

**10TH BALAJI LAW COLLEGE ALL INDIA MOOT COURT COMPETITION
2014-15**

MOOT PROBLEM – 2

The Republic of Meerastan (Hereinafter referred to as 'Meerastan') is a country located in South Asia. By 2014, the Meerastan economy has been suffering from numerous problems -low economic growth, weak financial system, volatile capital flows, infrastructure constraints, rising prices, especially consumer price index, rising income inequality, high unemployment rates, energy constraints, stubborn poverty, uncertainty in exchange rates, rising budget deficits and governance deficit to enumerate a few. With a view to improve its economy by obtaining more flexibility in industries and to remove the hazards of outdated labour laws which are seen by industries as the major roadblock in expansion of manufacturing and growth, the Government of Meerastan proposed changes in its Labour laws to facilitate a business-friendly environment in which there will be higher inflow of investment, and income of the employees as well as mobilization of resources to the workforce both of which are essential for the upliftment of its ailing economy. All three of the amendments received presidential assent and entered into force after notification in the official gazette. (See Annex 1)

The state of Shivrashtra in Meerastan had suffered many setbacks in the manufacture of sugar and had incurred many losses due to the same. Meerastan being the second largest manufacturer of sugar in the world, the contribution of Shivrashtra to the total production was crucial to the state as well as the national economy. By the power vested in them under the amended Labour laws: Factories Act, 1948; Apprentices Act, 1961; Minimum Wages Act, 1948 (Hereinafter collectively referred to as 'Acts') they increased the spread-over time of all the 15 factories involved in the manufacture and processing of sugar in order to boost their industrial capacity and salvage their economy from the unforeseen setback caused by the lack of adequate production of sugar among a few other changes as sanctioned by the amended laws. The move was seen as a method to restore the momentum in manufacturing sugar and compensate for the losses incurred over time due to production deficiencies.

Thus, the spread-over time of all the employees in the manufacturing sector of the factories was increased to 12 hours a day by notification among other changes made. Against this backdrop, an NGO in the State- 'Mazdoor Mitra' (Hereinafter referred to as 'MM') actively involved in addressing the grievances of workers and serving as a connecting link between workers and the employers was alerted on the various instances of misuse of the amended laws by employers under numerous guises of economic growth and the like. The main objective of MM was the prevention of exploitation of the working class and to serve as a via media for the workers from the Centre and the Trade Unions. The State implemented increase in spread-over time and other

10TH BALAJI LAW COLLEGE ALL INDIA MOOT COURT COMPETITION 2014-15

factors were being misused by employers across that class of factories and industries that came under its purview long after momentum in production and compensation for losses was obtained.

In the interest of the aggrieved workers, MM conducted a survey which focussed on the implications of the amended labour law on the factories and the workers. The study revealed that there was widespread exploitation of workers by employers and the amended laws infringed the fundamental rights of the workers under its purview. It was further shown that the enactment of the amended Acts was in direct contravention of a ratified International Labour Organisation Convention and defeated the fundamental purposes of the various Trade Unions.

In light of the various problems arising from the amended Acts, MM filed a PIL before the Hon'ble Supreme Court opposing the various provisions detrimental to the enforcement of fundamental rights of the working class of the country. The provisions of the Acts that serve as sanctions to infringe rights of the workers by wanton abuse by employers were to be struck down. It was further contended by MM that the position of the Labour Laws on the Concurrent list allowed amendments only to some Central statutes, and also to add new State statutes to a certain extent. Perverse incentives from this arrangement encourage States governments to be lax, to procrastinate, and defer to the Union. On the contrary, individual states are better at tweaking labour laws to balance flexibility and security with respect to their political economy. This position in the Concurrent list makes the labour laws largely inflexible in terms of individual states, overly flexible in certain areas. Movement of the Labour laws from the Concurrent list to the State List would prevent unilateralism at a national level and may also serve to decrease the risks of such legislations on workers as has been proven at various junctures where state governments in Meerastan have utilized their limited powers of amendment to tweak labour laws to suit the needs of their states.

(Note: The Republic of Meerastan and its laws and other implications in the problem are in *pari materia* with India and its laws and any other aspect that arises as a result of the proposition.)