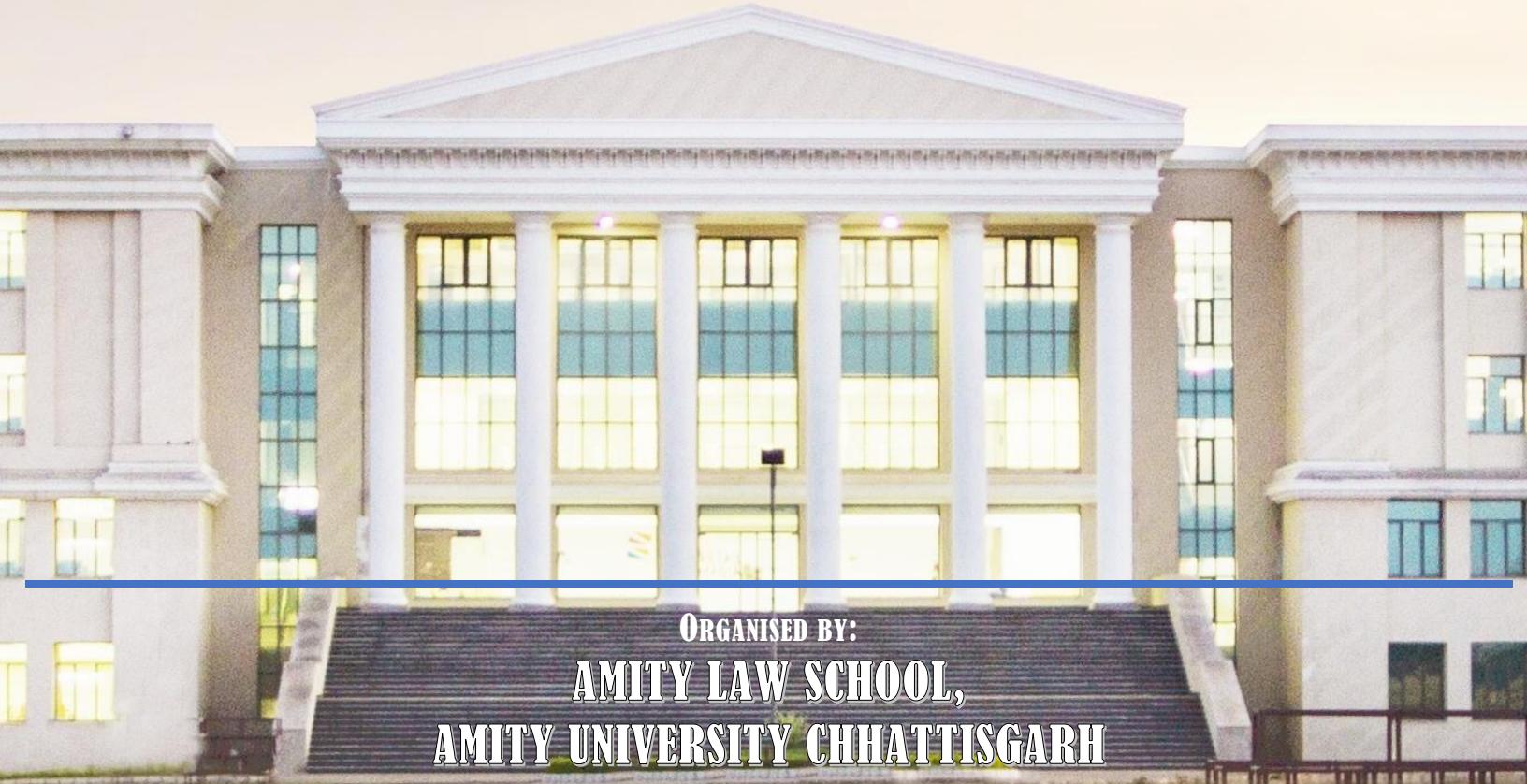


1st

**AMITY NATIONAL MOOT
COURT COMPETITION, 2019**



ORGANISED BY:
**AMITY LAW SCHOOL,
AMITY UNIVERSITY CHHATTISGARH**

MOOT PROPOSITION

Material Facts

1. The Democratic Republic of Indistan, a nation that won its independence from British colonial rule around the same time as India (in 1948), adopted a Constitution that was more or less in *pari-materia* with the Constitution of India, in the year 1950. Not only the Constitution, but the whole legal framework of Indistan is also *pari-materia* with the laws of India such as the criminal laws, the motor vehicle laws, etc.
2. Indistan comprises of twenty-nine states and one National Capital Territory (NCT), Khushal Pradesh. Each of the States/Union Territories were actually colonies ruled by the British and after a prolonged freedom struggle, came together to form the Union of Indistan.
3. Every year in the winter season the Union Territory of Khushal Pradesh, which is also the National Capital Territory of Indistan gets enveloped in thick smog. The reasons for the same have often been debated on in social media, national television, amongst politicians and various government or intergovernmental organisations and NGOs. Investigations carried out by some agencies have often reasoned that the smog is caused due to a mixed number of factors amongst which are the burning of crop in the neighboring state of Jatland and Uttam Pradesh, weather change,

vehicular pollution in Khushal Pradesh and a large amount of construction that has been prevalent for the last few years in this National Capital Territory State.

4. For the past couple of years every time the smog covers Khushal Pradesh, the people have come onto the streets, protests have been held and the Government of Khushal Pradesh has been harshly criticized regarding its inability to provide the clean air to its citizens.

5. This year that is 2019 the Chief Minister of Khushal Pradesh in his Independence Day speech publicly stated that the state government has thought a lot about curbing the smog and preventing the smog from covering Khushal Pradesh in the winters. Amongst the various means through which the government intends to combat the bad air conditions is requesting the governments of Jatland and Uttam Pradesh for ensuring that the crops are burnt far from the borders of Khushal Pradesh and making sure that they are burnt in such a manner that the smog is carried away from the NCT.

6. Another much talked about pollution curbing scheme is the odd and even scheme. As briefly explained by the Chief Minister in his address, the odd and even scheme entails allowing the public to use odd number cars on Monday, Wednesday, and Friday and the even number cars on Tuesday, Thursday, and Saturday. On Sunday it is for each household to decide to use one of the cars that they may have. If a

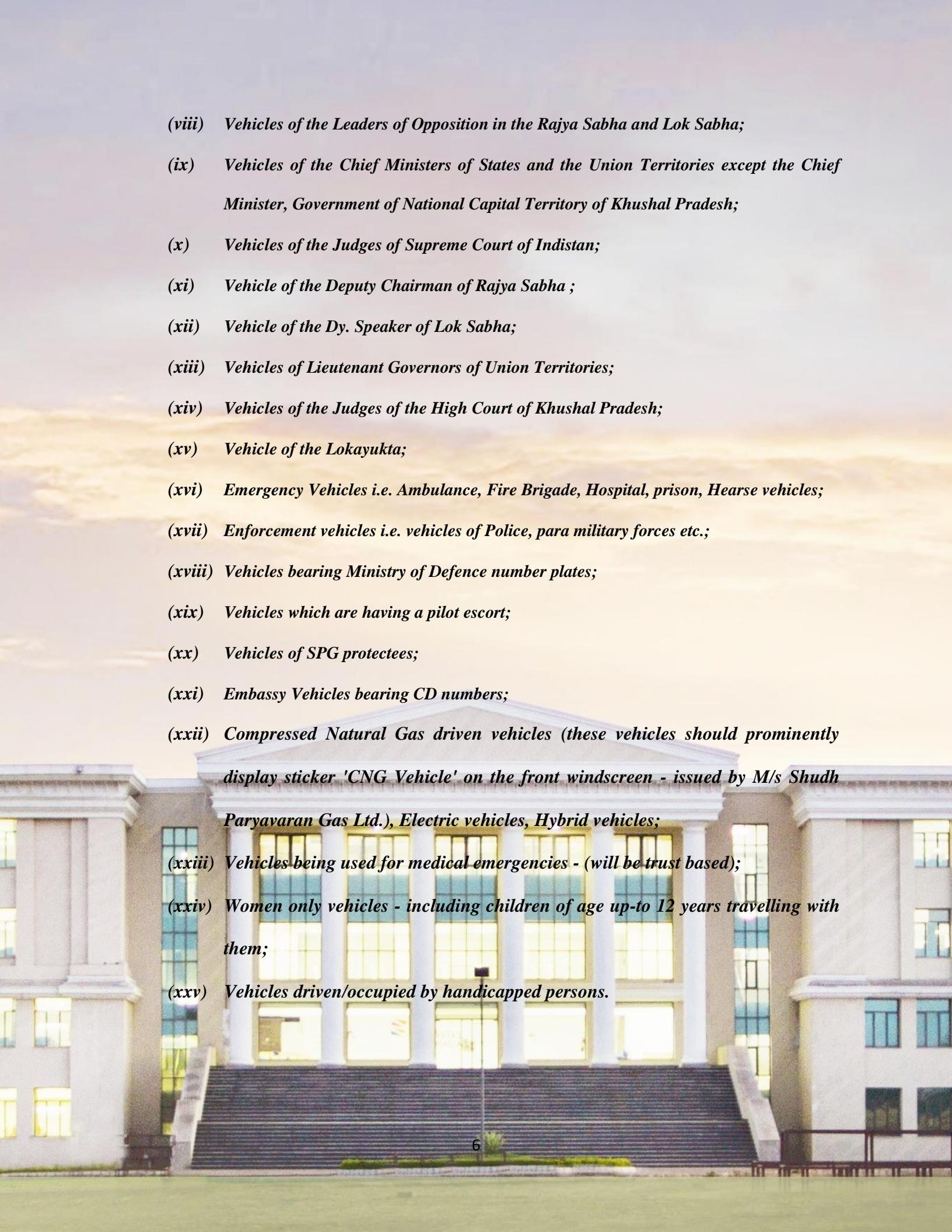
household has only one car then on Sunday that household and its members can use that one car irrespective of the number of the car. However, the prohibitions on the scheme shall be made inapplicable to cars being used for government functions and events, both center and Khushal Pradesh. In addition, there will be several other exemptions from this scheme such as exemption to women, etc.

7. When the Chief Minister announced this scheme, it was initially considered as a futuristic promise in a speech, never to see the light of day. To their great surprise, on 15th September the newspaper reports informed the public that the Chief Minister and his cabinet were actually considering the implementation of the odd and even scheme. This news caused public outrage in the NCT and people started condemning the Chief Minister and his government. Considering the legislative assembly elections in next six months, the Chief Minister called for an immediate cabinet meeting in which it was decided that the Odd-Even scheme shall be implemented but only after the consultations and public meetings with the civil societies.

8. On the 23rd of September 2019 all major newspapers of Khushal Pradesh carried a notification issued by the office of the Lieutenant Governor of Khushal Pradesh in which the Lieutenant Governor had notified the implementation of the odd and even scheme from the 25th of September 2019. The notification is as under:

"In exercise of the powers conferred vide the Motor Vehicles Act of Indistan, the Lieutenant Governor of the National Capital Territory of Khushal Pradesh, on being satisfied that further steps are required to control vehicular pollution caused by non-transport four wheeled vehicles (motor cars etc.), hereby orders, in the interest of public health and safety, that the following prohibitory / restrictive measures shall be in vogue in the area of National Capital Territory of Khushal Pradesh; namely The plying of non-transport four wheeled vehicles (Motor Cars etc.) having registration number ending with odd digit (1,3,5,7,9) shall be prohibited on Monday, Wednesday and Friday and the plying of non-transport four wheeled vehicles (Motor Cars etc.) having registration number ending with even digit (0,2,4,6,8) shall be prohibited on Tuesday, Thursday and Saturday. These restrictions shall also apply to the non-transport four wheeled vehicles bearing registration number of other states. These restrictions shall be applicable from 8 AM to 8 PM of such dates. These restrictions shall not be applicable on Sundays. These restrictions shall not apply to the vehicles of such categories as mentioned below:

- (i) *Vehicles of the President of Indistan;*
- (ii) *Vehicles of the Vice President of Indistan;*
- (iii) *Vehicles of the Prime Minister of Indistan;*
- (iv) *Vehicles of Governors of States.*
- (v) *Vehicles of Chief Justice of Indistan.*
- (vi) *Vehicles of the Speaker of Lok Sabha;*
- (vii) *Vehicles of the Ministers of the Union;*

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- (viii) *Vehicles of the Leaders of Opposition in the Rajya Sabha and Lok Sabha;*
 - (ix) *Vehicles of the Chief Ministers of States and the Union Territories except the Chief Minister, Government of National Capital Territory of Khushal Pradesh;*
 - (x) *Vehicles of the Judges of Supreme Court of Indistan;*
 - (xi) *Vehicle of the Deputy Chairman of Rajya Sabha ;*
 - (xii) *Vehicle of the Dy. Speaker of Lok Sabha;*
 - (xiii) *Vehicles of Lieutenant Governors of Union Territories;*
 - (xiv) *Vehicles of the Judges of the High Court of Khushal Pradesh;*
 - (xv) *Vehicle of the Lokayukta;*
 - (xvi) *Emergency Vehicles i.e. Ambulance, Fire Brigade, Hospital, prison, Hearse vehicles;*
 - (xvii) *Enforcement vehicles i.e. vehicles of Police, para military forces etc.;*
 - (xviii) *Vehicles bearing Ministry of Defence number plates;*
 - (xix) *Vehicles which are having a pilot escort;*
 - (xx) *Vehicles of SPG protectees;*
 - (xxi) *Embassy Vehicles bearing CD numbers;*
 - (xxii) *Compressed Natural Gas driven vehicles (these vehicles should prominently display sticker 'CNG Vehicle' on the front windscreen - issued by M/s Shudh Paryavaran Gas Ltd.), Electric vehicles, Hybrid vehicles;*
 - (xxiii) *Vehicles being used for medical emergencies - (will be trust based);*
 - (xxiv) *Women only vehicles - including children of age up-to 12 years travelling with them;*
 - (xxv) *Vehicles driven/occupied by handicapped persons.*

Violation of these orders shall attract a fine of Rs. 20000/- in accordance with the provisions of the Motor Vehicles Act.

9. This came as a shock to a number of people in the city as they were assured by the government that the scheme shall be implemented only after consultations with the people. People felt cheated. Various articles and reports published by newspapers and magazines reported that the population that was the hardest hit was the middle and lower middle class which has just about one vehicle for the entire household due to which they can use their cars only for 4 days in a week.
10. Mr R.C. Kehta is a famous comedian based out of Khushal Pradesh. He lives with his aging parents in Hasmukh Vihar and his office and his recording studio are in Raksha Colony. Mr. Kehta has recently started a series of political satirical comedy which he uploads as a podcast and as a video on popular social media streaming channels. Since July 2019, his videos have started to get a lot of attention and his streaming channels have started to gather millions of subscribers. Consequently, his income which was hardly anything to speak of has substantially increased. Despite this Mr. Kehta only had one car which ended with an even number on the license plate. The implementation of the odd and even scheme has had major repercussions and caused grave hardship to Mr. Kehta. He complains that because of the scheme he now has to spend a major part of his day travelling from his place of stay to his place of work. He also complains that there is no adequate public transport from his

house to the locality in which his place of work is situated in. His biggest worry is that he has to take his 76-year-old father for his regular dialysis which happens about 3 times a week depending on the needs of his father.

11. The day the scheme was notified, Mr. Kehta wrote to all the members of the cabinet and to the Chief Minister himself. In his letter he stated that this scheme was stupid and foolhardy and that in view of the lack of proper public transport the scheme was causing immense difficulties to the public. He requested that the scheme be withdrawn at the earliest. When the scheme was not withdrawn, he took part in the various protests that were happening in Khushal Pradesh against the scheme. He also filed a number of RTI applications questioning the rationale behind the schemes.

12. While many of his RTI applications were not adequately answered; through the response to one of his many applications he got to know that the Lt. Governor and the Council of Ministers have had a falling out. He was informed of the fact that this scheme was proposed to the Lieutenant Governor on the 15th of September. Post that the Chief Minister of Khushal Pradesh along with his Council of Ministers had paid a visit to the Lieutenant Governor of Khushal Pradesh for lunch on 22nd September. By the end of the lunch hour, on the same day, the Lieutenant Governor accepted the proposal and was of the opinion to implement the scheme with immediate effect

to which the CM and the Council of Ministers differed. They had walked out by giving an opinion to implement the scheme at a later stage only after consultations.

13. Mr. Kehta being a comedian also took to satire. He uploaded on all his media channels a short satirical sketch of no more than 2 minutes depicting how the Chief Minister of Khushal Pradesh had chanced upon the idea of an odd and even scheme in the state. In that cartoon sketch he portrayed a likeness of the Chief Minister's dressing style onto a caricature. It was the subject of debate as to whether the caricature itself resembled a fatter version of the Chief Minister. This caricature was juggling between two women. On the screen he would move from one end where one of the women was standing to the other end of the screen where the other woman was standing. He would hug and try to kiss the first woman, but the other woman would see and start abusing. The same happened when he tried to be close and intimate to the other woman. Fed up with this, the caricature on the screen puts up a curtain between the two women and then numbers each of the women as 1 and

2. He then separately reasons with them as to how he would be with one woman on one day and the other woman on the other day. As he amicably settles the dispute between the two women a light bulb appears over his head and in a daydream, he feels that this odd-even could solve the problem of pollution in the state of Khushal Pradesh as the smoke coming out of the cars would be halved.

14. When the sketch came out, he was proceeded against by the police and a case of indecent representation of women was registered against him. The complaint against him was primarily on the ground that the sketch was obscene and due to the nature of its contents it ought not to have been publicly displayed.

15. Mr. Kehta was already considering his legal remedies against the odd and even scheme by the time he was made aware of the case against him. He consulted his lawyers and decided to approach the High Court.

16. In his petition Mr. Kehta requested that the complaint against him be quashed as there is nothing obscene about the sketch that he has uploaded. He also challenged the constitutionality of the notification of 23rd September. Further, Mr. Kehta has contended that the notification is legally void because it has been passed by the Lieutenant Governor without adequate consultation with his Council of Ministers and as such there has been no proper application of mind by the Lieutenant Governor before issuing the notification.

17. His petition was dismissed by the High court of Khushal Pradesh on the 10th of November. The High Court found that the scheme doesn't violate the fundamental rights, that the notification was issued adequately by the Lieutenant Governor, and it was not necessary for him to apply his mind on his own to the matter. The High Court also found that the contents of the sketch were indeed obscene and indecent and the complaint against him cannot be quashed at this stage.

18. Against this and deeming in the matter to be of public interest, Mr. Kehta has filed a petition before the Supreme Court of Indistan. Given that the interests of both, the Government and the Lieutenant Governor are the same, the same lawyer is representing both the parties.

19. The pleadings in the case have been completed and the case is next listed for hearing on the 16th of November, for arguments before the Supreme Court.

20. Accordingly, the participants are required to present written and oral submissions before the Supreme Court on behalf of Mr. R. C. Kehta (the Petitioner) and the Govt. of NCT of Khushal Pradesh and His Excellency the Lt. Governor of Khushal Pradesh (the Opposite Party), addressing the following issues (in addition to any other issue identified):

- (i) Is the petition maintainable before the Hon'ble Supreme Court of Indistan?
- (ii) Is the Odd-Even scheme implemented by the Govt. of NCT violative of the fundamental rights under the Constitution of Indistan?
- (iii) Does the satirical sketch uploaded by Mr. Kehta amounts to obscenity and indecent representation under the Criminal Laws of Indistan?
- (iv) Whether the consultation by Lt. Governor with the Council of Ministers was constitutionally full and proper?

Note:

- 1. The order of issues in which they shall be contended are likely to be as the parties deem appropriate. These issues are only indicative. The parties are free to frame any other issues.**
- 2. The Supreme Court of Indistan considers judgments of Indian Courts to be of persuasive value.**

