



लखनऊ विश्वविद्यालय
University of Lucknow
(Accredited A++ by NAAC)



4TH NATIONAL MOOT COURT COMPETITION MOOT PROPOSITION

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1. Indiana is the seventh largest and the most populous Nation in the world, occupying 2.5% of the total world area, containing about 15% of the world's population living in various social, economic, geographical, and ecological conditions. It is also the largest democratic Country in the world where the diversity runs through multiple races, religions, castes, tribes, languages, social customs, cultural and sub-cultural beliefs, and ideologies. It is also a secular Country guaranteeing the freedom of following and practicing all religious faiths under its Constitution.

2. There are 28 States and eight Union territories, each functioning independently. It manifests the "Unity in Diversity" principle and "Cooperative Federalism." After getting Independence from colonial rule in the year 1947, Indiana enacted her Constitution in the year 1950. The Constitution of Indiana confers upon her the features of democracy, secularism, and federalism. The Constitution of Indiana is regarded as the largest and most comprehensive Constitution in the world. It has established a democratic and federal Government in Indiana where powers are divided between Central and State Governments.

3. Both Central and State Governments are free to legislate on their subject matters, and none can interfere in the affairs of the other. The Constitution of Indiana provides a detailed distribution of powers and subject matters between the Center and the State Government under Articles 245 and 246, and its Schedule VII.

4. Indiana, a Union of States, has also several provisions that provides its Constitution a unitary features. The justification for that is the National interest but various jurists and legal luminaries termed the Indian Constitution as Quasi Federal, which is tilted towards a powerful Center. Often the States have their tussle and issues owing to this powerful Central tendency of the Constitution of Indiana, especially when two different political parties are ruling in Center and State. But in the case of Union territories, it has been sorted as, it comes under the direct control of the Central Government.

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5. The most unique is the case of Suplex City, which is a Union territory as well as the capital of the Country. The State of Suplex City has been accorded special status under Article 239AA owing to its importance as the capital of Indiana. Before the insertion of Article 239AA, Suplex City was under the direct control of the Central Government.

6. With the growing population and its cosmopolitan atmosphere, there was a need for the democratic Government to handle the issues of the Union territory similar to a State Government. Considering these, the Suplex City as a state was accorded special status and termed 'limited Statehood' under Article 239AA. It aimed to empower the people of Suplex City to have their voices heard through a democratically elected Government. But at the same time, the public order, police, and land were left under the direct control of the Union Government of Indiana to maintain the integrity of the National interest. It was all because Suplex City was the capital of the Country.

7. This step provided a democratic Government to run the administration of the Suplex City effectively. Still, it led to raising the tussle between the Suplex City Government and Union Government of Indiana on the control and distribution of executive powers. There were severe tussles between Suplex city and Union Government arose especially when the different political parties ruled at both the levels. This also led to several court cases where Constitutional bench of Apex court of the Country was approached to decide these issues.

8. In the late 1990s, the Constitutional validity of Article 239AA was challenged before the land's Apex court and declared Constitutionally valid. In the ratio of the judgment, heavy reliance was based on National interest, integrity, law and order. Numerous petitions are still pending on different conflict issues between Suplex City Government and Union Government. The Suplex City Government demands a full State status, while the Union Government wants to keep the control over the Suplex City.

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9. The most significant conflict is the Administrative control over the terms and conditions of the services of bureaucracy especially transfer, posting and appointment of bureaucrats. When a State functions as a full-fledged State it needs an organized bureaucracy to carry out its task. But in the case of Suplex City, the transfer, posting, and appointments of the entire bureaucratic control are under the control of the Union Government of Indiana which has created a barrier to the effective Administration of the Suplex City.

10. Another contentious issue is the role, positioning, and functioning of the Lieutenant Governor, who is the administrative head of the Suplex City. He is appointed by the Union Government. This office is equivalent to the office of the Governor of any State. The Government of the Suplex City has cited numerous times that the Lieutenant Governor should be bound by the aid and advice of the Council of ministers of the Suplex City as good as it is in the case of the Governor in other States in accordance of Article 163 of the Constitution of Indiana. Union Government has defended the above claim of Suplex City.

11. Considering these two instances, the Suplex City Government approached the Apex Court of Indiana, Then Apex court have referred these issues before a Constitutional bench in April 2023. The Hon'ble Court decided in favor of the Suplex City Government and declared that the administrative control is directly under the control of the Suplex City Government. The court also held that the aid and advice of the Council of ministers of the Suplex City Government bind the Lieutenant Governor.

12. This judgment attracted sharp reactions from the ruling union government, who sought an immediate review of the decision. The Apex court fixed the hearing date of the review petition in October 2023.

13. Annoyed by the delay in hearing of review petition, the Union Government brought an ordinance nullifying the order of the Apex Court and placed all administrative control under the Union Government and Lieutenant governor who

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is not bound by the aid and advice of the Council of minister of the Government of Suplex City. It has brought several criticisms from various sections of the society which viewed the ordinance as an attack on the functioning of the Judiciary of Indiana.

14. The Monsoon session of the Parliament of Indiana will be held in October, 2023 in which Union Government is planning to get the bill on Suplex ordinance passed. Annoyed with this ordinance, the Suplex City filed a writ petition before the Hon'ble Apex Court of Indiana pleading to set aside the above ordinance. The court has admitted the petition and posted it to be listed with the review petition in October 2023.

15. The case is set for arguments and the major issues before the Hon'ble Apex Court of the Indiana :

- 1. Whether the Apex Court can entertain a writ petition against an ordinance?**
- 2. Whether there are limitations on ordinance making power of the Union Government and can the Apex Court can nullify the above ordinance?**
- 3. Whether the Highest Court can revoke special status of Suplex City and convert it into a full-fledged state?**
- 4. Whether the Government of the Suplex City can control the administrative control of the State?**
- 5. Whether the Lieutenant Governor of Suplex City is parametric to the Governor of any other States?**

Notes:

- 1. All the laws and constitutions of Indiana are analogous to the rules and Constitution of India. Indian Laws and judgments of the courts in India (based on hierarchy) shall have persuasive value for this country.**
- 2. All the names used and events described in this proposition are fictitious. The resemblance of any kind and magnitude to any name, person, organization, or event is purely coincidental. This is an imagined problem/case with the under-given fact matrix. The counsels are expected to operate within the four walls of the facts and issues.**