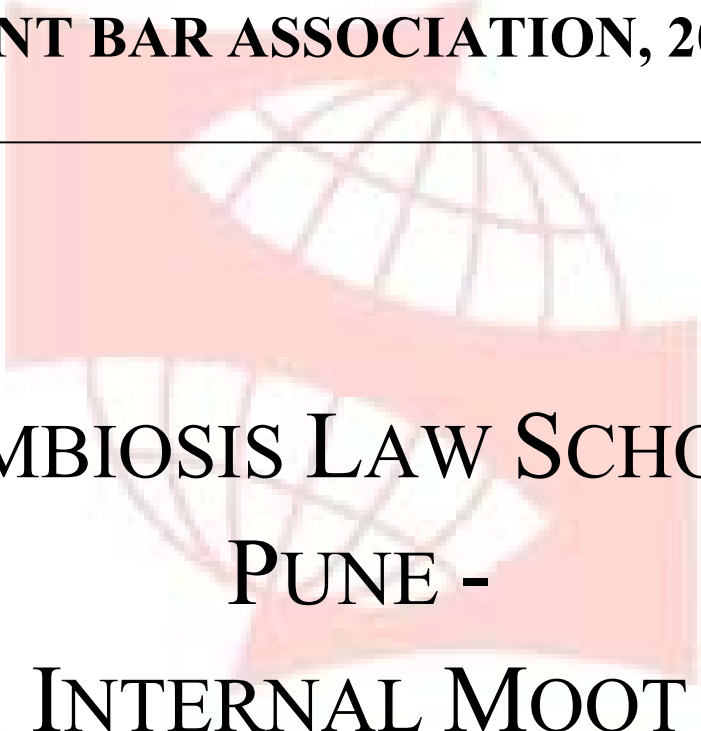




SYMBIOSIS INTERNATIONAL UNIVERSITY
(Re-Accredited by NAAC with 'A' Grade)
SYMBIOSIS LAW SCHOOL, PUNE
CARE | COURAGE | COMPETENCE | COLLABORATION

STUDENT BAR ASSOCIATION, 2022-2023



SYMBIOSIS LAW SCHOOL, PUNE - INTERNAL MOOT ELIMINATION, 2022-2023

MOOT PROPOSITION

SME MOOT PROPOSITION

Elitefour Depositors Welfare Association

v.

Union of Galar

1. The Union of Galar which got its independence from the Great Britain in the early 1900s is a South Asian democratic nation and follows Common Law System. Galar has a quasi-federal structure and is divided into 13 states.
2. The Constitution of Galar has been as a result of debates and discussions spanning over 6 years and was adopted only after a referendum where every citizen over the age of 18 participated and an overwhelming majority of citizens voted in favour of its adoption. The Constitution of Galar has been widely regarded as one of the world's bulkiest constitutions and as one that is easily adaptable to changing times. Several nations subsequently have adopted and borrowed several principles from the Galar Constitution.
3. As per the Constitution, Union of Galar is a Quasi-Federal Country with a parliamentary form of government, with the President as its figurative head and the Prime Minister as the head of the Executive and the Constitution is considered to be the '*Grundnorm*'.
4. The Magma Party, an age-old political party played a very crucial role in the independence struggle of Galar. In fact, Dr. Oak the founder of the Party along with Mr. Leon have been widely recognised and regarded across the globe as the men responsible for Independence of Galar and have been lovingly known as the Founding Fathers of Galar.
5. Subsequent to the independence of Galar, it was the **Magma Party** that had formed the government at the **Centre** level, with Dr. **Oak** as its first **Prime Minister**. Since then, Galar has been continuously ruled by Magma Party at the Centre barring a couple of instances when the Government was formed by the **Aqua party**, which was founded after independence by **Mr. Leon**.

6. Union of Galar since its independence was a slow growing economy and was mainly dependent on Agriculture for its economy. However, since 1980s the economy of Union of Galar saw a sudden spurt of growth on account of adoption of policies liberalising its economy and by the 2000s it had become the fastest growing economy in the world.
7. Union of Galar since its independence had one of the most robust banking systems in the world and has continued to maintained the reputation till date. The **Elitefour Cooperative Bank** is one of the oldest banks in Galar having been established in **1902** (pre-independence era) and has more than **10,000** branches functioning across the nation as on date, with its head office and registered office located in the **Pallet Town** in the State of **Kalos**.
8. The **Elite Four Cooperative Bank** was established under the relevant cooperative societies act, wherein every depositor had a **proportionate voting right** (proportionate to the **quantum of their deposit**) in electing the managing committee of the bank including its office bearers such as the Chairman and secretary of the Bank. The Managing Committee of the Bank consisted of **10 members**, including **One Chairman, Two Vice-Chairman, One Secretary and One Joint Secretary**. The Managing Committee of the Bank had vested in it the entire management rights and powers over the Bank and its powers were akin to that of a Board of Directors in company. The Constitution of the Bank provided for elections to be conducted for every 3 years.
9. The Bank was originally established by one Mr. **Lance Ketchum** and was controlled and managed by the Ketchum family for a long time, which was a close-knit family till the 1990s. Until 1990 invariably a member of the Ketchum family would be the Chairman of **the Bank and the Managing Committee would consist of at-least 5 members from the Ketchum Family**.
10. The Ketchum Family in the 1990s got divided into two factions, one led by **Mrs. Misty Ketchum** and the other led by Dr. **Serena Ketchum**. Both the factions were constantly at logger heads seeking to take **control** of the **Elitefour Cooperative Bank**. The division of factions had a spiralling impact on not only the Management of the Bank but also the Political circles in the country since the Ketchum Family was one of the richest families in

the country and was long considered to have been involved in the funding the two major political parties in the nation and thereby influencing the outcome of elections.

11. Subsequent to the divide in the family, it was widely regarded in the country that Mrs. **Misty** Ketchum had sided with the **Magma Party** whereas Dr. **Serena** Ketchum had sided with the **Aqua Party**. Meanwhile, the faction led by Dr. **Serena** Ketchim had managed to **win** all the elections to the **Managing Committee** of the Elitefour Bank since **2009** and has managed to be in the management of the Bank since then, with Dr. Serena being the **Chairman** of Elitefour Bank since 2009.
12. Meanwhile, after having been in power at the centre for **50 continuous** years, Magma Party **lost** the general elections for the **first** time in **2011** and ceded power to **Aqua** Party, which continued to be in power even in the **2016** elections but lost to Magma Party again in the general elections in **2021**.
13. After the conclusion and declaration of results of the General Elections in the year **2021**, **the Managing Committee of Dr. Serena declared that the Elections to the Managing Committee of Elitefour Bank would be held in the month of November, 2021** and appointed Mr. **Brock** (a former Chief Election Commissioner of Galar) as the Chief Election Officer for the ensuing elections. Elections were held in each of the branch of the bank, where every depositor was entitled to vote in the branch in which they had made their deposits.
14. The Elections of 2021 was very hotly contested with the faction led by Mrs. Misty Ketchum being fully backed by the Central Government to win the elections. The elections to the bank had gained wide attention of both the national and international media and in-fact it was later revealed that the elections to the Bank had gained more coverage than the general elections of 2021.
15. The Voting for the elections peacefully began on the date of election (on 21st November, 2021) at 9.30 am and proceeded peacefully till noon. Around 1.30 in the afternoon, the **faction led by Mrs. Misty Ketchum started protesting outside the election centres across the nations that the elections were being rigged by Dr. Serena in collusion with Mr. Brock.** It was alleged that Dr. Serena had, just before the **issuance of election notification**, included **certain bogus names in the voters list by making deposits on some fake names and that the**

said fake names were now being used to rig the elections. It was further alleged that Dr. Serena and her managing committee had in-fact even amended the constitution through a special resolution to permit Gold Depositors to vote along with Cash Depositors. The Protests largely remained peaceful.

16. Despite the protests, the elections concluded without any hiccups mainly on account of the protests having been peaceful and the tight security having been provided around each election centre by the Government. The EVM machines used for elections were all sealed and thereafter transported under heavy security from every centre to the headquarters at Pallet Town for counting of votes scheduled to be held on 25th of November, 2021.
17. Immediately after conclusion of the voting process, Mrs. Misty Ketchum had filed a Writ Petition vide WP No. 2528/2021 in the High Court for the State of Kalos challenging the entire election process on the ground of it being rigged and elections were completely tainted by unscrupulous practices of Dr. Serena. The High Court of Kalos decided to hear the Petition and issued notices to all concerned parties for hearing on 23rd November, 2021. The Petition of Mrs. Misty was thereafter heard for 2 days, where the court having heard submissions of all the concerned parties including the central government and passed interim orders on 24th November, 2021 permitting Mr. Brock to go ahead with the counting of the votes and declaring the results, however making the outcome of elections subject to final outcome of the Writ Petition. The High Court had further directed that the managing committee formed after the declaration of results on 25th November would not be permitted to take any major policy decision and would only ensure the day to day working of the bank till the final outcome of the Writ Petition and thereafter, posted the Writ Petitions for final arguments in the month of March, 2022.
18. Pursuant to the orders of the High Court of Kalos, Mr. Brock proceeded with the counting of votes on 25th November, 2021 as scheduled and it was declared that Dr. Serena and her team had once again won the election, although with a slender margin. Dr. Serena and her supporters celebrated the victory all over the country. However, several protests broke out across the nation claiming that the results were rigged and that they did not reflect the true will of the depositors of the Bank.

19. Immediately upon declaration of results, one organisation by the name Elitefour Depositors Welfare Association, registered a complaint with Police Station in the jurisdiction of Pallet town against Dr. Serena alleging that she had rigged the elections and de-frauded the depositors in the election process. Upon receipt of complaint and after preliminary enquiry, an FIR for offences under Sections 120B,409,420,467,468,471 and 477-A of Galarian Penal Code came to be registered vide FIR No. 420/2021 on 2nd December, 2021.
20. Dr. Serena, after having learnt of the registration of the FIR, filed a petition before the High Court of Kalos under Section 482 of CrPC vide CrLP No. 1806/2021 seeking to quash FIR No. 420/2021 on the ground that the complaint was essentially similar to the allegations in the Writ Petition filed by Mr. Misty which is pending before the High Court and that the said FIR was a form of counter-blast to the outcome of elections where Mrs. Misty had lost the election. It was further alleged that the complainant, Elitefour Depositors Welfare Association was being used by Mrs. Misty as an instrument to abuse the process of law, where Mrs. Misty was the President of the Welfare Association.
21. After lengthy arguments from all the concerned parties, the High Court of Kalos passed orders on 15th December, 2021 staying all further proceedings including further investigation pursuant to registration of FIR No. 420/2021 till the outcome of the Writ Petition filed challenging the sanctity and validity of the elections. High Court also specifically held that the complaint filed by the Welfare Association was prima-facie an abuse of process of law mainly because the allegations in the complaint were verbatim similar to the allegations in the Writ Petition and Mrs. Misty having failed to obtain any favourable orders in the Writ Petition was now attempting to subvert the process of law by filing the said complaint. High Court further ordered for the Petition under Section 482 of CrPC to be tagged and heard along with WP No. 2528/2021.
22. Subsequent to the above orders of the High Court, the Welfare association had filed a Special Leave Petition before the Galarian Supreme Court challenging the orders of the High Court dated 15th December, 2021, which SLP came to be dismissed by the Hon'ble Supreme Court confirming the orders of the High Court.

23. While things stood thus, Dr. Serena Ketchum received a notice on 10th January, 2022 from the Enforcement Directorate of Galar for production of certain documents pursuant to registration of complaint under the Prevention of Money Laundering Act vide ECIR No. 1318/2021. Upon receipt of the Notice, it was further learnt by Dr. Serena that ECIR No. 1318/2021 was registered on 10th December, 2021 as a consequence of registration of FIR No. 420/2021.
24. Immediately upon receipt of the Notice, the complaint registered under PMLA vide ECIR No. 1318/2021 along with notice dated 10th January, 2022 were challenged by Dr. Serena by filing a Writ Petition vide WP No. 1805/2022 under Art. 226 of the Constitution before the High Court of Kalos. It was argued by Dr. Serena that once the investigation of predicate offences registered through FIR No. 420/2021 has been stayed by the High Court and confirmed by the Hon'ble Supreme Court, the proceedings under the PMLA Act could not continue. The said Writ Petition of Dr. Serena was opposed by Enforcement Directorate on the ground that offences under PMLA and IPC are independent offences and that the trial for both offences are also independent of each other and therefore the orders staying further investigation in FIR No. 420/2021 would not have any bearing on the investigation being carried out by the Enforcement Directorate. The Counsel for Enforcement Directorate had also specifically relied on amendments made to Section 44 of PMLA Act, by the Finance Act of 2019, which amendments sought to expressly clarify that the trial for predicate offences and offences under the PMLA Act could not be considered as joint trial.
25. While the hearing on the above Writ Petition was underway, Dr. Serena also another Writ Petition vide WP No. 1900/2022 challenging the constitutional validity of the amendments made to PMLA Act by way of enactment of Finance Act, 2019, on the grounds of procedural ultra-vires as well as violation of Petitioner's rights under Part-III of the Indian Constitution. On the first day of hearing of the said Writ Petition, the High Court of Kalos passed orders clubbing WP No. 1900/2022 with WP No. 1805/2022.
26. Around the same time, the Elitefour Depositors Welfare Association had also filed an application in WP No. 1805/2022 seeking to implead itself in the said WP on the ground that it was a necessary party on account of it being the de-facto complainant in the FIR registered for the predicate offence. It was also claimed that it was the association which had addressed letters to the Enforcement Directorate bringing to its notice the commission

of offences under PMLA subsequent to registration of FIR No. 420/2021 for a predicate offence.

27. The High Court of Kalos, after having heard the matters at length passed orders on 15th February, 2022 in both the Writ Petitions. **The Application filed by Elitefour Depositors Welfare Association for impleadment came to be dismissed on the ground that Elitefour Depositors Welfare Association would neither constitute a necessary party nor a proper party. Interim Orders were also passed in WP No. 1805/2022 staying all further proceedings and investigation in ECIR No. 1318/2021 till the final disposal of CrLP No. 1806/2021, holding that investigation for an offence under PMLA Act could not proceed as long as the investigation for predicate offence has been stayed. Further High Court passed final orders in WP No. 1900/2022 allowing the Writ Petition by holding that the amendments made to Section 44 of PMLA Act by way of passing Finance Act, 2019 was unconstitutional on both the counts of Procedural Ultra-vires as well as violation of Part – III of the Indian Constitution.**
28. **Aggrieved by the orders of the High Court for the State of Kalos, Enforcement Directorate preferred a special leave petition before the Supreme Court of Galar challenging the interim orders of the High Court granting stay of all further investigation in ECIR No. 1318/2021 vide SLP(Cr) No. 1303/2022. Elitefour Depositors Welfare Association also preferred a separate SLP vide SLP (Cr) No. 1402/2021 challenging the order of the High Court dismissing their implead application and finally the Union of India also preferred a special leave petition vide SLP (C) No. 2111/2022 challenging the final orders of the High Court in WP No. 1900/2022.**
29. Meanwhile, the High Court of Kalos had adjourned WP No. 2528/2021 and CrLP No. 1806/2021 to 21st October, 2022 for final arguments.
30. The Supreme Court has admitted the three special leave petitions and has decided to hear them together. The Hon'ble Court has posted the matters for final hearing after having framed the following issues:

I Whether the High Court for the State of Kalos was right in staying all further proceedings and investigation in ECIR No. 1318/2021.

II Whether Elitefour Depositors Welfare Association should have been impleaded in WP No. 1805/2022.

III Whether the amendments made to Prevention of Money Laundering Act by way of Finance Act, 2019 are constitutionally valid.

NOTE:

- The laws of Galar are *parametria* to the Laws of India, including the judgments delivered by Supreme Court of India and the various High Courts of India. However all 'Common Law' Precedents have equal persuasive value.
- Participants are expected to bring to the court's attention the relevant jurisprudence. It may include judgements and opinions delivered by Courts of Common Law Nations.
- Participants have to demonstrate with cogent reasons as to why a principle of law derived from precedent or otherwise is logical and the most applicable one.
- Participants are advised to limit their arguments to the issues framed herein.

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