

KERALA LAW ACADEMY LAW COLLEGE

33rd All India Moot Court Competition 2024

(7th February to 10th February 2024)

Moot Court Proposition

RENO DIYAL v. UNION OF INDIA

Neethisthan is a state in the Indian Union. Neethisthan Democratic Party (NDP), is the ruling party of the state for the last 28 years. The present government led by Shyam Manohar came to power in the year 2019 August 23rd. The present Governor, Nathulal Shanu assumed his office on December 10th 2019.

Since January 2020, the relationship between the Governor and the Chief minister had become strained.

The starting point was the nomination of 3 eminent educationists to the Executive Councils of the Universities of the State. Though the earlier practice was to nominate three educationalists from the panel of ten experts submitted by the Government with curriculum vitae, the present Governor ignored all the names in the panel. Several persons, including ministers criticised the action of the Governor.

On January 24, 2020, Governor Nathulal Shanu wrote a letter to Shyam Manohar asking him to take action against Finance Minister Ganga Lal as he had withdrawn his 'pleasure' upon the minister. The Governor said that 'Ganga Lal had violated the oath and undermined the unity

and integrity of India'. A speech delivered by the minister at a function held at the Neethisthan University on January 17 was the reason that provoked the Governor to 'withdraw his pleasure'.

Ganga Lal reportedly said that 'some people who had been used to the practices in other states might not be able to understand the democratic nature of the universities in Neethisthan. He was implying Nathulal Shanu's continuous criticism of the functioning of the universities in the State. However, the Chief Minister took no action on the letter but continued his strategic silence over the controversial remarks made by the Governor quite often.

On 03-04-2020 the Governor constituted the search committee for the appointment of Vice Chancellors of four universities in the state. Though the concerned Acts of these universities insist that one member of the search committee shall be the nominee of the state government, the Governor ignored the provision. When media persons asked about this fact the Governor replied that that "the UGC standards do not provide for nominee of the Government in the search committee". On 16-7-2020 Legislative Assembly of the state passed a Bill to remove the Governor of the state as Chancellor of 9 universities controlled by the Higher Education Department, despite a walkout by the Opposition which, while concurring with the larger intent of the Bill, insisted that a replacement should be chosen from amongst Supreme Court judges or former Chief Justices of the High Court of Neethisthan. The provisions of the bill empowered the state government to appoint the Chancellor.

In September 2020, bills to amend the Neethisthan Law University Act, the Neethisthan Medical University Act, the Neethisthan Agricultural University Act, the Neethisthan Fisheries University Act and the Neethisthan Veterinary and Animal Science University Act to remove the Governor from the position of the Chancellor were adopted.

In February 2021 the Neethisthan Legislative Assembly passed the Neethisthan Right to Service Bill, 2021. The provisions of the Bill were in pari materia with Punjab Right to Service Act, 2011.

On 10-11-2021 the Governor returned the 8 bills, mentioning in the above bills that 'I withhold assent' to the bill.

On 6- 12- 2021 the Neethisthan Legislative Assembly had a special sitting, days after the Governor returned the bills. The Assembly readopted the bills without making any change.

A resolution moved by Chief Minister said, "The Governor had kept the bills for a long time and on November 10, without giving any reasons, he returned the bills, mentioning in the above bills that 'I withhold assent' to the bills. This Assembly feels that withholding of assent by the Governor to the bills and returning it without giving any reasons is against the Constitution. This House takes note of that under the proviso to Article 200 of the Constitution of India, if the above-mentioned bills are passed again and presented to the governor for assent, the Governor shall not withhold assent."

In January 2022 the Chief Minister had sought the intervention of the President of India to regulate the activities of the Governor. A memorandum regarding the same was handed over to President by the government.

On 2-2-2022 the Governor was invited to deliver the address in Neethisthan State Assembly at the first session of the year. But, during his address he refused to read the full text and skipped some parts of the address. The Chief Minister responded by moving a resolution against the act of the Governor disapproving his remarks during the address and the Governor walked out of the house.

According to the official statement of the Finance Minister, “8 bills are pending before the Governor for his approval and this is in fact affecting the proper functioning of the Government.”

On 21-11-2022, the Governor sent all the 8 bills readopted by the Assembly to the consideration of the President.

Reno Diyal is a landless person living in the State of Neethisthan. On 8-3-2022, he submitted an application for income certificate for the purpose of availing the benefit of the Housing Scheme for Landless People introduced by the state government. Though he visited the village office more than 20 times, Taluk office 10 times and Revenue Division Office 6 times, the certificate was not yet issued. On 11-12-2023, Reno approached the Supreme Court under Article 32 of the Constitution with the following prayers.

1. Right to public service may be declared as a fundamental right under Article 21 of the Constitution.
2. Guidelines may be issued by the Supreme Court to regulate the exercise of power under Art 200 and Art 201 of the Constitution taking into account of the fact that legislative measures are essential for the realisation of basic rights of the citizens.

The Union of India prayed for the dismissal of the petition.