

ASCENT MOOT COURT COMPETITION, 2015 | MOOT PROBLEM – NATIONAL ROUND

The country of Bindia is rich in mineral resources, with a surfeit of Uranium in the state of Baharkhand. The Uranium ore is concentrated in 30 odd square kilometers known as 'Maaboti' situated within the Flora Faun Reserve Forest. The Reserve covers an area of approximately 100 square kilometers. The said area of 30 square kilometers is a 'Scheduled Area' as meant by Art. 244, clause (1) of the Constitution of Bindia. It is inhabited by members of the aboriginal 'Boti' tribe.

The Botia's, as they are called, are a shy, and in modern parlance, 'primitive' people. Given their most primitive lifestyle they more than fascinate many a serious anthropologist. The world's pioneering anthropological school, the Max Stank Institute, believes them to hold the key to understanding socio-cultural evolution, so to speak. The Botia's derive their livelihood from the forest lands through the gathering of herbs, flowers and fruits. They sell the same in nearby towns for the little money they occasionally need. As is wont with primitive societies that depend so directly on land for their sustenance the Botia's too worship the forest. The land is anthropomorphised as 'Sacred Mother' and it is 'Sacred Mother' that provides the cultural conditions for the very paradigm they inhabit.

Hitherto governments have acknowledged the uniqueness of the Botia heritage and sought to protect the same, as against the lure for exploiting the Uranium ore for development or defence purposes. Presently, however, a new dispensation headed by a charismatic Prime Minister has assumed power in the centre. In what is increasingly being hailed as an unprecedented mandate in Bindia's electoral history, the implication, if mainstream media is to be believed, is nothing short of a volte-face insofar as economic and defence policy is concerned. Apparently the vote this time around is one in favour of industrialization and militarization; areas in which Bindia is considered lacking despite its wealth of Uranium. Mr. Prime Minister in his very aggressive campaign labeled it Bindia's public shame and promised to restore citizen's pride by catapulting the shamed nation to its rightful place in the 'superpower' pecking order.

First in a series of avowed reforms is the promulgation of an ordinance in December, 2014 for amending the 'Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013'. An amendment bill was then introduced in Parliament for endorsement. It was cleared by the lower house, given the Government's majority therein but failed to pass muster in the upper house; where it still languishes. Consequently the President has had to reissue the ordinance for a third time now (30 May, 2015).

ASCENT MOOT COURT COMPETITION, 2015 | MOOT PROBLEM – NATIONAL ROUND

The changes sought to be enforced by the said amendment, it is argued, dilute the 2013 Act's provisions vis-à-vis socio-economic impact assessment as also bypasses local self-governments by not recognising them as appropriate governments in matters of land acquisition.

The government, undeterred by the upper house's lack of faith, draws out an elaborate plan to rehabilitate the Botia's in a different part of the Florafaun Reserve and issues a notification for the lease of 'Maa-boti' land to Atomic Energy Corporation of Bindia, a public sector undertaking wholly owned by the Government of Bindia, for a period of fifty years.

Following the said decision to oust the Botia's from their traditional homeland there is much hue and cry across the world. International media goes to town complaining that the Botia's are the last of a primitive stock and the loss of their heritage is a loss for humanity as a whole. Locally too there are widespread protests by NGOs and their ilk. But to no avail.

Finally a PIL under Art.226 is filed by an NGO claiming to represent the Botia's in the Baharkhand High Court. The High Court dismisses the same 'in limine'.

The same NGO (let's call it Adivasi Suraksha Samiti) now wants to move the Supreme Court in the said matter.

All the laws in the state of Bindia are in pari-materia with India.

Identify parties, draft issues, appropriate jurisdiction, and advance arguments, for the matter shall be heard as per application in the court of law.

*****©SLSN*****