



# INDORE INSTITUTE OF LAW

(Affiliated to D.A.V.V. & Bar Council of India, New Delhi)

## THE INTERNATIONAL LAW FEST

### ‘LEX BONANZA-2K19’

STRIVING FOR LEGAL EXCELLENCE

#### CHAPTER-VIII

18 OCTOBER – 20 OCTOBER, 2019

### MOOT PROPOSITION

1. **Arun Roy** is an Army colonel in Kolari Regiment situated in Thang sector in the Country Vindia. He completed his graduation from Institute of [Defence Services](#) at Kingstown and a post-graduate in Strategic & Defence Studies from Oceana University situated in Vindia. He has served in many States of Vindia and fought bravely in counter-insurgency operations in North East and other sensitive areas of Vindia.
2. **Arun Roy** was commissioned into the 16th Battalion of the Kolari Regiment in 1989. On being promoted to colonel, **Arun Roy** commanded the Kolari Regiment having 21 battalion troops under him in Operation “SHAURYA” in the Thang Sector in Kotaland, which included the sensitive Carmel Wing valley.
3. From the very outbreak of the hostilities he along with his battalion fought the successive waves of intruding enemies with valour and determination, maintaining high reputation of the Vindian Army. Due to his conspicuous daring bravery, and pre-eminent act of valour, colonel Arun Roy’s name was being nominated for the President’s Award.
4. The Carmel Wing Valley had the history of triggered Kino-Vindian conflict in year 1967. On inducting with his battalion at Thang in 2009, Colonel Roy, as the Commanding Officer of the 21 Kolari Regiment, noticed various aspects that impacted operational and administrative imperatives of his battalion, so he decided to raise these concerns with his brigade headquarters.
5. These issues pertained to the poor state of habitat of his troops; deficiency of mechanical transport which was somehow affecting operational efficiency; the excessive commitment of battalion manpower on sundry guards and duties which negated his capacity to maintain mandated operational reserves; supply of inferior quality of ration as well as inferior quality of ammunitions to his men besides, deduction of troops' ration at the Supply Depot and continual demand on regimental and public funds of his battalion, etc.
6. To address these issues on priority, he commenced writing to his immediate superior. The another most important issue which was addressed by Colonel Arun Roy was the caste and

religion based discrimination being done on the troops before his joining and due to the prevailing situations; those troops were continuously harassed by their fellow members as well in the mean times.

7. Brigadier Kamal Thapar, while taking cognizance over the matter which was raised into question by Colonel Arun Roy, came across another information relating to caste discrimination being done on the troops. The authorities which were on charge at that point of time pin pointed the name of Brigadier Kamal Thapar to be on charge during the time of such incidence of discriminations.
8. When being called to report, Colonel Arun Roy appeared and stated the existing deficiencies in the services as well as narrated about the discrimination. While being asked by the Brigadier Kamal Thapar about mention of his name into the matter of discrimination, as how it came into information of Colonel Arun Roy, it was found that it was officially identified that Brigadier Kamal Thapar was on duty that time where the troops were being discriminated and even being informed about it, Colonel Kamal Thapar did not pay heed of it.
9. Then after, Colonel Arun was asked to move as the proceedings were over. While making the Report, Colonel Arun Roy was Court martialled by Brigadier Kamal Thapar in May 2010 on the grounds of previously being charged with honey trapping along with the others, though at that time, he was not proven guilty, although he was questioned by the investigative team regarding leak of confidential information.
10. Col. Arun Roy was not allowed to defend himself against these charges on purpose, and at the end of a speedy trial in summary Court Martial was convicted and sentenced with fine of 54000 Rs. and to serve 18 months of rigorous imprisonment.
11. He was also dismissed from service, with the added disqualification of being declared unfit for any future civil employment. Meanwhile Colonel Arun's representation for it to the confirming authority under the provisions of Army Law was rejected by the General Officer Commanding on May 24, 2010.
12. Finally, on being released from prison in Nov 2011, while feeling uninhabited, jobless and with an impression of bleak emptiness, he decided to fight for his honour.
13. In 2012, he met the noted human rights activist and lawyer Mr Chetan Das, who took up his cause pro bono in the Thang Bench of Armed Forces Tribunal. It was contended by the Human Rights Activist Mr Chetan Das that there is the grave violation of principals of natural justice.
14. The case created national media attention, as looking into the facts and circumstances of the case and the evidences, the Armed Forces Tribunal overturned the verdict of the court martial and ruled in October 2012 that Col. Arun Roy stood honourably acquitted of all charges and would be reinstated in service with all consequential benefits.

15. The Armed Forces Tribunal gave the Army 90 days to implement its order. It was also ordered that the jail term which Colonel Arun Roy has served and Court martial record was to be removed from his service history.
16. The Ministry of Defence has challenged the Armed Forces Tribunal order in the Supreme Court of Vindia in Nov 2012.

- **NOTE:-**

1. This moot proposition is based on hypothetical situation. All references, actual, deeming, fictional; are fictional.
2. The Statutes (including case laws) of Vindia are *in pari materia* with the laws of India.
3. The objective of the proposition is to adjudge the participants' ability to argue on the merits of the case.
4. Participants are advised to devise a "litigation strategy". The issues can be argued in alternative/without prejudice, which can be divided into sub-issues, and can be added to or amended upon. It is permissible to concede issues at the time of oral arguments subject, however, to appropriate explanation readily available on the query of the Bench. However, the written submission must address all the issues.
5. Any citations, without actual para/page references, will invite negative marking. Unnecessary citations and *passim* references are to be avoided. In case of oral arguments, a primary reference for all case-laws being referred is **mandatory**.
6. The moot problem is drafted by **Moot Court Committee of Indore Institute of Law**. All participating teams are restrained from communicating with any member of Moot Court Committee and faculty of Indore Institute of Law in relation to moot problem.

The moot problem is the way it is, with full application of the principle of "*as is, there is...whatever where is*". No queries or requests for clarifications would be entertained.