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EDITION

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UNIVERSITY
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अरुण जेटली मेमोरियल मूट कोर्ट काम्पटिशन-2026 — 30 अक्टूबर - 1 नवंबर, 2026 —

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About The University

ABOUT THE UNIVERSITY

'ITM University-Gwalior' is established by an Act of the State Legislature, Madhya Pradesh, and is notified in the Official Gazette (Extra-ordinary) of the State Government after having received the assent of His Excellency the Governor of Madhya Pradesh, who is the Visitor of the University. ITM University-Gwalior is sponsored by Samta Lok Sansthan, a registered charitable Trust that has been working towards the advancement of education and academic excellence for several years. The Trust has successfully established and managed various institutions in the disciplines of Engineering, Technology, Life Sciences, Computer Applications, Management, Nursing, Education and other emerging fields for over 15 years. These institutions have earned a strong reputation for academic excellence and have consistently maintained a prominent position in the State and the region. The flagship institutions under the ITM Group of Institutions, popularly known as the 'ITM Universe' brand, include the Institute of Technology & Management (ITM) and the Institute of Allied Science and Computer Applications (IASCA), Gwalior. These institutions have achieved significant academic recognition, with ITM being NBA accredited and IASCA being NAAC "A" accredited. ITM University-Gwalior is committed to providing quality education through a multidisciplinary and student-centric approach. The University places emphasis on academic excellence, practical learning, research, innovation, professional development and holistic growth. It seeks to create an intellectually stimulating environment where students are encouraged to develop critical thinking, creativity, leadership qualities and professional competence. Through its diverse academic programmes and co-curricular initiatives, the University strives to prepare students to meet the evolving demands of the legal, professional and social landscape.

SCHOOL OF LAW

The School of Law, ITM University-Gwalior is dedicated to imparting comprehensive legal education that combines theoretical knowledge with practical exposure. The School seeks to develop competent, ethical and socially responsible legal professionals who possess a sound understanding of law and its application in contemporary society. With a focus on experiential learning, the School of Law regularly organizes academic and professional activities such as moot court competitions, legal aid initiatives, seminars, conferences, workshops, client counselling programmes, debates and other co-curricular activities. These initiatives provide students with opportunities to engage with contemporary legal issues, sharpen their analytical abilities and understand the practical dimensions of the legal profession. As part of its commitment to promoting advocacy skills and experiential legal education, the School of Law, ITM University-Gwalior is organizing its flagship Arun Jaitley Moot Court Competition (AJMCC) from 30 October to 1 November 2026. The competition is envisioned as a national-level academic platform that brings together law students from various institutions across India. The School aims to foster an environment where students can explore complex legal questions, engage in meaningful legal research and develop the confidence required to present arguments before a judicial forum. Through such initiatives, the School of Law continues to encourage excellence in advocacy, research and professional ethics.

ABOUT GWALIOR – THE HOST CITY

Gwalior, situated in the heart of Madhya Pradesh, is a historic and culturally vibrant city known for its rich heritage, magnificent monuments and educational institutions. The city is renowned for the iconic Gwalior Fort and its significant contribution to Indian classical music through the Gwalior Gharana. With its growing educational ecosystem, excellent connectivity and blend of history, culture and modern development, Gwalior provides an ideal setting for hosting a national-level academic event. The School of Law, ITM University-Gwalior warmly welcomes all participants to experience the academic spirit and cultural heritage of the city.

MOOT COURT COMPETITION

Shri Arun Jaitley Ji was an eminent lawyer, statesman, parliamentarian and distinguished public intellectual. Renowned for his exceptional legal acumen, eloquence and commitment to public service, he made significant contributions to India's legal and democratic institutions.

The Arun Jaitley Memorial Moot Court Competition pays tribute to his enduring legacy by inspiring young legal minds to pursue excellence in legal research, advocacy, oratory, constitutional values and professional ethics.

The ITMU Moot Court Competition (AJMCC) is the flagship national-level moot court competition organized by the School of Law, ITM University-Gwalior. The 3rd Edition of AJMCC will be held from 30 October to 1 November 2026, providing law students from across India with a platform to develop and demonstrate their legal research, drafting and advocacy skills.

The competition aims to bridge the gap between theoretical legal education and courtroom practice by engaging participants in rigorous legal research, analysis of complex legal issues and oral advocacy before a distinguished Bench. It seeks to enhance legal reasoning, articulation, oratory, rebuttal skills, courtroom etiquette and professional confidence. Beyond competition, AJMCC promotes academic excellence, healthy competition, professional ethics and intellectual exchange, fostering the development of competent and responsible future legal professionals. The 2nd Arun Jaitley Memorial Moot Court Competition marked a significant milestone in the journey of the School of Law, ITM University-Gwalior. With 36 registrations from across India, including NLU's, Central Universities, and reputed government and private institutions, it achieved remarkable national participation. The three-day competition witnessed rigorous rounds of advocacy, research, and courtroom presentation, judged by experienced advocates, academics, and Hon'ble High Court Judges. The event provided participating students with a distinguished platform to sharpen their legal research, advocacy skills, and confidence. The successful conduct of the competition reflected the collective efforts of the judges, faculty, volunteers, and participating institutions. Building upon this remarkable success, the "3rd Arun Jaitley Memorial National Moot Court Competition" aspires to set an even higher benchmark of excellence, participation, and professional legal learning.



Invitation

Greetings from ITMU School of Law!

It gives us immense pleasure to announce that ITMU School of Law (ITMUSOL), Gwalior is gearing up to organize its flagship Arun Jaitley Moot Court Competition 2026 (AJMCC-2026) from October 30 - November 1. The institution aims to nurture and train young minds in honing the skills of legal research and persuasive arguments in the guise of an advocate in courtroom ambience and experience. The competition shall be an ideal forum to bring together some of the most creative and intellectual young minds from various law schools in the country to participate and witness their mastery of advocacy and research skills to be adjudged by a team of expert judges, advocates and learned luminaries in the field of law.

The Moot Court problem has been prepared by continuous synthesis and to check the students' depth of understanding of legal principles and legal reasoning along with courtroom behaviour.

On behalf of the entire fraternity of ITMU, we cordially invite participants from various esteemed institutions of our country to take part in the competition and cherish the memories and experience in all their endeavours. We look forward to your presence and participation in the Musical City of India and the Green and Smart Campus ITMU SOL, Gwalior. Let us relish the feast of learning together.

For any queries, you shall reach us at:

Moot Court Society

ITMU School of Law



General Rules

ELIGIBILITY

Students enrolled in a full-time 5-year LLB or 3-year LLB programme at a University, college and institutions that have been approved by the Bar Council of India are eligible to register in this competition.

In accordance with the rules, the organizing committee will accept registrations on a First-Come, First-Serve basis.

GENERAL RULES REGARDING REGISTRATION

The Moot Court Committee school of law, ITM University, Gwalior shall serve as final arbitrator for implementation of these rules.

The Organising Committee reserves the right to modify any of the competition rules at any point of time. The organising committee shall communicate any changes made in the competition rules to the teams.

The organising Committee reserves the right to disqualification any team who misbehaves with judges .

The Organising Committee reserves the right to take decisions on any matter not mentioned in the competition rules. Any such decisions taken by the Organising Committee shall be final and binding

The Organising Committee reserves the right to interpret any competition rules. Such interpretation shall be final and binding

GENERAL RULES REGARDING REGISTRATION

The teams are required to show their interest by filling out the form through registration link by 5th October 2026.

In case of multiple teams registering from the same college/University there will be discretion of Moot Court Society upon the multiple registration.

A registering team shall consist 2 mooters and 1 researcher. After registration, any modifications to the team detail form must be properly communicated to the organizing committee by email. Additionally, changes made during the competition will not be accepted.

Participating teams must submit a participation fee of 4000/-rupees without accommodation.

Participants must follow all the rules outlined above and failure to do so may result in the cancellation of their registration and any subsequent claims relating to this will not be entertained.

Accommodation shall be opted by the participants. Participants can also negotiate for the charges. Here is the list of hotels for convenience of participants:

Hotel Raddison: 0751 7105555

Hotel Landmark: 0751 4011271

Hotel Sita Manor: 0751 4010485

Hotel Down Town: +91 7947426757

Satkar Guest House: +91 92291 94584

Payment options will also be available on registration link.

https://onlineapply.itmuniversity.ac.in/events/Moot_Court.php

Important Dates

LIST OF EVENTS	DATE
Last date for final registration and payment of fee	5 October
Deadline for queries related to moot problem	6 October
Release of clarification	7 October
Last date for memorial submission (Soft Copy)	23 October
Draw of Lots (Online)	29 October
Memorial Exchange (Online)	29 October
Inaugural & Resercher Test	30 October
2 Preliminary Rounds	31 October
Quarter-Final Round	31 October
Semi-Finals	1 November
Final Round	1 November
Valedictory Ceremony	1 November





Structure of Event

I. PRELIMINARY ROUNDS

- Pairing of teams shall be done via draw of lots on 29th October, 2026 in online mode.
- Exchange of memorial shall also be done in online mode on 29th October, 2026 for preliminary rounds
- Each team shall argue for both the sides in the Preliminary Rounds where each team will represent either the Petitioner/Appellant or the Respondent side.
- Each team will face a separate team and a bench in both the Preliminary Rounds.
- The time allotted for the Preliminary Round will be as follows:
- Each team will get 20 minutes.
- Additional 5 minutes for rebuttal.
- The division of time between the speakers is at the discretion of the teams subject to the maximum of 12 minutes for each speaker. The same shall be communicated to the court clerk in prior.
- Extra time allocation will be solely at the discretion of the judges, subject to the maximum extension of 20 minutes.
- Teams with the highest score in the preliminary rounds 1 & 2 shall qualify for the quarter-final round. In case of a tie, the team with the highest marks in the memorial shall qualify for the Quarter-final round. Any Compendium that the Team seeks to rely on shall be submitted to the courtroom manager/timekeeper prior to such Oral Pleading Session. Such Compendium must be spiral bound, and must contain a cover page specifying the Team Code. The courtroom manager/ timekeeper shall provide such Compendium to the Bench at its discretion.

II. QUARTER FINAL ROUND

- Eight teams with the highest score in the Preliminary rounds shall qualify for the quarterfinal round.
- The participants shall argue for any one side, which shall be decided on the basis of draw of lots.
- The quarterfinal round shall be Knock-out Rounds.
- The time allotted for the quarterfinal round shall be as follows-
- Each team will get 30 minutes
- Additional 5 minutes for rebuttal .
- The division of time between the speakers is at the discretion of the teams subject to the maximum of 18 minutes to the petitioners.. The same shall be communicated to the court clerk in prior.
- Extra time allocation will be solely at the discretion of the judges, subject to the maximum extension of 20 minutes.
- Only oral round scores shall be considered for evaluation; in case of tie, the team with the highest score in the memorial shall proceed to the Semi-Final Round.

III. SEMI-FINAL ROUND

- A draw of lots shall be conducted to determine the pleading side for the Semi-final round.
- The time allotted for the Semi- final round shall be as follows-
- Each team will get 35 minutes
- Additional 5 minutes for rebuttal to the petitioners.
- The division of time between the speakers is at the discretion of the teams.
- Extra time allocation will be solely at the discretion of the judge but shall not exceed more than 20 minutes The other rules shall remain the same as in the Quarter final rounds.

IV. FINAL ROUND

- The two highest scoring teams from the Semi-final round will advance to the Final round. The teams shall argue only from one side which will be decided based on Draw of Lots.
- The time allotted for the Final round shall be as follows-
- Each team will get 35 minutes
- Additional 5 minutes for rebuttal to the petitioners.
- The division of time between the speakers is at the discretion of the teams subject to a limit of 20 minutes max.
- Extra time allocation will be solely at the discretion of the judges



Structure of Event

I. AWARD

The winners will be awarded with a Trophy along with Cash Prize and Certificate of Merit. Every participant will be awarded with a Certificate of Participation and one month access to the SCC Online Web Edition to all Participants worth Rs. 1099 each.

WINNER	71,000 + Trophy + Certificate of Merit
RUNNER-UPS	51,000 + Trophy + Certificate of Merit
BEST MEMORIAL	11,000 + Trophy + Certificate of Merit
BEST ORATOR	LATE SHREE MUKESH GUPTA MEMORIAL AWARD 11,000 + Trophy + Certificate of Merit
BEST RESEARCHER	11,000 + Trophy + Certificate of Merit

VENUE: School of Law, Ramanujan Block, Sithouli Campus, ITM University, Gwalior.

II. COMPOSITION OF TEAM

- Each participating team shall comprise 3 participants viz, 2 speakers and 1 researcher.
- The Participants may change their roles within their Team only with the prior intimation and approval of the Organizing Committee but in no case later than the final submission of memorial.

III. RESEARCHER'S TEST

- Researcher's test will be conducted on 30 October, 2026 .
- The participant, who is registered as the researcher, shall only be allowed to participate in the Researcher's test.
- The score of the researcher's test shall not be considered for the overall total score of the participants. It shall be considered only for selecting the Best Researcher.

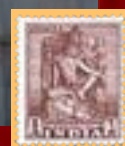
IV. MARKING CRITERIA FOR ORAL PLEADINGS

- Maximum scores for the oral rounds shall be 100 points per speaker. The oral rounds shall be judged on the basis of following criteria:

Knowledge of Law	20 MARKS
Legal Analysis & Application	20 MARKS
Response to Questions from the Bench	15 MARKS
Oral Advocacy & Argumentation	15 MARKS
Use of Authorities & Precedents	10 MARKS
Rebuttal & Counter-Argument	10 MARKS
Courtroom Demeanour & Time Management	10 MARKS
Total Marks	100 MARKS

FOR INQUIRIES, PLEASE CONTACT:

- mootcourt@itmuniversity.ac.in
- Convenor: Mr. Hradyes Chaturvedi (HOD School of Law)
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- Co-Convenor: Mr. Devvrat Singh Chauhan (Asst. Professor, School of Law) Email: devvrat.law@itmuniversity.ac.in
Phone: 7869387169
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- Sneha Arora (Co-Coordinator) Phone : +91 8103075510
- Members: Utkarsh Sagar , Priyanshi Patel , Kopal Jaamdar , Guari Sharma , Sneha Jha , Nihal Joshi , Daljeet Gurjar.



Memorial Guidelines

I. GUIDELINES FOR THE MEMORIAL

- Each team shall prepare a memorial for both sides (Petitioner/Appellant/Respondent) in English Only.
- The teams must mail a soft copy of their memorials of both sides (Petitioner/Appellant and Respondent) in Word & PDF in Both Format for evaluation through submission within prescribed time without fail.
- The file names of the electronic copies of the Memorials must contain only the team code and the side being represented
- in the following format: e.g. (for Team Code AJMCC12) 514P/514A and 514R, "P/A" being for "Petitioner/Appellant" Memorial and "R" for "Respondent" Memorial.
- The team shall submit 4 copies of the memorial of each side at registration desk on Day 1 of the event.
- The participants are required to bring a copy of the Memorial for their own reference.
- The participants are also required to bring two (2) copies of the Compendium for the judges and their own reference.
- The team should adhere to the Plagiarism rule of maximum 20%.
- The memorial must be submitted with the list of contents given below:
 - Cover page
 - List of Abbreviations
 - Table of contents
 - Index of Authorities
 - Statement of Jurisdiction
 - Statement of Facts
 - Statement of Issues
 - Summary of Arguments
 - Arguments Advanced
 - Prayer
- In the memorial or during the oral arguments, teams are not permitted to mention their names, the name of the institution or the name of any participant(s).

For inquiries, please contact:

mootcourt@itmuni.ac.in

For registration -Swet Yadav (6265890818)

For accommodation:

1. Dhruvika Rathore (In-house)- 8949230408

2. Suraj Sharma -8889004228

Registration Link

https://onlineapply.itmuni.ac.in/events/Moot_Court_2026.php



II. FORMATTING AND CITATIONS

- FONT SIZE 14 (Headings), 12 (Main text, Header, Footer), 10 (Footnotes)
- LINE SPACING 1.5 (Main text, Header and Footer)
- FOOTNOTES Single spacing between lines, Double spacing between two footnotes
- MARGIN 1 inch on all the sides of each page
- BODY OF TEXT Justified
- NO. OF PAGES 30 pages (maximum) inclusive of cover page
- PAGE NUMBER Bottom center
- CITATION Blue Book 21st Edition

III. ASSESSMENT CRITERIA FOR MEMORIAL

- The maximum scores for the memorials shall be 100 marks.
- The memorials shall be evaluated on the following criteria:

Knowledge of Law and Fact	30 MARKS
Proper and articulate analysis	20 MARKS
Extent of Research	20 MARKS
Organization and Presentation	10 MARKS
Clarity of Thought and Originality	10 MARKS
Grammar and Style	10 MARKS
Total Marks	100 MARKS

IV. COVER PAGE

- The cover page of the Petitioner/Appellant Memorial should be Blue colour in A4 size sheet only.
- The cover page of the Respondent's Memorial should be Red colour in A4 size sheet only.
- The cover page of the Memorial should clearly specify the representing side.
- The cover page of the memorial must have the following contents:
 - Name of the Court
 - Case Title
 - The Side of the Memorial
 - Team Code (To be written on the top right corner)



Sponsors



I. SCC ONLINE AND SCC ONLINE TIMES

SCC Online and SCC Online times is India's premier online legal research platform, widely trusted by lawyers, judges, and law students for accessing verified legal materials. Launched in 1996 by the Eastern Book Company (EBC), it pioneered the digital publication of Indian case laws and statutes. serving as the exclusive knowledge partner and SCC online times as media partner



II. LATE SHREE MUKESH GUPTA JI

Mukesh Gupta's absolute dedication to the legal profession and his highly disciplined life serve as a profound source of inspiration, encouraging everyone around him to achieve success while remaining deeply committed to being good human beings. His career stands as a testament that true professional eminence is built upon a foundation of strong personal ethics, empathy, and unwavering integrity.



Moot Proposition



1. Concordia International is one of the world's oldest and most prominent international human rights organisations, known for its country-specific reports assessing State compliance with international human rights standards, its individual 'prisoner of conscience' campaigns, and its advocacy before the United Nations Human Rights Council. CI operates in India through two distinct Indian legal entities.
2. Concordia India Trust was registered as a public charitable trust in New Delhi in 1993 and obtained registration under the Foreign Contribution (Regulation) Act, 1976 (later continued under the FCRA, 2010) in 1994. Until 2015, CIT received foreign remittances from CI's international entities and disbursed them as grants to smaller Indian civil society organisations and human rights defenders (sub-granting) and funded its own research and publication activities.
3. In 2000, CI caused the incorporation of Concordia Research and Advocacy Private Limited, a private limited company under the Companies Act, 1956 (now governed by the Companies Act, 2013), to carry out research, documentation, fact-finding, and advocacy work under licence from CI. From 2015 onward, CRAPL became the principal operational vehicle for CI's work in India, receiving funds characterised as Foreign Direct Investment from CI's affiliated international entities in the United Kingdom and the Netherlands, rather than as 'foreign contribution' under the FCRA. CRAPL, in turn, paid CIT substantial sums annually described as 'service fees' and 'consultancy charges' for administrative support, in a reversal of the historical funding flow.
4. The Ministry of Home Affairs (MHA) has, since 2016, taken the position that this restructuring was designed to circumvent the restrictions, reporting obligations, and end-use conditions applicable to 'foreign contribution' under the FCRA by re-labelling what is, in substance, foreign contribution to a not-for-profit cause, as commercial FDI into a private company — a route not intended for the funding of advocacy or research activity of this character. CI, CIT, and CRAPL deny this characterisation, asserting that FDI into an Indian private limited company engaged in lawful research and consultancy activity is not restricted by the FCRA merely because its ultimate shareholder is a foreign not-for-profit body, and that no provision of Indian company law or foreign exchange law prohibits such investment.

5. Between 2017 and 2019, CI, through CRAPL, published three reports that attracted significant domestic and international attention: (i) a 2017 report alleging custodial torture practices in a northern State; (ii) a 2019 report documenting the use of force by police against participants in public demonstrations against certain amendments to citizenship law; and (iii) a 2020 report on restrictions on communication and movement in a sensitive border region following the reorganisation of its constitutional status. Each report was met with public statements from Government spokespersons and ruling party functionaries characterising CI as a 'foreign-funded organisation with a political agenda against India' and questioning its funding sources.
6. In October 2016, the MHA placed CIT's FCRA registration under 'prior permission' category and directed banks to seek MHA clearance before releasing further foreign remittances to CIT, citing preliminary findings of an inspection that revealed discrepancies between CIT's disclosed FCRA receipts and the funds subsequently transferred to CRAPL.
7. In November 2018, the Directorate of Enforcement registered an Enforcement Case Information Report against CIT and CRAPL under the Prevention of Money Laundering Act, 2002, alleging that the layered transfer of funds between CI's international entities, CIT, and CRAPL constituted the offence of money laundering, treating an alleged violation of the FCRA as the requisite 'scheduled offence'. Statements of several present and former employees of CIT and CRAPL were recorded. No prosecution complaint had been filed as of the date the present proceedings were instituted, though the investigation remained formally open for over twenty months.
8. On 10 September 2020, within three weeks of the publication of the third report referred to in paragraph 5, the MHA issued directions under Section 102 of the Code of Criminal Procedure, 1973, read with the Prevention of Money Laundering Act, to the banks of CRAPL and CIT, freezing all bank accounts of both entities with immediate effect, without issuing any prior notice or opportunity of hearing to either entity. The freezing order cited 'reasonable apprehension that the funds are proceeds of crime and are likely to be diverted or dissipated' as the sole ground, without further particulars.
9. As a direct consequence of the freezing of its accounts, CRAPL was unable to disburse salaries or meet operational expenses. On 29 September 2020, CI issued a public statement announcing the cessation of CRAPL's operations in India and the termination of the employment of its entire staff of approximately 150 persons, describing the State's actions as a 'witch-hunt' and 'reprisal for its human rights reporting', and stating that 'the noose... has finally tightened' around civil society space in India.
10. The Union Government, in response, issued a press statement asserting that CI's closure was 'a result of its own systematic and wilful violation of Indian law', that FCRA and company law apply equally to all persons regardless of

their advocacy, and that the timing of the account freeze was coincidental, being the culmination of an investigation that had been ongoing since 2016.

11. Independently of the specific action against CI, Parliament enacted the Foreign Contribution (Regulation) Amendment Act, 2020 (“the 2020 Amendment”), which came into force on 29 September 2020 - the same date as CI’s announcement referred to in paragraph 9, a coincidence noted by both sides for different purposes. The 2020 Amendment made the following material changes to the FCRA, 2010, each of which is under challenge in these proceedings:
 - Section 7 (as amended): prohibits any person who has been granted a certificate of FCRA registration from transferring any part of the foreign contribution received by it to any other person, thereby ending the practice of ‘sub-granting’ to smaller, often unregistered, grassroots organisations.
 - Section 8 (as amended): reduces the permissible ceiling on administrative expenses that may be defrayed out of foreign contribution from fifty per cent to twenty per cent of the total contribution received in a financial year.
 - Section 12A (as inserted): mandates that every office bearer, director, or key functionary of a person seeking FCRA registration or prior permission furnish the Aadhaar number, or, in the case of a foreign national, a copy of the passport or OCI card, as identification.
 - Section 17 (as amended): mandates that every person granted a certificate of registration open and operate an FCRA account exclusively at a specified branch of the State Bank of India in New Delhi, in addition to any other designated bank account, for the receipt of all foreign contribution.
 - Section 14 (as amended): expands the grounds on which the Central Government may, pending any inquiry, suspend a certificate of registration for an initial period of 180 days, extendable, without a hearing at the stage of suspension.
12. CIT, being an FCRA-registered entity, would be directly subject to the amended provisions were its registration to be restored. CI and CIT contend that the 2020 Amendment, considered cumulatively, is not a bona fide regulatory measure but is designed to and does in practice cripple the operational capacity of foreign funded civil society organisations engaged in rights-based advocacy, and is therefore an unreasonable and disproportionate restriction on the right to form associations.
13. CI, CIT, and CRAPL jointly instituted a writ petition under Article 226 of the Constitution before the High Court of Delhi, impleading the Union of India, the Ministry of Home Affairs, the Directorate of Enforcement, and the respondent banks. The petition sought:
 - (a) a declaration that Sections 7, 8, 12A, 14, and 17 of the FCRA, 2010, as amended by the 2020 Amendment, are unconstitutional and void as violative of Articles 14, 19(1)(a), 19(1)(c), and 19(1)(g) of the Constitution
 - (b) quashing of the freezing directions dated 10 September 2020 as violative of principles of natural justice and Article 21;
 - (c) a writ of mandamus directing the ED to close the ECIR for want of any surviving scheduled offence; and
 - (d) a declaration that the sequence of State action was mala fides and constituted an unconstitutional reprisal for the exercise of the

speech under Article 19(1)(a), read with the public's correlative right to receive information under that Article.

14. By a common judgment dated 14 March 2025, a Division Bench of the High Court of Delhi held, by majority:

- (i) that Sections 7, 8, 12A, and 17 of the FCRA as amended are constitutionally valid, being reasonable restrictions on a statutory (rather than fundamental) privilege to receive foreign contribution, falling within the legitimate regulatory domain of Parliament;
- (ii) that Section insofar as it permits suspension for up to 180 days without any hearing whatsoever, is disproportionate and must be read down to require a post-decisional hearing within thirty days;
- (iii) that the freezing directions dated 10 September 2020 were vitiated for want of any opportunity of hearing and violated Article 21, and were accordingly quashed, without prejudice to the Union's liberty to pass a fresh, reasoned order after hearing the parties; and
- (iv) that the question of mala fide 'reprisal' was a matter of executive policy and investigative discretion into which the Court, exercising judicial review, ought not to enter absent 'clear and cogent' proof, which was held not to have been made out on affidavit evidence alone.

15. The dissenting judgment on the Division Bench would have upheld the entirety of the 2020 Amendment including Section 14 as originally worded, and would additionally have held that the timing and sequence of State action, considered cumulatively along with the public statements referred to in paragraph 5, raised a rebuttable presumption of mala fide reprisal that the Union had failed to displace, and would have quashed the ECIR as an abuse of the process of the PMLA.

16. Aggrieved, CI, CIT, and CRAPL have filed a Special Leave Petition challenging the validity of Sections 7, 8, 12A, and 17 of the FCRA as amended, and the High Court's refusal to examine the claim of mala fide reprisal and to quash the ECIR. The Union of India has filed a cross Special Leave Petition challenging the reading down of Section 14 and the quashing of the freezing directions. The Supreme Court of India has granted leave in both matters, clubbed the petitions, and directed that they be heard together.

17. It is not disputed that:

- (a) CI, CIT, and CRAPL are validly constituted legal entities;
- (b) no prosecution complaint has been filed under the PMLA against CIT or CRAPL as of date;
- (c) CIT's FCRA registration remains under 'prior permission' category and has not been formally cancelled, only restricted;
- (d) CRAPL has ceased active operations in India since October 2020 and its approximately 150 former employees have not been re-engaged; and
- (e) the reports referred to in paragraph 5 have not been found, in any judicial or quasi-judicial proceeding, to be factually inaccurate.



Issue For Consideration

1. Whether the receipt of foreign contribution by an association is an incident of the fundamental right to form associations under Article 19(1)(c) of the Constitution, such that its regulation must satisfy the standard of 'reasonable restriction' under Article 19(4), or whether it is a mere statutory privilege or concession granted by Parliament, regulable at plenary legislative discretion subject only to the rationality standard under Article 14.
2. Whether Sections 7 (bar on sub-granting), 8 (reduced administrative expense ceiling), 12A (mandatory Aadhaar disclosure), and 17 (mandatory State Bank of India, New Delhi account) of the FCRA, 2010, as introduced or amended by the 2020 Amendment, individually and cumulatively, constitute reasonable restrictions in the interests of the 'sovereignty and integrity of India', 'public order', or are otherwise saved under Articles 19(4) and 19(6), or whether they impose a disproportionate and substantively unreasonable burden on the right to associate and the right to carry on the lawful activities of an association, so as to violate Articles 14 and 19(1)(c).
3. Whether Section 14 of the FCRA, as amended, permitting suspension of registration for up to 180 days without a pre-decisional hearing, and the freezing of CIT's and CRAPL's bank accounts under Section 102 CrPC read with the PMLA without prior notice, satisfy the requirement of a procedure that is 'just, fair and reasonable' under Article 21, and whether the High Court was correct in reading down Section 14 to require only a post-decisional hearing rather than striking it down.
4. Whether a claim that a facially valid regulatory and investigative action was, in substance, actuated by an improper motive to penalise or silence an organisation for the exercise of its right to free speech and expression under Article 19(1)(a) is justiciable in proceedings for judicial review; if so, what standard and burden of proof applies to such a claim, and whether the sequence of events pleaded in the present case is sufficient, without more, to raise a rebuttable presumption of mala fides shifting the burden to the State.
5. Whether the routing of funds to CRAPL as Foreign Direct Investment, in circumstances where CRAPL undertakes activity that would otherwise be funded as foreign contribution to a not-for-profit entity, amounts to a violation of the FCRA such that it can constitute a 'scheduled offence' sufficient to sustain an investigation and prosecution under the Prevention of Money Laundering Act, 2002, or whether, in the absence of any express statutory prohibition on such structuring at the relevant time, the principle against retroactive and analogically-extended criminal liability requires that the ECIR be quashed.
6. Whether Article 22 of the International Covenant on Civil and Political Rights, the UN Declaration on Human Rights Defenders, 1998, and comparable international standards on civil society space are relevant aids to the interpretation of Articles 14, 19, and 21 of the Constitution in a matter concerning the regulation of foreign-funded civil society, consistent with the principle that domestic law is to be read, so far as possible, in harmony with India's international obligations absent a clear and unambiguous legislative intent to the contrary.

ਓਪਾ ਪ੍ਰਾਂਵਰ

ਓਪਾ ਹੇਰਾਂਵਰ



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