultural lands, non-agricultural foreign assets, earned incomes from spice groves and investments in stocks. An endogamous group, it was a closed sect with little direct contact with the governmental establishment and society of God's island. As a result of its isolation from mainstream society, the denominational family, had misappropriated the devotee's contributions and also secretly sold certain treasures from the crypts.
5. The religious doctrine and belief system which governed the Deer Shrine, was based on an abstract philosophical ideology, which worshipped a variety of deities, including plants and animals. The main idol of the temple was consecrated in the form of a Golden deer which represented the collective universe and directly related to the framework of the constellations of the northern sky. It was a site of regular pilgrimage and attracted crores of devotees from around the world. The legends surrounding the Temple treasure were closely interlinked with the ancestry of the denominational sect, who were known to have descended with the deer idol, from the heavens, and thus were entitled to a highly respected position in the religious life of God's Island.

6. The colonial rule saw several unsuccessful takeover attempts, in the pretext of alleged mismanagement and violent confrontation during the temple festivals. However, the denominational sect enjoyed the trust and faith of the believers and hence, were reinstated with the rights relating to the shrine, each time, it was sought to be taken over. Eventually, the alien rulers, entered into an agreement on 17.08.1898, which mandated legal recognition and respect for the tradition and lineal rights, relating to the management and the daily administration of the temple and its properties.

7. The agreement sought to enumerate the various internal administrative rights and local privileges of the denominational sect, and acted as the legal premise for non-intervention in the administrative and religious matters of the Deer Temple. The validity of the agreement was recognized by the King of the Dark Isles in 1901, who promised to be bound and act in accordance with the terms of the agreement. The agreement prohibited any takeover of the shrine on any pretext, thus safeguarding the ancient rights and obligations of the denominational family.

8. The recent re-discovery by the National Bureau of Ancient Antiquities, of the multi crore treasure hidden in the crypts of the underground passages, in the summer of 2011, made the ancient temple a cynosure of the media and brought governmental attention to the safe keeping and security of that treasure.

9. Meanwhile, the government of God's Island was facing a situation of impending financial crisis, caused by the state run liquor corporation, a financial white elephant, which had placed the exchequer under tremendous pressure. The institutional creditors of God's Island gave public declarations, drastically downgrading the credit worthiness of the country and issued an ultimatum on 02.02.2012 to finally settle the principal sum and the outstanding interest, failing which, God's Island could no longer be part of the trade map of the world. Meanwhile, the media also began reporting incidents of harassment to the bureaucrats' families, who were responsible for the liquor corporation.

10. In a dramatic move, the state government of Leoland, following unceasing demonstrations and protests, convened a special sitting of the state legislature on 03.03.2014 for a midnight session, and after lengthy debate and in depth analysis, passed a highly controversial mandatory legislation, enacting the takeover and complete control relating to the temple establishment, and asserted the sovereign right to use the unearthed temple treasure, for satisfying the purpose of running the day to day administration in total disregard of the recognised lineal rights of the denominational family, and appointed by emergency extraordinary notification in the official gazette dated 5.06.2014, an executive officer who would be in charge of the temple administration and security of the treasure.



11. The executive officer, empowered by the legislation, stated that there were acts of mismanagement and corruption, which were behind the centuries old monopoly over the administrative and religious rights enjoyed by the denominational family, which had swindled several crores of public donations and government grants, without legal authorisation and official sanction. The executive officer, also stated that temples are public institutions, meant to sub serve the objectives of a welfare state, where religion would play only a secondary role. Along with this, the Minister for Religious Affairs stated on the floor of the state assembly, that similar directory enactments were passed in other states and had survived judicial scrutiny.

12. Prior to this, on the day of passing the enactment, the Minister For Home Affairs, remarked to media persons that the temple treasures would be utilised in servicing the debts incurred by the failing liquor corporation. It is significant to note that the liquor corporation was established as a public undertaking, to carry out the regulated sale of liquors through certified and recognised outlets. The history of liquor trade in God's Island was marked by serious opposition, and the experience of social ruin in the hands of private dealers, who by selling spurious liquor had forced the government to nationalise its business. The liquor corporation had initially been tremendously profitable and had, over a period of time began several charitable institutions such as public hospitals, primary and secondary schools, environment protection societies, medical research faculties and even old age homes for the poor and needy. It had employed several thousand doctors, teachers, scientists and general workers and spent a significant portion of its profits for social development and charitable purposes.

13. However, due to widespread bureaucratic mismanagement and official inefficiency, the government run enterprise had incurred massive losses which were beyond the then fiscal capacity of the government. As a result of the financial breakdown, the government was unable to pay the salaries of the employees of the liquor corporation and its various charitable bodies, for a period of over 6 months. The corporation also declared that its various charitable bodies shall remain closed and inactive until its financial problems are resolved.

14. The affected employees of the corporation and its charitable bodies, on 7.07.2014 passed a unanimous resolution demanding immediate settlement of the arrears in salary and immediate action to restore the enterprise. A disgruntled general worker, affected due to the non-payment of even the subsistence wages, and who was the sole bread winner of his family, committed suicide, falling from a high rise building into the temple premises. The trade union filed a writ petition before the High court of Leoland, claiming violation of the fundamental right to livelihood. There were also protests from various sections of the society, urging the liquor corporation to reopen and restart its charitable services for social welfare.



15. Simultaneously, another writ petition was filed before the High Court of Leoland by the denominational sect on 20.07.2014, challenging the takeover of the temple and its treasures by the government. The High Court on 1.08.2014 upheld the validity of the impugned legislation and further declared that the said community was not a denominational group. It also held that the agreement entered into during colonial rule, became invalid when the Government of God's Island became sovereign and secular. It stressed on the Sovereign power to regulate and maintain religious properties and clarified that such authority cannot be questioned as violation of Fundamental rights.

16. Significantly in the said judgement, the High Court observed and remanded to trial, a question regarding the criminality of the actions involved in razing down certain structures situated inside the temple during the treasure discovery process, and the eventual conversion of the various gold and silver idols found inside the temple vaults, into gold bullions and monetary gold reserve. It is noteworthy, that during the said trial proceedings on 20.08.2014, based on the evidence collected and submitted before the court, remarks were made by the Presiding Magistrate that there was indeed an active *Mens rea* in converting such objects of worship and that such conversion however, had to be viewed along with the count of *necessity* as a valid defence in such contingencies. The Magistrate, after making such observations, reserved the final verdict for a later date and the case remains undecided.

17. Aggrieved by the order of the High Court, the denominational sect approached the Supreme Court of God's Island on 11.10.2014 to reverse the High Court's ruling and set aside the impugned enactment. The petitioners, inter alia claim, that the utilisation of the temple treasure for reviving the failed liquor undertaking, ran contrary to the directive principle of liquor prohibition and also hurt religious sentiments. The petitioners further contended that the said policy was arbitrary and unreasonable in nature, in total disregard of denominational rights and the validity of the agreement with the Colonial Government.

18. During the time when the judgment was being considered by the Supreme Court, the Union government of God's Island passed an amendment to the Constitution of God's Island on 30.12.2014 in respect of its Fundamental Rights relating to denominational groups. The following portion was added to the existing Article 26:

'Notwithstanding any subsisting traditional and denominational rights or any other right(s) under this Article, being enjoyed by communities covered under this provision, the State Government shall, subject to public order, morality and health, have, and shall be deemed to have always possessed every right and means to pass a law by which it may acquire, manage, control and run the administration and management of denominational institutions and centres of religious interest, without the aid and advice of the denominational group/community/ family'

19. The amendment was ratified by all the provinces and on 12.02.2015, was enforced through a special gazette notification with immediate effect.



20. Fearing state action, public interest bodies and religious denominations across other states, also filed petitions challenging the amendment, which were admitted and clubbed with the Deer Temple case on 20.06.2015.

21. The Writ petition, along with its connected petitions, were posted for final hearing on 20.09.2015 by the Chief Judge of The Supreme Court, before a Constitution bench, addressing the following issues:

1. Whether the constitutional amendment is valid in law.
2. Whether the impugned enactment is violative of the constitution of God's Island.
3. Whether the antedated agreement with the then Colonial Government is binding.
4. Whether the sovereign right to the treasure is unconditional.
5. Whether prohibition of liquor is an essential part of the religion in question.
6. Whether the conversion of the idols and their utilisation for satisfying the debts is illegal.
7. Whether persons in government who ordered the takeover and restructuring of the temple are guilty of a penal offence.
8. Whether the directive principle relating to prohibition should govern governmental policy.

Note:

1. The laws of God's Island are in *pari materia* with the Laws of the Republic of India.
2. The writ petition has been admitted and held to be maintainable by the Supreme Court of God's Island. Participants are requested to argue only on the merits of the case.
3. The list of issues is only illustrative, participants are at liberty to raise any number of relevant issues relating to the proposition.
4. This moot allows for multidisciplinary engagement. Participants are requested to also use and cite para legal research sources which can be validly relied upon in the rounds of the competition.