

2ND CONSTITUTIONAL LAW ONLINE MEMORIAL WRITING TOURNAMENT, 2019.

This is to inform you all that Mr. Saunak Kumar Rajguru, an avid Mooter and a Bar Council of India Trust Scholar, is hereby declaring the '**2nd Constitutional Law Online Memorial Writing Tournament, 2019.**

A. About the competition

After a successful opening edition of the competition, which saw participation from 86 students from different law schools, the event is back with its 2nd edition. The proposition focuses on key aspects of **Constitutional Law** with a blend of **Environmental Laws** and touches upon one of the intriguing issues faced by the **Power Sector** in the country. This event aims to facilitate legal drafting skills of the participants and the proposition has been drafted keeping in mind the balance required for participation irrespective of the year of study of the candidate.

The event is launched with '**Lex Assisto**' and '**Legge Rhythms**' being the official Knowledge and Social Media Partners respectively.

B. About Mr. Saunak Rajguru

Mr. Saunak Rajguru is a Bar Council of India Trust Scholar on account of **clean sweeping** the **33rd Bar Council of India Moot, 2017** i.e. the country's premiere mooting tournament. Mr. Rajguru has (i) **coached various teams** of National and International Moots; (ii) conducted **Moot Court workshops** in different colleges throughout the country; (iii) acts a **Moot Court Advisor** to different Universities etc. The following table demonstrates the over-all Mooting achievement of Mr. Rajguru: -

Sl. No.	Name of the Moot/Trial	Achievement(s)
1.	33 rd Bar Council of India Moot Court Competition, 2017, Hyderabad	<ul style="list-style-type: none">• Winning Team• Best Male Advocate (over-all)• Best Memorial (Round 3)• Best Speaker (Round 3)

2.	3 rd IIT Rajiv Gandhi School of Intellectual Property Law Moot, IIT KGP (IP Laws), 2016	<ul style="list-style-type: none"> • Winning Team • Best Advocate • 2nd Best Memorials.
3.	6 th RM Ranka Memorial National Moot, 2016	<ul style="list-style-type: none"> • Winning Team • Best Advocate
4.	All Indian National Moot, Legal Spectra, 2015	<ul style="list-style-type: none"> • Winning Team
5.	UPES Trial Advocacy Tournament, 2018	<ul style="list-style-type: none"> • Runners-Up
6.	7 th MS Ramaiah National Moot, 2017	<ul style="list-style-type: none"> • Best Advocate • Best Memorials • Semi-Finalists
7.	3 rd North Cap University's Environmental Law Moot, 2015	<ul style="list-style-type: none"> • Best Advocate • Semi-Finalists
8.	23 rd Stetson Annual International Environmental Law Moot, 2018	<ul style="list-style-type: none"> • Memorial Citation • Quarter-Finalists
9.	22 nd Stetson Annual International Environmental Law Moot, 2017	<ul style="list-style-type: none"> • Quarter-Finalists

C. Proposition

1. India's power sector is one of the most diversified in the world and is undergoing a significant change that has redefined the industry outlook. Sustained economic growth continues to drive electricity demand in India. The Government of India's focus on attaining 'Power for all' has accelerated capacity addition in the country. At the same time, the competitive intensity is increasing at both the market and supply sides (fuel, logistics, finances, and manpower). In May 2018, India ranked 4th in the Asia Pacific region out of 25 nations on an index that measures their overall power.

2. Sources of power generation range from conventional sources such as coal, lignite, natural gas, oil, hydro and nuclear power to viable non-conventional sources such as wind, solar, and agricultural and domestic waste. Of these, Thermal Power Plants ("**TPPs**") are the

principal generators of electricity in India. They produce **63.7%** of electric power in the country.

3. Coal is predominantly used as fuel for electricity generation in the country as it is readily available. India has 7% of world's coal reserve and is ranked third in production of coal. However, combustion of coal emits a wide spectrum of chemicals into the environment, and some of these chemicals such as respirable particulates, Oxides of Nitrogen (NO_x) and Sulphur (SO₂), transitional metals and hydrocarbons are potentially harmful for human health. An estimated 240 million tons of coal with 35- 45% of ash content is consumed annually by the thermal power plants in India.

4, As per the estimate calculation of Central Pollution Control Board ("**CPCB**"), 4,24,650 tons of carbon dioxide, 3311 tons of SO₂ and 100 million tons of ash are generated daily from these plants. Emissions of CO₂, SO₂ and particulate matter from coal-based power plants represent 82%, 89% and 82% of total emissions of these pollutants, respectively, from the industrial sector. As a matter of consequence, coal-based thermal power plants are considered as major contributors to ambient air pollution.

5. Since many of these pollutants are hazardous for human health, emissions from coal based thermal power plants can impair the health of their employees as well as people living nearby. Besides, the emissions can inflict damage to the crops, forests, ecosystem, building materials, biodiversity and can mediate atmospheric changes including global warming because of the presence of significant amount of greenhouse gases (such as CO₂, SO₂ and NO_x) in emissions.

6. The Ministry of Environment, Forest and Climate Change ("**MoEF**") has enacted various legislations to regulate the power industry and the most important of them being the Environment Protection Act, 1986 ("**Act**"). The Act enlists multiple special agencies and other statutory authorities to overlook compliance to various environmental legislations and policies. Accordingly, CPCB, which was initially constituted under the (i) Water (Prevention and Control of Pollution) Act, 1974 and (ii) **Air (Prevention and Control of Pollution) Act**, 1981 was, *vide* MoEF's Notification dated 10th July, 2002, conferred statutory powers in

terms of Section 5 of the Act to directions to any industry for violation of rules relating to hazardous emissions.

7. Taking note of the growing need to implement strict pollution control measures, the MoEF, on 07.12.2015, issued Notification No. S.O. 3305 (E) in exercise of its powers under Section 6 and Section 25 of the Act, notifying Environment (Protection) Amendment Rules, 2015 ("**Amended Rules**") which amended the earlier Environment (Protection) Rules, 1986 ("**Principal Rules**"). The Amended Rules envisaged stricter emission limits *inter alia* for SO₂ and NO_x.

8. The Amended Rules created unrest in the entire power sector. The power producers, both the Central Sector (such as Indian Thermal Power Corporation Ltd.¹ etc.) and the Private Generators in the country were concerned with respect to the implementation of the Amended Rules. Council of Power Producers² ("**CPP**"), on its representative capacity, took up the issue with MoEF *vide* letter dated 01.01.2017 in the following terms: -

"While the Council of Power Producers appreciate the positive efforts on behalf of the MoEF in making efforts towards combating pollution from thermal power plants, however, it may be noted that the recent MoEF Notification dated 07.12.2015 prescribing stricter emission norms inter alia for SO₂ and NO_x is difficult to be complied with by the thermal power producers.

It may be noted that the prescribed limits require installation of additional pollution control measures which would scale up the capital cost of the projects by manifold. In this regard, the following may be noted: -

- (i) For meeting the emission stands of SO₂, wet-type Flue-Gas Desulphurization ("**FGD**") with forced oxidation having minimum designed SO₂ absorption efficiency of 95% is required as the optimum technology.*
- (ii) The permissible limit of NO_x would not be achievable without implementation of Selective Non-Catalytic Reduction ("**SNCR**") with a minimum designed reduction efficiency of 35%.*

Accordingly, the implementation of the said technologies would tune up to 1000 Crores of capital investment for the power projects. Such an additional expenditure was not envisaged by the power producers while bidding for these projects. Accordingly, there will be massive additional expenditure to be incurred by these power producers for

¹ For the purpose of this competition, kindly assume Indian Thermal Power Corporation Ltd. as a Government of India undertaking.

² For the purpose of this competition, kindly assume Council of Power Producers as the representative body of all power producers in the country (both private and central sector).

complying with the Notification. The same has a probability of rendering the power producers as a Non-Performing Asset, considering the fact that most of the power producers are already under huge debts.

Therefore, in view of the afore-said factors, it is requested that MoEF should reconsider its decision and withdraw the said Notification."

9. Accordingly, the MoEF took cognizance of such letter from the CPP and on 16.06.2017 requested the Environment Pollution (Prevention and Control) Authority ("**EPCA**") i.e. an authority constituted under Section 3(3) of the Act, to submit its Report on the viability and practicability of the compliance to the MoEF's Notification dated 07.12.2015. In view thereof, EPCA submitted its report on 31.12.2017 affirming the concerns raised in CPP's letter dated 01.01.2017 and recommended MoEF to withdraw its Notification dated 07.12.2015.

10. Subsequently, MoEF, on 09.02.2018, released a Notification withdrawing the emission limits stipulated in Notification dated 07.12.2015 and reinstated the earlier standards for emission of SO₂ and NO_x.

11. Friends of Environment (an NGO) has various branches in the country and has been involved in raising awareness about pollution control since 1999. The said NGO has a dedicated group named 'Air Cabinet' which specifically engages itself with various scientific and statistical studies with respect to the change in climatic conditions especially arising out of air pollution. 'Air Cabinet' has been studying the impact on the ambient air quality due to harmful emissions from thermal power plants since 2005.

12. On 21.09.2018, 'Air Cabinet' through Friends of Environment decided to invoke the jurisdiction of the Hon'ble Supreme Court of India under Article 32 of the Constitution assailing MoEF's decision to withdraw Notification dated 07.12.2015. The resolution dated 21.09.2018 *inter alia* seeks to request the Hon'ble Court to direct MoEF to re-notify the stricter emission standards.

Re: Draft

13. Draft a Petition under Article 32 of the Constitution of India to be filed on behalf of 'Air Cabinet' through Friends of Environment requesting Court's interference in the matter.

14. You are given the liberty to choose your own issues. You are advised to rely on: -
- (a) All applicable Legislations including Rules therein.
 - (b) Judgments of the Courts viz. Supreme Court, High Court, National Green Tribunal, International Court of Justice, International Tribunals etc.
 - (c) Reports, Statistics, Scientific Reports etc. (credible sources and acknowledged sources).
 - (d) Any other applicable law.

Note: The Draft has to be prepared only from the side of the Petitioner. No draft is required to be made from the side of the Respondent for the purposes of this competition.

D. Official Rules of the Competition

1. Individual or Teams have to prepare and submit the memorials from one side, i.e. **'Petitioner'**.
2. **Last Date** to submit the Written Submissions is **5:00 PM, 30th August, 2019**.
3. Late submissions beyond the stipulated time period shall be penalized with **1** negative mark per day.
4. Please note the following:-
 - Font of the body of the memorial: Times New Roman, size 12,
 - Line spacing: 1.5 Heading: Font size 12
 - Footnotes: Times New Roman, size 10.
 - Body of text: Justified.

- Participants shall cite all authorities in the Written Submission using footnotes following the Bluebook Method of Citation (19th edition).
- All memorials must be sent to saunakrajguru3@gmail.com on or before **30th August, 2019.**

5. **Eligibility:** -Students of three year and five year integrated law degree courses from any University / Law School / College/ Department are eligible to participate in the competition. There is **no cap** on the number of participants from one single University / Law School / College/Department.

E. Clarifications

1. All clarifications with respect to the Proposition and other event details can be sent to saunakrajguru3@gmail.com on or before **12th August, 2019.**

F. Registration Procedure

1. Register by filling out the details here:-
2. Fees: **INR 300** (for single candidate) and **INR 500** (For a 2 member team).
3. The last date to Pay and Register is **30th July, 2019.**
4. **Payment Options:**
 - (a) **UPI ID:** - saunakrajguru3@okicici
 - (b) **Google Pay/PayTM:** - 7377464252
 - (c) **Bank/Online Transfer:-** NAME- SAUNAK KUMAR RAJGURU; BRANCH- ANDHRA BANK; AC.NO- 004210100046823; IFSC- ANDB00000042.

5. Additionally, send a copy of your payment receipt to saunakrajguru3@gmail.com.

G. Awards

1. Although the event is floated for a charitable purpose, however, the following awards will be provided:

- (a) Cash Prize of **INR 650** to the 'Winner', Certificate of Merit & Free Access to my Online Mooting Course Materials worth INR 2000.
- (b) Cash Prize of **INR 350** to the 'Runners-Up', Certificate of Merit & Free Access to my Online Mooting Course Materials worth INR 1000.
- (c) **E-Certificates** to each and every participant.

H. Contact Details

1. All communications must be made to saunakrajguru3@gmail.com. **Only in an event of no response within 24 hours**, a candidate may drop a text/call on 7377464252. For general queries regarding the tournament, the candidate is requested to either email or text on WhatsApp on the afore-mentioned contact details.