



Marathwada Legal & General Education Society's  
**MANIKCHAND PAHADE LAW COLLEGE, AURANGABAD.**

*NAAC Re-Accredited with **A** Grade (2012)*

**Dr. Ch. N.V. Manikyala Rao,**

*Principal*

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Ref. No. MPLCA/2012-'13/463

Date: 05/01/2013

To,  
 The Registrar /Director / HOD / Principal,

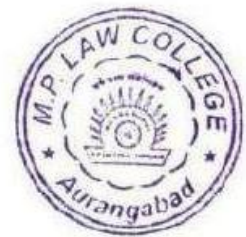
*Respected Sir / Madam,*

It gives me immense pleasure to invite your institution to participate in the **XIII National Moot Court Competition -2013** to be held on **23<sup>rd</sup> and 24<sup>th</sup> February, 2013** at **M. P. Law College, Aurangabad, Maharashtra.**

May I kindly request you to confirm the participation of your institution by sending registration form duly filled at the earliest before the scheduled date.

With warm regards,

*Ch. N.V. Manikyala Rao*  
 Principal  
 Principal  
 M.P. Law College,  
 AURANGABAD



- Encl.:-**
1. Rules of the Moot Court Competition
  2. Problem No. 1 & 2 for the preliminary and final round respectively
  3. Registration Form & Travel Plan

**Glimpses of XII National Moot Court Competition - 2012**



Marathwada Legal & General Education Society's  
**Manikchand Pahade Law College, Aurangabad.**

**XIII National Moot Court Competition-2013**

**23<sup>rd</sup> & 24<sup>th</sup> February, 2013.**

**✍ RULES FOR THE COMPETITION:**

1. Each team shall comprise of 3 (Three) participants only (Speaker 1, Speaker 2 and Researcher)
2. Competition is restricted to bonafide regular students of Law School / College/ University. All participants must be students of LL.B. /B.L. and may be either from 3 years or 5 years course.
3. The participants will have to bear the traveling and all other incidental expenses.
4. Free lodging and boarding will be provided to the team of three participants only on the days of the competition i.e. **22<sup>nd</sup> Feb. 2013 from 9.00 pm to 24<sup>th</sup> Feb. 2013 up to 9.00 pm**
5. Each participant Law School / College / University shall pay a notional entry fee of **Rs. 500.00** (Five Hundred Rupees only) by way of a Demand Draft drawn in favour of **The Principal, M.P. Law College, payable at Aurangabad, Maharashtra State.**
6. The dress code shall be as prescribed for Advocates.
7. The home team will be competing in this competition, as the moot problem is selected through the competition amongst faculties all over India

**✍ PHASE OF THE COMPETITION**

8. The competition will have **TWO** Rounds (i.e. First and Final), the first round will be held on **23<sup>rd</sup> Feb. 2013 from 9.00a.m.** onwards and Final round will be held on **24<sup>th</sup> Feb. 2013 from 9.00 a.m.** onwards.
9. The best **FIVE** teams from the first round will qualify for the FINAL round.
10. In both the rounds, one participant from each team shall argue on behalf of the petitioner, and the other on behalf of the respondent.
11. Problem No. 1 and 2 are for the first and final rounds respectively.
12. In case of a tie, both the teams will be considered qualified.

**✍ MEMORIALS**

13. All teams shall submit their written memorials / submission for both sides along with synopsis in English.
14. All teams shall submit typed / computerized memorials fulfilling the following specifications.
15. The memorials shall be typed on A - 4 size paper with prescribed margin on both sides in the "Arial" font size 12.
16. The Memorials shall not contain any Annexure / Photographs / Sketches / Exhibits/ Affidavit etc.
17. Memorials not following the above specifications will be penalized.
18. Each team shall send three copies of memorials for each side mentioning name of the participant and College/ University on the *covering letter*. **Neither the name of student nor the name of the Institution shall reflect on the memorials.** The cover page shall be coloured differently i.e. *Gray for Petitioner* and *Blue for the Respondent*. **Use of chart paper instead of plastic sheets or transparencies, would be highly appreciated. For binding use staples or cotton thread stitches instead of spiral binding.**

19. Participants shall send the Registration form, Travel plans, Demand Draft of Rs. 500.00 and Memorials so as to reach the organizing college on the following address as per the scheduled prescribed at the end i.e. **Dates to remember.**

**The Principal, M.P. Law College,  
Samarth Nagar, Aurangabad - 431 001 (M.S.)**

20. Participants shall send the soft copies Registration form, Travel plans and Memorials on the following e-mail id :  
[mplcmootproblem@gmail.com](mailto:mplcmootproblem@gmail.com)
21. Participants should carry copies of memorials for their own use. The Copies of the memorials submitted to the organizing college, will not be returned.
22. Each participant shall have a maximum time of 15 minutes to present their oral submission. No speaker will be allowed to address the court for more than the prescribed time without permission of the Court. The oral submission shall be in English.
23. Five minutes before the completion of the allotted time, for each participant, a warning bell will be given and at the completion of the allotted time there will be a final bell.
24. All teams are expected to carry with them the case laws and authorities which they intend to refer.

### MARKING CRITERIA

- |  |    |
|--|----|
| 25. The following will be the marking criteria |    |
| Knowledge and application of law               | 30 |
| Presentation and perusal of facts              | 10 |
| Answer to court queries                        | 15 |
| Advocacy / Court Etiquettes                    | 30 |
| Written Memorials / Drafting                   | 15 |

<b>TOTAL MARKS :</b>	<b>100</b>
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26. All the participants are expected to maintain the decorum of the court during the competition and are expected to conduct themselves in a manner befitting the legal profession.
27. The organizers reserve the right to take appropriate action for any unethical, unprofessional and immoral conduct.
28. The organizer's decision as regards the interpretation of rules or any other matter relating to the competition shall be final.
29. If there is any situation, which is not contemplated in the rules, the organizers decision shall be final.

### PRIZES

30. There shall be cash prizes as follows along with trophies

- |                               |            |
|-------------------------------|------------|
| I) <b>First Team Prize</b>    | Rs. 7000/- |
| II) <b>Second Team Prize</b>  | Rs. 5000/- |
| III) <b>Individual Prize</b>  |            |
| a. <b>First Best Speaker</b>  | Rs. 2000/- |
| b. <b>Second Best Speaker</b> | Rs. 1000/- |

- a. Adv. Shri. Sudhakar Rao Deshmukh Trophies - Winner Up & Runner Up, Best Mooter Award for Preliminary Round
- b. Adv. Shri L. N. Sirsamkar - Best Mooter Award for Final Round
- c. Ghate Foundation, Aurangabad - Best Mooter Award for Preliminary Round

☺ **DATES TO REMEMBER**

- |   |                            |
|---|----------------------------|
| 31. Submission of registration form along with travel plans and demand draft. | 5 <sup>th</sup> Feb. 2013  |
| 32. Submission of memorials   | 14 <sup>th</sup> Feb. 2013 |
| 33. Date of First Round.  | 23 <sup>rd</sup> Feb. 2013 |
| 34. Date of Final Round.  | 24 <sup>th</sup> Feb. 2013 |

☎ **For any queries participants is Welcome to Call**

Prof. B. V. Paranjpe	9890798823
Prof S. N. Morey	9325228041
Prof. Dr. Kottapalle Aparna N.	9923412234
Prof. Abhay Jadhav	9404202278

**Dr. C. M. Rao**  
Principal  
M. P. Law College  
Aurangabad.

Marathwada Legal & General Education Society's  
**Manikchand Pahade Law College, Aurangabad.**

**XIII National Moot Court Competition-2013**

**23<sup>rd</sup> February, 2013.**

**MOOT COURT PROBLEM FOR THE FIRST ROUND (Preliminary)**

**STATEMENT OF FACTS**

**Part I**

1. Dr.Narayan Sharma was the chairman of 'Om' charitable trust. The said trust was running a "Live-On" Hospital and Maternity Home in Andheri, Mumbai. His son in law namely Dr.Prakash Tiwari, who was also a surgeon, was working in the said hospital.

2. On 06-04-2000, a pregnant lady patient was admitted in "Live-On" hospital at about 7.30 am; at that time, no on duty doctor in the maternity home was available. The said patient was attended by Dr. Tiwari who was present in the hospital at that time. At about 8.00 am, Dr. Tiwari, considering the critical situation of patient, asked the relatives to shift the patient to some other hospital. Relatives of the patient rushed to arrange the ambulance as it was not available in the "Live-On" hospital. It took around one hour for ambulance to come; unfortunately at about 9.00 am, the pregnant lady patient died for want of treatment. Though the patient was under observation of Dr. Tiwari till the arrival of ambulance, it was not enough as he was not Gynecologist.

3. Relatives of the patient refused to accept the body of patient till the police takes any action against the hospital. Police sent the body of patient for post mortem in Government Civil Hospital immediately; but did not take any action against the hospital. Dr. Abhijeet Gaware conducted the post mortem of dead body.

4. On 09-04-2000, Dr. Abhijeet Gaware called Dr. Narayan Sharma and asked him to meet in the civil hospital in the evening at 6.00 pm.

**Part II**

5. On 10-04-2000, Dr. Narayan Sharma approached the Anti-Corruption Bureau, Mumbai and filed the complaint against public servant Dr. Abhijeet Gaware for demand of bribe of Rs.2 Lakhs for not sending any serious report of post mortem, against Dr. Prakash Tiwari and the "Live-On" hospital, to the police. Dr. Narayan Sharma submitted the handwritten complaint in ACB office. The complaint was as under:-

**(Initial part of the complaint is identical to the contents mentioned in Para 1 to 4.)**

complaint continued...

6. On 09-04-2000, when I (Dr. Narayan Sharma) went to meet Dr. Abhijeet Gaware in civil hospital, he told me that, in his opinion, death of the patient took place due to negligence of a doctor and accordingly he is going to send such report to police. Dr. Gaware further said to me that, if you do not want me to send such report to the police, you will have to pay me Rs.2 Lakhs. I asked for some time to think over it and moved towards my hospital.

I discussed this thing with my colleagues from trust immediately. We came to the conclusion that death of the patient did not take place due to medical negligence. Thus, I do not wish to pay bribe of

Rs.2 Lakhs to Dr. Abhijeet Gaware; therefore this complaint.

### Part III

7. Officers of ACB, as per procedure, decided to verify the complaint of demand of bribe by public servant. Two panchas were called, handwritten complaint was shown to them. Investigating officer Senior PI Smt. Gaikwad asked complainant Dr. Sharma to call Dr.Gaware and talk about the post mortem report. Accordingly, on 10-04-2000, Dr. Sharma called Dr.Gaware at about 11.30 am, his phone was kept on speaker mode. During their conversation on phone about post mortem report, Dr.Gaware allegedly demanded bribe of Rs.2 Lakhs for not sending any serious report of post mortem against Dr. Tiwari and "Live-On" hospital to the police. Alleged demand was confirmed. ACB registered an FIR against public servant Dr. Abhijeet Gaware for demand of bribe and decided to lay the trap.

Verification panchnama was prepared in presence of panchas.

8. Dr. Sharma arranged 200 notes of Rs.1000 denomination for the purpose of using in trap. One constable in the ACB office applied Anthracine powder to those notes from both sides. The constable who applied the Anthracine powder to notes was excluded from trap team. Instructions were given to both panchas and complainant Dr. Sharma regarding trap. Complainant Dr. Sharma was specifically told not to offer the bribe amount to the accused Dr.Gaware unless he demands for. Complainant was instructed to give signal to the trap team by moving his left hand from his head after the bribe amount is accepted by the accused Dr. Gaware.

Pre-trap panchnama was prepared in presence of panchas.

9. On 10-04-2000, trap was fixed in Blue Star Hotel at Andheri, a place fixed by the accused Dr. Gaware to accept the bribe amount at 5.00 pm.

10. Accordingly, the complainant reached there and went inside the hotel. One of the panch followed him and went inside the hotel. The trap team stayed alert outside the hotel. The accused Dr. Gaware was already sitting there. Complainant Dr. Sharma sat in front of him. Panch occupied another table in adjacent row that was at 10 feet distance from the table of complainant and accused. Soft music was being played in the hotel at that time and there were other customers also.

After ten minutes, Dr. Sharma gave signal to the trap team by coming out of the hotel. Dr.Gaware was caught red handed by ACB officials immediately with tainted notes in his right hand at about 5.15 pm.

11. In the year 2004, ACB filed charge sheet against the accused Dr. Abhijeet Gaware u/ss 7, 13(1)(d) r/w 13 (2) of Prevention of Corruption Act,1988 before the Special court.

#### **Prosecution examined four witnesses in support of their case.**

i) **Complainant** ii) **Panch Witness**

iii) **Sanctioning Officer** iv) **Investigating Officer**

12. **Complainant** deposed in the court as per his statement before police. There were very minor inconsistencies in his evidence in respect of time and other procedural aspect. Complainant denied the suggestion, given by defense (accused), of thrusting of bribe amount in the hands of accused, in his cross examination. Complainant denied the suggestion that, he on his own offered money to the accused to save his son-in-law and the hospital. Complainant denied the suggestion of implicating the accused in a false case. Complainant admitted in his cross examination that his son-in-law was not a

Gynecologist and was not fully competent to treat the pregnant lady patient.

13. **Panch** did support the case of prosecution; but there were several contradictions and omissions in his entire evidence before the court. Panch did not corroborate the evidence of complainant on the point of demand and acceptance of money by the accused at the time of trap. Panch admitted in his cross examination that he was at 10 feet distance from complainant and accused; thus could not hear their conversation and also the alleged demand of bribe by accused. Panch answered, 'I cannot say', to the suggestion of thrusting of amount by complainant to save his son-in-law and hospital, even when money was not demanded by the accused.

14. **Sanctioning Officer** deposed in the court in a fashion as he was required to and supported the case of prosecution. He denied suggestion of according sanction mechanically and without application of mind. He said in his cross examination that, he did not take any legal assistance so as to deal with the legal aspect while according sanction to prosecute the accused. He said in his cross examination that, he did not give accused an opportunity to put fourth his case.

15. **Investigating Officer** submitted properly in his evidence before the court so far as Verification and Pre-trap panchnama is concerned. He admitted in his cross examination that, at the time of trap, he, along with his trap team, was outside the hotel. He said in his cross examination that, he entered in the hotel only after getting signal from complainant of alleged acceptance of money by the accused. He said in his cross examination that, he neither heard the demand of money by the accused nor seen the accused while accepting money at the time of trap.

16. That the accused, from the very beginning of the case, had put up the defense of thrusting of the amount by complainant to implicate the accused in a false case in order to save his son- in-law and hospital, even when money was not demanded by the accused.

It was argued by the accused that in absence of alleged demand of bribe, mere acceptance of money would not amount to an offence under Prevention of Corruption Act, 1988. It was the case of the accused that, the complainant himself offered him money, to save his son- in- law and hospital, to which accused refused. Accused submitted that, there is no corroboration to the evidence of the complainant by other witnesses on the point of demand and acceptance of money by the accused at the time of trap. Accused further submitted that, the complainant is a sole witness in the case who is an interested one; thus not reliable. Therefore the accused prayed for his acquittal from the charges leveled against him.

17. The Learned Special judge held that, the prosecution has failed to prove their case beyond reasonable doubt; the defense put up by the accused seems more probable and sustainable. The Learned Special judge further held that, there was serious doubt regarding demand and also about the acceptance of money by the accused at the time of trap; and if that is so, then benefit of that doubt should always go to the accused. The Ld. Special judge held that, in a criminal case, when there are two possible views before the court, the view favorable to the accused should always be accepted. The Learned Special judge also held that, there was no corroboration to the evidence of the complainant by other witnesses on the point of demand and acceptance; thus it would not be safe to hold the accused guilty of the offence by relying upon the sole testimony of complainant who is an interested witness.

The Learned Special judge considering the evidence on record held that, in absence of corroborative piece of evidence, the accused is liable to be acquitted of the charges leveled against him. (05-06-2006)

18. On 30-06-2006, State filed an appeal against acquittal in Bombay High Court. The Bombay High Court reversed the decision of the Special Court and convicted the accused on 20-12-2012.

Hon'ble Bombay High Court held that, the inconsistencies in the evidence of complainant were minor and not fatal to the case of prosecution. Hon'ble Bombay High Court further held that, the Special Judge could have convicted the accused by relying upon the sole testimony of complainant, though interested, if that inspires confidence in the mind of court. Hon'ble Bombay High Court endeavored that in this case, evidence of complainant does inspire the confidence.

Hon'ble Bombay High Court observed that, Investigating Officer has corroborated the evidence of Complainant regarding Verification and Pre-trap panchnama and Panch witness has seen the accused while accepting money from Complainant. Hon'ble Bombay High Court held that, there is sufficient evidence to convict the accused of alleged offence.

Hon'ble Bombay High Court set aside the judgment and order of Special court and convicted the accused of offences punishable u/ss 7, 13(1)(d) r/w 13 (2) of P C Act,1988.

19. The accused has challenged the decision of Hon'ble Bombay High Court before the Hon'ble Apex Court by filing Special Leave Petition.

The said SLP is kept for final hearing before Hon'ble Apex Court on-----.

*This problem is drafted by **Adv. Akshay Radikar, practicing advocate at Bombay High Court***



**Manikchand Pahade Law College, Aurangabad.****XIII National Moot Court Competition-2013**24<sup>th</sup> February, 2013.**MOOT COURT PROBLEM FOR THE FINAL ROUND****Statement of Facts**

1. In the year 2009, the United Democratic Alliance (UDA) Government consisting of 13 political parties came to power at the Centre with slender margin by winning 276 seats in the Lok Sabha elections. One of its key constituents, the Nationalist Party (NP) won 35 out of the 40 Lok Sabha seats from Tamil Nadu.
2. In the year 2011, India witnessed its biggest scams unfold. The Comptroller and Auditor General of India (CAG), Mr. Ramnivas Shastri in a press release stated that COCONE Systems Ltd., a company predominantly owned by UDA leaders had illegally benefited from the Union of India's policies.
3. The Young Indian Association, a political party with 38 members in the Lok Sabha launched a campaign to expose corruption and promote transparency. It started holding consultations with a range of other Opposition parties to enact a law to curb corruption.
4. Meanwhile, a renowned social activist Mr. Girdhar Bakshi, who had been on a crusade against corruption, declared that unless his version of the Lokpal Bill, 2012 (a law aimed at preventing and punishing corruption at the highest levels) is tabled in the next Monsoon session of the Parliament to begin, he would go on a fast-unto-death.
5. Baba Yogdev, a public figure, launched another campaign to fight against black money and the rampant corruption. Baba Yogdev was the first person to raise the issue of black money publically. The black money outside the country was estimated at total of Rs.400 lakh crore or nearly nine trillion US Dollar. On 27th February, 2011, an Anti-Corruption Rally was held at Krishna Maidan, New Delhi where more than one lakh persons were said to have participated.
6. The President of Bharat Swaraj Trust, Delhi submitted an application to the MCD proposing to take Krishna Maidan on rent, subject to the general terms and conditions, for holding a yoga training camp for 4 to 5 thousand people between 1<sup>st</sup> September, 2011 to 20<sup>th</sup> September, 2011. He had also submitted an application to the Deputy Commissioner of Police (Central District) seeking permission for holding the Yoga Training Camp which permission was granted by the DCP (Central District).
7. This permission was subject to the terms and conditions stated therein Permission letter reads as under:  
*"With reference to your letter, I am directed to inform you that your request for permission to organize Yoga Training Session at Krishna Ground by Bharat Swaraj Trust Delhi has been considered and permission is granted for the same subject to the conditions that there should not be any obstruction to the normal flow of traffic and permission from land owing agency is obtained. Besides this, you will deploy sufficient numbers of volunteers at the venue of the function. Further, you are requested to comply with all the instructions given by Police authorities time to time failing which this permission can be revoked at any time."*
8. Continuing with his agitation for the return of black money to the country, Baba Yogdev wrote a letter to the Prime Minister stating his intention to go on a fast to protest against the Government's inaction in that regard. The Government made attempts to negotiate with Baba Yogdev and to tackle the problem on the terms, as may be commonly arrived at between the Government and Baba Yogdev.
9. Baba Yogdev submitted an application for holding a *dharna* at Tantar Bantar, which permission was also granted to him vide letter which reads as follows:  
*"I have been directed to inform you that you are permitted dharna/satyagrah at Tantar Bantar with a very limited gathering." In furtherance to the aforesaid permission, it was clarified vide another letter informing the organisers that the number of persons accompanying Baba Yogdev should not exceed two hundred.*

10. Later on, the DCP (Central District), on receiving the media reports about Baba Yogdev's intention to organize a fast unto death at the Yoga Training Camp, made further enquiries from Acharya Virendra Vikram requiring him to clarify the actual purpose for such huge gathering.
11. Baba Yogdev's response to this was that there would be no other programme at all, except residential yoga camp. However, the Special Branch, Delhi Police also issued a special report indicating that Baba Yogdev intended to hold indefinite hunger strike along with 30,000-35,000 supporters and that the organizers were further claiming that the gathering would exceed one lakh.
12. In this background, Baba Yogdev's hunger strike began with the motto of 'bhrashtachar mitao satyagraha, the key demands being the same as were stated earlier. This event was converted into an *Anshan* and the crowd at the Krishna Maidan swelled to more than fifty thousand. No yoga training was held for the entire day. At about 1.00 p.m., Baba Yogdev decided to march to Tantar Bantar for holding a *dharna* along with the entire gathering.
13. Keeping in view the fact that Tantar Bantar could not accommodate such a large crowd, the permission granted for holding the *dharna* was withdrawn by the authorities. At about 11.30 p.m., a team of Police, led by the Joint Commissioner of Police, met Baba Yogdev and informed him that the permission to hold the camp had been withdrawn and that he would be detained. At about 12.30 a.m., a large number of CRPF, Delhi Police force and Rapid Action Force personnel, totaling approximately to 5000 reached the Krishna Maidan. At this time, the protestors were peacefully sleeping. Thereafter, at about 1.10 a.m., the Police reached the dais/platform to take Baba Yogdev out, which action was resisted by his supporters.
14. A scuffle between the security forces and the supporters of Baba Yogdev dev took place and eight rounds of teargas shells were fired. By 2.10 a.m., almost all the supporters had been driven out of the Krishna Maidan. The Police sent them towards the New Delhi Railway Station.
15. In the wake of these developments, the Supreme Court of India decides to proceed with the matter by *Suo motu* action. Simultaneously, a writ petition was filed by Baba Yogdev and his supporters claiming compensation for the illegal detention by the Government officials. The Supreme Court listed the aforesaid Petitions for final hearing on September 29, 2012.
16. The Petitioners would argue on behalf of Baba Yogdev and his supporters and the Respondents on behalf of the Union of India and the Home Secretary, Government of India.

*This problem is drafted by Prof. Aman Mishra, Asst. Prof. New Law College, Bharati Vidyapeeth Deemed University, Pune*

Marathwada Legal & General Education Society's  
**Manikchand Pahade Law College, Aurangabad.**

**XIII National Moot Court Competition-2013**

**23<sup>rd</sup> & 24<sup>th</sup> February, 2013.**

**Registration Form**

Name & Address of Participating Institution:-

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone No.

E-mail ID

Name of the Speaker - 1 :-

Class

Address

Mobile No.

E-mail ID

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Passport

Size

Photograph

Name of the Speaker - 2 :-

Class

Address

Mobile No.

E-mail ID

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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Passport

Size

Photograph

Name of the Researcher :-

Class

Address

Mobile No.

E-mail ID

\_\_\_\_\_

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Passport

Size

Photograph

Particulars of Demand Draft

D.D. No. \_\_\_\_\_ Date \_\_\_\_\_

Bank Name \_\_\_\_\_ Branch \_\_\_\_\_

**Signature and Seal of Head of  
the Institution.**

Marathwada Legal & General Education Society's  
**Manikchand Pahade Law College, Aurangabad.**

**XIII National Moot Court Competition-2013**

**23<sup>rd</sup> & 24<sup>th</sup> February, 2013.**



**TRAVEL PLANS**

Name of the participating Institution :- \_\_\_\_\_

**☺ Arriving on date :-**

Mode of travel : railways/airways/roadways \_\_\_\_\_

Train name : \_\_\_\_\_

Flight name : \_\_\_\_\_

Bus/travels name : \_\_\_\_\_

Reaching at time : \_\_\_\_\_

**☹ Departure on date :-**

Mode of travel : railways/airways/roadways \_\_\_\_\_

Train name : \_\_\_\_\_

Flight name : \_\_\_\_\_

Bus/travels name : \_\_\_\_\_

Reaching at time : \_\_\_\_\_

**Signature and Seal of Head of  
the Institution**