



Marathwada Legal & General Education Society's

# MANIKCHAND PAHADE LAW COLLEGE, AURANGABAD.

NAAC Re-Accredited with 'A' Grade (2013)

22<sup>nd</sup> Rank of **OUTLOOK** India's Best Professional Colleges (Law) 2017

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

B.Com, M.L. Ph.D.

**Principal**

Samarthnagar, Aurangabad – 431001 (MS)

☎ (O) 0240-2336621, (R)2357175

Fax: (0240) 2341146

Website : [www.mplaw.org](http://www.mplaw.org)

E-mail ID : [mplawcollege@gmail.com](mailto:mplawcollege@gmail.com)

Ref. No. MPLCA/2017-'18/

Date: 15/12/2017

To,

The Registrar/Director/HOD/Principal,

Respected Sir/Madam,

It gives us immense pleasure to invite your institution to participate in the **XVIII National Moot Court Competition -2018** to be held on 10<sup>th</sup> & 11<sup>th</sup> Feb. 2018 at M. P. Law College, Aurangabad, Maharashtra.


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

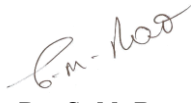
We kindly request you to advise your College team to read rules of the competition carefully.

With warm regards,

  
Prof. P. R. Girbane  
Coordinator

  
Dr. A. N. Kottapalle  
IQAC Coordinator

  
Dr. B. V. Paranjpe  
Vice Principal

  
Dr. C. M. Rao  
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 XVII National Moot Court Competition - 2017



**MPLC-XVIII NATIONAL MOOT COURT COMPETITION- 2018**



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S  
**Manikchand Pahade Law College, Aurangabad.**

## XVIII National Moot Court Competition-2018

10<sup>th</sup> & 11<sup>th</sup> Feb. 2018

### ✍️ RULES FOR THE COMPETITION:

1. Each team shall comprise of 3 (Three) participants **only** (Mooter 1, Mooter 2 and Researcher) and it must not be less or more than 03 participants.
2. Competition is restricted to bonafide regular students of Law School / College/ University. All participants must be students of either from LL.B. 3 years or 5 years degree course & one team from one college.
3. The participants will have to bear the travelling and all other incidental expenses.
4. Free lodging will be provided to the team of three participants only on the days of the competition i.e. **9<sup>th</sup> Feb. from 9.00 pm to 11<sup>th</sup> Feb. 2018 up to 9.00 pm** and boarding will be provided on the days of Competition i.e. 10<sup>th</sup> & 11<sup>th</sup> Feb. 2018. The Participants should follow disciplinary rules at the accommodation where they will be boarded.
5. Each Team shall pay an entry fee of **Rs. 1000.00** (One Thousand 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.

### ✍️ PHASES OF THE COMPETITION

8. The competition will have **TWO** Rounds (i.e. Preliminary and Final), the preliminary round will be held on **10<sup>th</sup> Feb. 2018 from 9.00am** onwards and Final round will be held on **11<sup>th</sup> Feb. 2018 from 9.00 am** onwards.
9. The best **FIVE** teams from the overall preliminary round will be qualified 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. **There will be direct performance of petitioner of a team against respondent of another team according to lots drawn in different Court Halls. There will be exchange of memorials of each round on previous day of the respective rounds.**
12. Problem No. 1 and 2 are for the preliminary and final rounds respectively.
13. In case of a tie, both the teams will be considered qualified.

### ✍️ MEMORIALS

14. All teams shall submit their written memorials / submission for both sides along with synopsis in English.
15. All teams shall submit typed / computerized memorials fulfilling the following specifications.
16. The memorials shall be typed on A - 4 size paper with prescribed margin on both sides in the "Times New Roman" font size 12 with double line spacing.
17. Memorials not following the above specifications will be penalized.

18. Each team shall send three copies of memorials for each side for both rounds. **Neither the name of the student nor the name of the Institution shall reflect on the memorials.** However, the said details shall be mentioned in the covering letter.
19. 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.** Teams which have not sent memorials for both the rounds within specified time shall be disqualified.
20. Participants shall send the Registration form, Travel plans, Demand Draft of Rs. 1000.00 and Memorials so as to reach the organizing college on the following address as per the scheduled prescribed at the end.  
**The Principal, M.P. Law College,  
 Samarth Nagar, Aurangabad - 431 001 (M.S.)**
21. 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)
22. Participants should carry their personal copies of memorials for their own use. The Copies of the memorials submitted to the organizing college, will not be returned.
23. Each participant shall have time of 15 minutes to present their oral submission and 05 minutes for **rebuttal. Rebuttal is mandatory for each Mooter.** No Mooter will be allowed to address the court for more than the prescribed time without permission of the Court. The oral submission and Rebuttal shall be in English.
24. 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.
25. All teams are expected to carry with them the case laws and authorities which they intend to refer.

### **ASSESSMENT CRITERIA**

26. The following will be the assessment criteria

Knowledge and application of law	25
Presentation and perusal of facts	10
Answer to court queries	15
Advocacy / Court Etiquettes	25
Written Memorials / Drafting	15
Rebuttal	10

#### **TOTAL MARKS:**

---

**100**

27. 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.
28. The organizers reserve the right to take appropriate action for any unethical, unprofessional and immoral conduct.
29. **The organizer's decision as regards the interpretation of rules or any other matter relating to the competition shall be final.**
30. If there is any situation, which is not contemplated in the rules, the organizers decision shall be final.
31. For any query or clarification regarding moot problems please contact

➤ **Prof. Shrikishan Morey - 9325228041**


**PRIZES**

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


- I) **Winner Team cash prize of Rs. 7000/- from college and Late Adv. Shri. Sudhakar Rao Deshmukh Trophy.**
- II) **Runner Up Team cash prize of Rs. 5000/- from college and Late Adv. Shri. Sudhakar Rao Deshmukh Trophy.**
- III) **Individual Prizes & Trophies.**
- ❖ **Late Adv. Shri L. N. Sirsamkar- Best Petitioner from final round cash prize of Rs. 2000/- and Trophy.**
  - ❖ **Best Respondent from final round cash prize of Rs. 2000/- and Trophy from college.**
  - ❖ **Late Adv. Shri. Sudhakar Rao Deshmukh Trophy for Best Mooter in both rounds.**
  - ❖ **Ghate Foundation, Aurangabad - Best Mooter Trophy for Preliminary Round.**
  - ❖ **Best Memorial Prize for Final Round**

☺ **DATES TO REMEMBER – SCHEDULE OF COMPETITION**

- |   |                            |
|---|----------------------------|
| 33. Submission of registration form along with travel plans and demand draft. | 25 <sup>th</sup> Jan. 2018 |
| 34. Submission of memorials   | 01 <sup>st</sup> Feb. 2018 |
| 35. Date of Preliminary Round.  | 10 <sup>th</sup> Feb. 2018 |
| 36. Date of Final Round.  | 11 <sup>th</sup> Feb. 2018 |

**Coordinators:**

<b>Prof. P. R. Girbane</b>	<b>9923484741</b>
<b>Dr. B. V. Paranjpe</b>	<b>9890798823</b>
<b>Prof. S. N. Morey</b>	<b>9325228041</b>
<b>Dr. A.N. Kottapalle</b>	<b>9923412234</b>
<b>Prof. A. D. Jadhav</b>	<b>9970449376</b>

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



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S  
**Manikchand Pahade Law College, Aurangabad.**

**XVIII National Moot Court Competition-2018**

*10<sup>th</sup> Feb. 2018*

*Moot Problem for Preliminary Round*

**Statement of Facts**

Enlightened by the latest medical bulletins about the hazards of using asbestos sheets, and frightened by the plight of deformed workers in the asbestos industry an NGO named 'Praja Premi' having its Head Quarters at Noida filed a Public Interest Litigation against functioning of an asbestos Industry situated in U.P. Duly concerned with the plight of the workers in that industry and also after understanding the ill effects endured by the Consumers and users of asbestos sheets, the Supreme Court of India delivered a judgment on 09-12-2011, having the following ingredients:

- a) The judgment will impose obligations to all the asbestos industries functioning within the territory of India.
- b) Every asbestos Industry must have a health clinic wherein the workers must be screened.
- c) The industrial undertaking must bear all the medical expenses of both working and retired employees.
- d) Before marketing the Asbestos Sheet, the manufacturer should obtain health clean certificate from the accredited agency.
- e) Labour Inspectors of the area where the industrial unit functions shall be responsible for the implementation of the above said regulations and the District Collector shall supervise the work of the Labour Inspectors.

Nirman Industries Ltd., are having a large asbestos Manufacturing Unit at Khanapur, Karnataka and their products cater to the needs of all the southern states of India. It is an accepted fact that Nirman asbestos Unit did not implement the regulations as stipulated in the judgment of the Supreme Court, nor the Labour Inspectors indicted Nirman for its failure to implement neither the regulations nor the Collector of District where the manufacturing Unit functions supervise or censure the Labour Inspectors. 'Praja Premi' filed a contempt petition before the Supreme Court of India against the District Collector. The Supreme Court, besides acting on the contempt, passed an order under Art.142 of the Indian Constitution suspending the District Collector for 6 months. Both Nirman Industries Ltd., and District Collector filed Separate Writ Petitions under Art.226 of Constitution of India in High Court of Karnataka;

challenging the legislative judgment of the Supreme Court of India, and the second one, challenging the order of the Supreme Court under Art.142 of the Constitution of India, as the Second limb of Art.142 was not complied with. Both Writ Petitions were clubbed by the High Court and posted for hearing. The High Court framed the following Issues for hearing:

- a) Whether a legislative judgment comes under Art. 141 of the Constitution?
- b) Whether a legislative judgment comes under the phrase 'Law' under Art. 13 of the Constitution?
- c) Whether the Supreme Court usurps the legislative power conferred on the Legislatures when enacting legislative judgments?
- d) Whether the legislative judgment of the Supreme Court becomes a force of law without getting the assent of the President?
- e) What is the legality of the order of the Supreme Court passed under Art.142 when both the Parliament and the President did not pass any subsequent legal actions?



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S  
**Manikchand Pahade Law College, Aurangabad.**

**XVIII National Moot Court Competition-2018**

*11<sup>th</sup> Feb. 2018*

*Moot Problem for Final Round*

Jeevan Daan , Gaurav Peeth & others (Applicant)

*Vs.*

Hardik health and cancer research center (Respondent)

Hardik Health and Cancer Research Center was established in the year 1986 in the premise of Hardik General Hospital and Diagnostic Center located at Dombivali, Mumbai. The purpose of establishing the cancer research center was to carry out advanced research in prevention, treatment and care of cancer patient. Right from its inception it carried out diagnosis and treatment of patients on non profit basis. It regularly published a monthly news letter "Swasthya Sarita" disseminating information on the prevention and cure of cancer which has a wide circulation. It often conducted consultation meetings and conferences where doctors and researchers worldwide participated. Very soon it gained national and international repute. The research center got funding of around 5 Cr. from a UK based NGO called 'Holy Blessings' working for terminally ill patients. The money was transferred online on 20<sup>th</sup> Dec 1987 in the bank account of the research center. On 5<sup>th</sup> January 1988 two of the officials of 'Holy Blessings' visited the research center, interacted with the patients, doctors, research scientists and the other staff. They left after two days of their visit and appeared to be satisfied with the services carried out at the research center.

Hardik General Hospital is multispecialty and surgical hospital having out-patient and in-patient. It has a very advance Intensive Care Unit and ancillary services like imaging, laboratory services and ambulance services.

In the year 1992 Hardik Health and Cancer Research Center decided to import high quality sophisticated equipments which are used for diagnosis and treatment of cancer patient. The equipment cost was estimated around 86 lakhs. Accordingly they applied to Director General of Health Services, Ministry of Health and Family Welfare for grant of necessary certificate which would enable them to import the equipments without payment of import duty in accordance with the Notification No. 64/88-customs dated 1.3.1988. The

project report was submitted to the authorities with details of the equipments and their use in diagnosis and care of the cancer patient.

On scrutinizing the report the health ministry was satisfied that these equipments are very essential for the research and issued a letter for exemption under Sub-Section (1) of Section 25 of the Customs Act, 1962 on 28 Jan 1993. The condition was that the equipments should be used exclusively for the patients of the research center free of cost.

Hardik Health and Cancer Research Center imported the equipments on 17<sup>th</sup> March 1993. The bills of entry as well as relevant exemption certificate and the equipments were assessed finally allowing exemption as claimed.

In January 2008 there were problems between the management and the employee and around 100 employees who were hired by the Hardik Health and Cancer Research center and Hardik General Hospital and Diagnostic Center on contractual basis were discontinued from their job.

In March 2008 the equipments were temporary shifted to Hardik General Hospital and diagnostic center as some repair and interior changes were undertaken by Hardik Health and Cancer Research Center. In the year 2010 several reputed national and local news papers reported that the equipments were commercially used by the hospital and the research center has failed to discharge the obligation in treating the patients as specified by the notification. There were interviews of the patient who confirmed that they discontinued with the treatment as they could not afford it. The ex-employee of the research center also said that the equipments imported by the research center were used commercially by the hospital. It was also alleged that no action has been taken against them; neither there was demand of the custom duty or confiscation of equipments or imposition of any fine.

On September 26<sup>th</sup> 2010 a string operation was conducted by an NGO. Mr. Deendayal was sent as a patient to the research center with audio-visual recorder. His medical history was taken by Dr. Sabnis on the second floor of the research center and then was advised to go to the hospital for imaging and blood tests as the repair work was going on. On reaching the hospital he was asked to pay Rs. 10,000 for which he was given duly signed receipt. During the process Mr. Deendayal saw the equipments kept at the hospital but they were not used in his presence. The very next day several news channels broadcasted this audio-visual recording making serious allegations against the research center and the hospital.

Based on the reports published by the newspapers three Non Governmental Organizations namely JeevanDaan , Gaurav Peeth and Smruddhi working for rights of consumers and Rural health care sector filed a public Interest Litigation in the Bombay High Court against Hardik Health and Cancer Research Center contending that Section 25 of the



Custom Act enables the Central Government in Public Interest to exempt certain equipments from duty of customs. In this case the right of the patient to avail free treatment in the research center was violated and the research center has not fulfilled its obligation post exemption letter from payment of customs duty.

Following issues are before the Bombay High Court.

1. Whether there is a sufficient public cause involved in the case and the NGOs have locus- standi?
2. Whether right to health guaranteed by the Constitution have been violated as right of the patient to avail free treatment in the research center was denied?
3. Whether the Hardik Health and Cancer Research Center is to be considered as a hospital for the purposes of notification under Section 25 of the Customs Act as the center was meant for advance research in cancer and provided diagnostic services and medical treatment as an ancillary function?
4. Whether the Hardik health and cancer research center has given to the hospital to use the equipment in unauthorized way and hence liable to pay customs duty or confiscation of equipments or penalty (Sec 114 A of The Custom Act)
5. Interest at the rate of 20% should be charged as contemplated under Section 28 of the Customs Act, 1962.

*Note: The students may not limit themselves to the issues raised in the moot problem*



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S  
**Manikchand Pahade Law College, Aurangabad.**

**XVIII National Moot Court Competition-2018**

**10<sup>th</sup> & 11<sup>th</sup> Feb. 2018**

**Registration Form**

**Name & Address of Participating Institution:-**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Phone No.**

**E-mail ID**

**Name of the Mooter - 1 :-**

**Class**

**Address**

**Mobile No.**

**E-mail ID**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Passport

Size

Photograph

**Name of the Mooter - 2 :-**

**Class**

**Address**

**Mobile No.**

**E-mail ID**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Passport

Size

Photograph

**Name of the Researcher :-**

**Class**

**Address**

**Mobile No.**

**E-mail ID**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Passport

Size

Photograph

**Particulars of Demand Draft**

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

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

Mooter	Preliminary Round	Final Round
Mooter 1	Petitioner / Respondent	Petitioner / Respondent
Mooter 2	Petitioner / Respondent	Petitioner / Respondent

(Strike out unnecessary fields.)

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



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S  
**Manikchand Pahade Law College, Aurangabad.**

**XVIII National Moot Court Competition-2018**

**10<sup>th</sup> & 11<sup>th</sup> Feb. 2018**



**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**