



Sinhgad Technical Education Society's

Sinhgad Law College,

Ambegaon (Bk.), Pune.

(Approved by Bar Council of India, Recognized by Govt. of Maharashtra & Affiliated to Savitribai Phule Pune University, Pune)

(Accredited by NAAC with 'B' Grade)

Organizes

NATIONAL LEVEL THIRD SMT. KASHIBAI NAVALE MOOT COURT COMPETITION, 2017

Inauguration by

HON'BLE Justice Shri. D. G. Karnik, Former Justice of Bombay High Court.

On Friday & Saturday, 24th & 25th February, 2017

ABOUT SINHGAD TECHNICAL EDUCATION SOCIETY:

Sinhgad Technical Education Society was established with an objective to provide quality education from school to post-graduation programme in all disciplines. At present, Sinhgad Technical Education Society and its associates are running 117 institutions, housed in fully developed campus, imparting education to approximately 70,000 students. The locations of these campuses are in pollution-free, lush green and picturesque environment conducive to learning. All campuses have excellent hostel facilities and other student's amenities like well-equipped Central Library, Internet Facilities, Auditoriums, Seminar Halls, Open-air Theatre, ATM Centers, Clinics, and Market for essential commodities, Banks etc.

ABOUT SINHGAD LAW COLLEGE, PUNE:

Sinhgad Law College is situated in the spacious location at Ambegaon (Bk.), STES Ambegaon Campus, Pune a pollution free and lovable place, providing congenial environment, conducive to all round development of the students.

Sinhgad Law College was established in the year 2003 under the dynamic leadership of Prof. M.N. Navale. The college offers career in legal studies through LL.B. (Three Years) and B.A. LL.B. / B.S.L., LL.B. (Five Years) courses. The College also runs the other specialized courses like Diploma in Labour Laws and Labour Welfare, Diploma in Taxation Laws and Certificate Course in Forensic and Medical Jurisprudence. There is well qualified Teaching Staff, well-equipped Library, separate Computer Laboratory and other infra-structural facilities conducive for learning and development.

Our commitment is to impart quality legal education through highly qualified and experienced lecturers along with clinical educational inputs through Moot Courts, Debates, Legal Literacy Camps and Research activities.

With a view to provide practical experience and to inculcate lawyering skills among the students, Sinhgad Law College is organizing the National Level Moot Court Competition on Friday & Saturday, 24th & 25th February, 2017 in the memory of Smt. Kashibai Navale, the source of inspiration behind entire Sinhgad Institutes.

RULES FOR MOOT COURT COMPETITION:

1. **Title:** The Moot Court Competition will be called as '**National Level Third Smt. Kashibai Navale Moot Court Competition, 2017**'.
2. **Date:** The Competition will be held on Friday & Saturday, 23rd & 24th February, 2017 as per schedule.
3. **Venue:** The Competition will be held within the premises of Sinhgad Law College, Ambegaon (Bk), Pune.
4. **Registration:** Teams must register on or before Friday, **20th January, 2017**.
 - i) The hard copies of the registration form and Cash / Demand Draft must be submitted to administrative office of Sinhgad law college, Pune on or before 20th Jan 2017 before 5.00 PM.
 - ii) The formal registration of the teams will be done on 24th February 2017 between 2.00 pm to 4.00 pm. Spot registration will not be allowed.
5. **Registration Fees:** The registration fees will be **Rs. 1000 per team** which comprises of two members i.e. two speakers.
6. **Mode of Payment:** Registration fees can be paid in cash or through Demand Draft drawn on any Nationalized Bank. DD must be drawn in favor of '**Sinhgad Law College**', payable at Pune. Fee includes registration, breakfast and lunch on the date of competition i.e. 25th February. Fees should be paid on or before **20th January, 2017**.
7. **Language:** The official language of the Competition is English. The memorials as well as oral submissions have to be made in English language only.
8. **Eligibility:** The Competition is open for the students pursuing FIVE YEAR LL.B. program or THREE YEAR LL.B. program from any law college recognized by their respective universities and by Bar Council of India. The students must have a valid identity card of the concerned college of academic year 2016-2017.
9. **Team Composition:**
 - i) Each team must consist of two members.
 - ii) Any additional member will not be entitled to any local hospitality or award or prize or certificate in the competition.
 - iii) If any member of the team is found to resorting to unfair means, the team shall stand disqualified from the competition at any stage.
10. **Accommodation:** The Teams are requested to communicate to us their travel and accommodation plans along with the registration form. The teams from outside Pune district will be provided with overnight accommodation at their request subject to availability of room in Sinhgad Hostels in Vadgaon campus. Participants should bear nominal guest hostel fee for one day i.e. approximately Rs. 200 per candidate without food. Participants to whom accommodation is provided, they should report to co-coordinator on 24th February 2017.
11. **Dress Code:** The participating members are required to be formally dressed in black and white.
12. **Structure of the Competition:**
 - i) **Formal Registration:** It will be done on the day of the competition i.e. 24th February, 2017 between 2.00 pm to 4.00 pm.
 - ii) **Drawing of lots:** Drawing of lots will be done on 24th February, 2017 from 4.00 pm to 5.30 pm wherein the teams will get their opponent teams, their court room in which preliminary round will be held and also will get the memorials of the opponent team. Both the speakers of the team will present from one side only and the side will be allotted to them at the time of drawing of lots through chits.
 - iii) **Inauguration:** The formal commencement of the Competition shall commence with the inauguration on 25th February, 2017 at 11.00 am
 - iv) **Rounds:** The Competition will be held in three rounds as under:
 - a. Preliminary Round
 - b. Semi Final Round
 - c. Final Round

v) **Memorials:**

- a) Memorials must be submitted in five copies for each side (appellant & respondent).
- b) Color Code: **Red** Cover for **Appellant**, **Blue** Cover for **Respondent**.
- c) Typed on A4 size paper with one side printing, Font: Times New Roman, Font Size: 12, Spacing 1.5, Footnote Font: Times New Roman, & Font Size: 10.
- d) Memorials must contain: I Title page, II Table of Contents, III Statement of Fact, IV Statement of Jurisdiction, V Statement of Issues, VI Arguments Advanced VII Prayer, VIII Bibliography/ Webliography.
- e) Last date for submission of memorials is **06th February, 2017** before 5.00 pm.
- f) Once you submit your memorials it will not be returned to you by Organizer.

vi) **Time:** Each team at all the rounds will get 20 minutes to speak (10 minutes each speaker), 5 minutes for rebuttal and 5 minutes for Judge's questions. Thus, in all, each team will get 30 minutes. If the team is not interested in doing rebuttals then five minutes reserved for rebuttals can be used up at the time of initial submission itself.

vii) **Preliminary Round:**

- a. The Preliminary Round will start sharp at 9.00 am.
- b. The Preliminary Round will be held simultaneously in different Court rooms and in each Court room there will be two judges.
- c. One team from one court room who scoring highest marks in preliminary round will be selected and will go for the semi Final Round. So there will be eight teams in the semi Final Round but two teams should not from same court room.

viii) **Semi Final Round:**

- a. Semi Final round will start at 12.00 noon.
- b. Moot court problem will be same for semi final round.
- c. The Semi final Round will be held simultaneously in different Court Rooms and in each Court room there will be two judges.
- d. One team from one court room who scoring highest marks in Semi Final round will be selected and will go for the Final Round. So there will be two teams in the Final Round but two teams should not from same court room.

ix) **Final Round:**

- a. Final round will start at 3.00 pm.
- b. There will be two teams but not from same court, who had scored highest in Semi final round, will participate in the Final Round.
- c. Final round will be conducted in the moot court hall and there will be three judges.
- d. Moot court problem will be same for final round.
- e. Whoever team secure third position as per marks in semifinal round will be considered for third prize.

13. Assessment Criteria: The decision of the judges will be final and no disputes will be entertained with respect to it. The following will be the Marking Criteria and the marks will be given to each speaker by the judges in each round.

Sr. No.	Marking Criteria	Marks Allocated for Pre Round	Marks Allocated for Semi Final & Final Round
1	Knowledge of Facts	16	20
2	Application of Legal Principles	16	20
3	Use of Authorities and Precedents	16	20
4	Response to Judge's Questions	16	20
5	Presentation skills	16	20
6	Memorial of Both Side (appellant/respondent)	20	
	Total	100	100

14. Awards:

- First:** Rs 21000 Cash + Trophy + Certificate
- Second:** Rs 11000 Cash + Trophy + Certificate
- Third:** Rs 5000 Cash + Trophy + Certificate
- Best Memorial:** Trophy + Certificate
- All participants will be given a Participation Certificate.

15. Contact Details:

- Postal Address:** Sinhgad Law College, S. No. 10/1, S.T.E.S. Ambegaon Campus, Ambegaon (Bk.), Pune – 411041.
- Email Id:** principal_slc@sinhgad.edu **Website:** www.sinhgad.edu
- Phone:** 020-24350595 **Fax:** 020-24350595
- Contact Persons:** Mr. Shivshankar Kalshetti (Co-ordinator) Mob no. 7769921210
Mrs. Manjusha Mudgalkar (Asst. Co-ordinator) Mob no. 9420177275

16. Annexure:

- Moot Court Problem And**
- Registration Form with Schedule of Programme**

Note: The decision of the organizers of this moot court competition, regarding any dispute will be final.

IMPORTANT DATES

Sr. No.	Date	Time	Events
1	20-Jan-2017	Up to 5.00 pm	Last date for Registration of Teams.
2	27-Jan-2017	Up to 5.00 pm	Last date for seeking clarifications in the Moot Problem or Rules, if any.
3	05-Feb-2017	Up to 5.00 pm	Last date for submission of hard copy of Memorial and Compendium.

SCHEDULE OF PROGRAMME OF MOOT COURT COMPETITION, 2017

1	24-Feb-2017	2.00 to 4.00 pm	Formal Registration of Teams at Sinhgad Law College.
2	24-Feb-2017	4.00 to 5.30 pm	Drawing of Lots & Exchange of Memorial
3	25-Feb-2017	8.00 to 9.00 am	Breakfast & tea at Sinhgad Law College, Pune
4	25-Feb-2017	9.00 to 11.00 am	Preliminary Rounds at Sinhgad Law College, Pune
4	25-Feb-2017	11.00 to 11.45 am	Inauguration of 'National Level Third Smt. Kashibai Navale Moot Court Competition, 2017'. by Hon'ble Shri. D. G. Karnik Bombay High Court, Bombay
5	25-Feb-2017	11.45 to 12.00 pm	Tea Break
6	25-Feb-2017	12.00 to 2.00 pm	Semi Final Rounds
7	25-Feb-2017	2.00 to 3.00 pm	Lunch Break
8	25-Feb-2017	3.00 to 4.00 pm	Final Rounds at Moot Court Hall, Sinhgad Law College, Pune.
9	25-Feb-2017	4.00 to 4.15 pm	Tea Break
10	25-Feb-2017	4.15 to 5.00 pm	Prize Distribution & Valedictory Session.

CHIEF PATRONS

Prof. M.N. Navale
Founder President, STES, Pune

Dr. (Mrs.) Sunanda M. Navale
Founder Secretary, STES, Pune

Mr. Rohit M. Navale
Vice-President (HR), STES, Pune

Mrs. Rachana Navale - Ashtekar
Vice-President (Admin.), STES, Pune

CONVENER

Dr. Chettiar Arunachalam
Principal, Sinhgad Law College, Pune
Mob: 9869624555

CO-ORDINATOR

Mr. Shivshankar G. Kalshetti, Asst. Professor
Mob: 7769921210

ASST. CO-ORDINATOR

Mrs. Manjusha A. Mudgalkar, Asst. Professor
Mob: 9420177275 / 7722073143

VENUE

Sinhgad Technical Education Society's
Sinhgad Law College,
S.No.10/1, Ambegaon (Bk.), Pune-411 041

Moot Court Society of Sinhgad Law College, Pune.

Mr. Santosh Bari (President) – 8975472626

Mr. Daniel Jadhav (Vice President) – 9604055858

Mr. Vijay Sankhla (Secretary) – 8390702699

Mr. Ashu Shukla – 9011336585

Mrs. Rajgauri Tapdiya – 7066206079

SMT. KASHIBAI NAWALE MOOT COURT COMPETITION, 2017

ANNEXURE II

NATIONAL LEVEL THIRD SMT. KASHIBAI NAVALE MOOT COURT COMPETITION, 2017 REGISTRATION FORM

1. Name of the Institution: _____

2. Address of the Institution: _____

3. Email Id & Contact details of the Institution: _____

4. Details of Payment

DD

Cash

DD Number	Amount	Date	Name of Drawer Bank

5. Details of Team Members:

	Name	Contact No	Email Id	Class	Photo
Speaker No. 1					
Speaker No. 2					

Seal and Signature of the Head of the Institution

MOOT COURT PROBLEM

“A Different Thought –The NJAC Judgement”

The Supreme Court of Saurashtra, by a majority opinion, has struck down the 99th Constitution Amendment, which provided for the establishment of the National Judicial Commission to appoint judges of the High Court and the Supreme Court. Having read the opinion of the five Hon’ble Judges, a few issues arise in my mind.

The key rationale behind the majority opinion appears to be that independence of judiciary is an essential ingredient of the basic structure of the Constitution. Having stated this, the majority transgresses into an erroneous logic. It argues that the presence of a Law Minister in the Commission and the appointment of two eminent persons in the Commission by a group, which will, besides Chief Justice of Saurashtra, comprise of the Prime Minister and the Leader of the Opposition, will constitute political involvement in the judicial appointments. Judges appointed on this basis may feel gratified to the politicians. Political persons would be obviously guided by their political interest.

The Judges warn of “adverse” consequences if politicians were a part of the appointment process. Hence protection of the judiciary from political persons was essential. This is key reason on which constitution amendment, unanimously passed by both the Houses of Parliament and the State Legislature, has been struck down.

Politician bashing is the key to the judgement. One learned judge argues that one political leader has opined that dangers of an Emergency like situation are still there. Civil society in Saurashtra is not strong and, therefore, you need an independent judiciary. Another argues that it may be possible that the present Government does not favour appointment of persons with alternative sexuality as Judges of the High Court and the Supreme Court. Politician bashing is akin to the 9.00 PM television programmes.

The judgement ignores the larger constitutional structure of Saurashtra. Unquestionably independence of the judiciary is a part of the basic structure of the Constitution. It needs to be preserved. But the judgement ignores the fact that there are several other features of the Constitution which comprise the basic structure. The most important basic structure of the Saurashtra Constitution is Parliamentary democracy. The next important basic structure of the Saurashtra Constitution is an elected Government which represents the will of the sovereign. The Prime Minister in Parliamentary democracy is the most important accountable institution. The Leader of the Opposition is an essential aspect of that basic structure representing the alternative voice in Parliament. The Law Minister represents a key basic structure of the Constitution; the Council of Ministers, which is accountable to Parliament. All these institutions, Parliamentary sovereignty, an elected Government, a Prime Minister, Leader of Opposition, Law Minister are a part of the Constitution’s basic structure. They represent the will of the people. The majority opinion was understandably concerned with one basic structure – independence of judiciary - but to rubbish all other basic structures by referring to them as “politicians” and passing the judgement on a rationale that India’s democracy has to be saved from its elected representatives. The judgement has upheld the primacy of one basic structure - independence of judiciary - but diminished five other basic structures of the Constitution, namely, Parliamentary democracy, an elected Government, the Council of Ministers, an elected Prime Minister and the elected Leader of the Opposition. This is the fundamental error on which the majority has fallen. A constitutional court, while interpreting the Constitution, had to base the judgement on constitutional principles. There is no constitutional principle that democracy and its institutions has to be saved from elected representatives. The Saurashtra democracy cannot be a tyranny of the unelected and if the elected are undermined, democracy itself would be in danger. Are not institutions like the Election Commission and the CAG not credible enough even though they are appointed by elected Governments?

As someone who has spent more years in court than in Parliament, I feel constrained to speak out for Saurashtra democracy. There is no principle in democracy anywhere in the world that institutions of democracy are to be saved from the elected.

The illustrations given had to be on a sounder footing. If one leader feels that there are dangers of emergency, there is no presumption that only the Supreme Court can save it. When in the mid-Seventies the Emergency was proclaimed, it was people like me – the politicians, who fought out and went to prison. It was Supreme Court that caved in and, therefore, for the court to assume that it alone can defend the nation against Emergency, is belied by history. As for the cause of those representing alternative sexuality, the Delhi High Court had decriminalized it. I am a part of the present Government, but I had publically supported opinion of the Delhi High Court. It was the Supreme Court which recriminalized alternative sexuality. The assumption that the cause of the practitioners of alternative sexuality to be appointed as judges, can only be protected by Supreme Court, is again belied by history. The Supreme Court opinion is final. It is not infallible.

The judgement interprets the provision of Article 124 and 217 of the Constitution. Article 124 deals with the appointment of Judges in the Supreme Court and Article 217 deals with the appointment of Judges of the High Court. Both provide for the appointment to be made by the President in consultation with the Chief Justice of Saurashtra. The mandate of the Constitution was that Chief Justice of Saurashtra is only a 'Consultee'. The President is the Appointing Authority. The basic principle of interpretation is that a law may be interpreted to give it an expanded meaning, but they cannot be rewritten to mean the very opposite. In the second Judge's case, the Court declared Chief Justice the Appointing Authority and the President a 'Consultee'. In the third Judge's case, the courts interpreted the Chief Justice to mean a Collegium of Judges. President's primacy was replaced with the Chief Justice's or the Collegium's primacy. In the fourth Judge's case (the present one) has now interpreted Article 124 and 217 to imply 'Exclusivity' of the Chief Justice in the matter of appointment excluding the role of the President almost entirely. No principle of interpretation of law anywhere in the world, gives the judicial institutions the jurisdiction to interpret a constitutional provision to mean the opposite of what the Constituent Assembly had said. This is the second fundamental error in the judgement. The court can only interpret – it cannot be the third chamber of the legislature to rewrite a law.

Having struck down the 99th Constitutional Amendment, the Court decided to re-legislate. The court quashed the 99th Constitutional Amendment. The court is entitled to do so. While quashing the same, it re-legislated the repealed provisions of Article 124 and 217 which only the legislature can do. This is the third error in the judgement.

The fourth principle on which the judgement falls into an error is while stating that collegium system, which is a product of the judicial legislation, is defective. It fixed a hearing for its improvement. The court has again assumed the role of being the third chamber. If there is a problem with the procedure of judicial appointments, have those legislative changes to be evolved outside the legislature?

As someone who is equally concerned about the independence of judiciary and the sovereignty of Saurashtra's Parliament, I believe that the two can and must co-exist. Independence of the judiciary is an important basic structure of the Constitution. To strengthen it, one does not have to weaken Parliamentary sovereignty which is not only an essential basic structure but is the soul of our democracy.

(The views expressed are personal)

Madhur Rathi v. State of Saurashtra

The views expressed by the applicant in the article authored by him and dated 18 October 2015 is a critique of a judgment rendered by a Constitution Bench of the Supreme Court of Saurashtra which ruled upon the validity of the National Judicial Appointments Commission Act, 2014 and the Ninety Nineth Constitutional amendment. In this article comments made by the applicant were widely published in the print and electronic media throughout the nation. That the Judicial Magistrate of Sune District Court, Sune taking suo moto cognizance has proceeded to summon the applicant under Sections 124A and 505 of the Penal Code. The concerned Magistrate has taken cognizance of the alleged offences on the basis of an article written by the applicant and posted on his Friendbook page. The article is titled as "A Different Thought –The NJAC Judgement". The Magistrate has recorded that no citizen has a right to disrespect the three pillars of our democracy namely, the Executive, Legislature and the Judiciary. The order then states that no person is entitled to create or generate hatred or contempt against an elected Government established by law. The Magistrate upon recording the above conclusions holds that the comments made by the applicant undoubtedly spread hatred and contempt against a duly elected Government and accordingly, in his opinion, the applicant prima facie appears to have committed offences under Section 124A and 505 I.P.C. All proceedings relating to Complaint Case No. 382 of 2015 State of Saurashtra v. Madhur Rathi u/s. 124A, 505 IPC are pending in the court of the Judicial Magistrate Sune Maharashtra. The applicant seeks to invoke the inherent powers of the Supreme Court conferred by Section 482 Cr.P.C. for quashing of Complaint Case No. 382 of 2015 and an order dated 19.10.2015, passed by the Judicial Magistrate of Sune District Court, Sune. This petition is posted for final argument before court on following issues:-

- i) Whether applicant made a fair criticism of the judgment rendered by the Constitution Bench?
- ii) Whether applicant is prima facie guilty under section 124A & 505 Saurashtra Penal Code?
- iii) Whether Judicial Magistrate commits an error to take suo moto cognizance under clause (c) of sub-Section (1) of Section 190 of Criminal Procedure Code?

❖ Note: All Indian Laws are applicable to above Moot Problem.



Sinhgad Institutes

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(Regd. No. MAH/7199-93/Pune dt. 6/7/93 & F-8282/Pune dt. 12/8/93)

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Prof. M. N. Navale

M.E. (Elec.), MIE, MBA
FOUNDER - PRESIDENT

Dr. (Mrs.) Sunanda M. Navale

B.A., MPM, Ph.D.
FOUNDER - SECRETARY

Dr. Arunachalam Chettiar

B.Sc. (Maths), LL.M., Ph.D.(Law)
PRINCIPAL

No SLC/2016-17/5030

Date: 1.12.2016

To,

The Principal
Law College.

Subject: Invitation to participate in National Level "Third Smt. Kashibai Navale Moot Court Competition, 2017"

Sir/Madam

It gives me great pleasure to invite your esteemed Law College/School for participation in National Level Third Smt. Kashibai Navale Moot Court Competition organized by Sinhgad Law College, Pune. We had got tremendous response for First & Second such Competition held in last year. I thank you for your cooperation in this regard.

We request you to send a team of two students for participating in the above competition. The Moot Court Competition will be on Friday & Saturday, 24th & 25th February 2017. Inauguration will be at the auspicious hands of Hon'ble Justice Shri. D. G. Karnik, Former Judge of High Court of Bombay. The problem and the set of Rules, important dates schedule are attached herewith. Participation of your esteemed College would be our pleasure. We therefore, request you to send the confirmation letter along with duly filled application form enclosed as early as possible.

For further information or clarification feel free to write us or call Mr. Shivshankar Kalshetti, Asst. Professor, Mobile No. 7769921210.

With regards,

Shri. Shivshankar Kalshetti
Coordinator

Mrs. Manjusha Mudgalkar
Asst. Coordinator

(Dr. Chettiar Arunachalam)

PRINCIPAL
SINHGAD LAW COLLEGE,
Pune-411041.