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**LABOUR LAW MOOT COURT COMPETITION 2018**

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### Moot Proposition

1. Unnati Industrial Corporation (UIC) is a Public Sector Undertaking of the Government of India, under the administrative control of Ministry of Corporate Affairs. It is also listed on national Stock Exchange. UIC employs more than 5000 employees and workers in its complex named 'Unnati Complex'. The complex provides services like canteen-cum-food court facility (Canteen) to all those who work in the complex. UIC is responsible for providing facilities like furniture and electricity (for which the UIC pays bill), water supply, water purifier, centralized Air Conditioning etc. This canteen is run by a contractor named Bhola Prasad under the supervision of UIC Canteen and Management Committee (Committee) through a written understanding. The committee ensure the smooth functioning for anyone who avails the canteen services. A total of 18 workers (4 of which are permanent workmen of UIC) work in the canteen regularly.
2. With an objective of providing quality education in the vicinity to the children of officers and workers of UIC, the UIC has setup a recognized educational institution within the acquired area near Unnati Complex named as Unnati Shiksha Kendra. The school also provides 25 percent reservation in the total number of intake for the outsiders.
3. On August 10<sup>th</sup> 2017, Bhola Prasad submitted a written memorandum before the management of the UIC along with the government notification for charging Goods and Services Tax (GST) on the canteen items mentioned in the notification with effect from July 1<sup>st</sup> 2017. Bhola Prasad made a submission that he is not willing to pay GST as he is not able to make any profit by selling the goods, and providing services at a higher rate than before. The Committee however, was adamant that the price should not increase form the existing and the contractor must sell the goods and provide the services at the same rates as before. Providing food services at higher rates after the implementation of GST would be against the

principles based on which the canteen was established, (i.e. to provide quality food to the workers and employees of UIC at cheap rates). Pursuant to this refusal, Bhola Prasad shut down the canteen and apprise about uncooperative and irresponsible attitude of the workers against the UIC in general and Committee in particular to show-case a situation that because of the workers hesitation he is forced to shut it down. He convinced the workers that he would not be able to re-open the canteen and pay the wages due to rise in prices which caused to shrink his profit margin to nearly zero. Therefore, UIC must pay the GST to restore the situation.

4. On August 13<sup>th</sup> 2017, the workers of the canteen went for two weeks flash strike raising the issue that the canteen workers are unemployed due to the unsolved dispute between the contractor and the UIC. They also raised their concern regarding payment of lesser wages as compared to the other Class 4 employees of the entire UIC unit. This compelled the management of UIC to have a meeting with the elected representatives of the registered Trade Union (Union) of the canteen workers. Following the meeting, the management sanctioned an order to terminate the services of three of the workers. Having aggrieved by the said order, the matter reached to the Industrial Tribunal by following the appropriate procedure on October 24<sup>th</sup> 2017.
5. The points raised by the Union are:
  - a. That UIC must pay the GST and free Bhola Prasad from this obligation so that the canteen may continue of functioning smoothly as of the earlier times.
  - b. That UIC in its premises is providing the services such as furniture, electricity, water supply, water purifier, centralized Air Conditioner etc. and electricity bill is also paid by UIC itself. Hence, it is prayed that all the workers of the canteen cum food court may also be made permanent employees of Unnati Industry as it is an innate part of the corporation. Hence the control and supervision over the canteen is governed by Canteen and Management Committee.
  - c. That workers whose services are terminated are the workmen of UIC hence they must be reinstated.

- d. That 4 out of 18 workers are already permanent employees of the UIC therefore, the treatment awarded to the remaining 14 workers is discriminatory in respect of the employment under Article 14 and Article 16 of the Constitution of India.

The tribunal through its award directed UIC to reinstate the employment of the terminated workmen and also ordered to make their employment permanent. Hence, they shall be awarded the wages that are paid to all other workmen falling under Class 4 employees of the UIC. The award was challenged by the UIC in the Hon'ble High Court of Zafhistan (High Court).

6. The matter was taken by the means of writ of certiorari praying for quashing the proceedings which took place before the Industrial Tribunal. A single judge bench of High Court affirmed the findings of Industrial Tribunal and directed the UIC authorities to implement the award of the Industrial Tribunal with immediate effect.
7. The single judge bench of the High Court in the view of UIC erred by concluding that the Industrial Tribunal's Award was valid. Further the matter reached to the Divisional Bench of the High Court which decided the case in favor of the UIC on the basis of the following points:
  - a) Canteen workers are not the employees of the UIC but of the contractor. The UIC is not substantially controlling and supervising the UIC is merely providing the basic facilities needed to run a canteen in its premises.
  - b) Based on 'a)', the workers shall not be given the wages as per the norms of the UIC set for paying wages to Class 4 employees.
  - c) The reinstatement order by the Industrial Tribunal which was later on affirmed by the single judge bench of this High Court shall be quashed.

The Union has finally decided to file a Special Leave Petition (SLP) before the Hon'ble Supreme Court.

8. It is evident that the Union upon discussing with the Committee brought up the issue of canteen employing 4 child workers, two of the age 12 and other two of the age 13 years and 8 months and 13 years 5 months respectively along with above mentioned issues. When the State Government of Zafhistan referred the dispute to the Industrial Tribunal, it asked the Tribunal to confine its adjudication only on the points of the nature of the employment of the canteen workers and wages to be paid and reinstatement if made. The issue regarding 'child labour' and that who should bear the burden of GST raised by the Union before the management are not referred to the Tribunal as it is thought that the Tribunal is not the appropriate forum. Therefore, the Tribunal was silent on this issue.
9. The Union then, was forced to take the recourse of filing a writ before the Hon'ble Supreme Court raising the issue that the State Government of Zafhistan is ignoring the matter of child labour on purpose for favouring the UIC. In a separate writ before the Hon'ble Supreme Court, the Union raised the issue of burden of payment on UIC as per the law governing imposition of GST.
10. The Hon'ble Supreme Court for the sake of brevity decided to club the SLP and both the writs filed before the court on separate occasions. A 5-judges-bench has been formed to decide on the merits of the case and serve the justice.