

**THE 27th ALL INDIA MOOT COURT COMPETITION, 2016
FOR THE KERALA LAW ACADEMY TROPHY**

MOOT PROPOSITION

Sunitha and Ajith v. St. Martin College

Jeevasthan is a State in the Indian Union. The University of Jeevasthan established in 1952, has 45 Post Graduate Departments of Studies and Research and 250 affiliated colleges. St. Martin College is a Catholic institution affiliated to the University. According to Section 40 of Jeevasthan University Act, 1952:

"The management of every private college affiliated to the University shall constitute a Governing Body for giving advice on all matters relating to the administration of the college consisting of following persons:

- 1. Principal of the college*
- 2. Two teachers nominated by the Principal*
- 3. Five persons nominated by the management*
- 4. One person nominated by the University"*

In 2013, the College got recognition as a minority educational institution under National Commission for Minority Educational Institutions Act, 2004. There are 1700 students in the college, out of which 950 are girls. The Governing Body of the College formulated and published a Code of Conduct for Students. According to Paragraph 10 of the Code of Conduct, 'no male and female student shall sit on the same bench'. Sunitha and Ajith are third year B.Com students of the College. On 06.08.2015, the Principal suspended Ajith and Sunitha from the college stating that, they had violated Paragraph 10 of the Code of Conduct. The action of the Principal caused to generate serious protest from different sections, through social media and electronic media. Large number of people criticized the action of the Principal but a small section supported the action. On 18.08.2015, Principal appointed a Commission to inquire into the allegations against Sunitha and Ajith.

Dr. Sreejith Raju, Head of the Department of Political Science was appointed as single member Inquiry Commission. The Commission conducted sittings on September 1st and 2nd and opportunity was given to Sunitha and Ajith to adduce evidence and rebut evidence, including right to cross examination. The only eye witness of the incident was Sarmila Bai, a 75 year old sweeper of the college. She deposed before the Inquiry Commission that on 04.08.2015, she saw Ajith and Sunitha sitting in the same bench and Ajith's hand was on the shoulder of Sunitha. During cross examination, Ajith showed Sarmila Bai a 500 rupee note and asked her, "*What is this?*". Sarmila Bai replied, "*100 rupee note*". The Commission submitted its report on 18.09.2015 with a finding that Sunitha and Ajith violated Para 10 of the Code of Conduct. The finding was based on the oral evidence given by Sarmila Bai. On 29.09.2015, Sunitha and Ajith were dismissed from the College through the order issued by the Principal.

On 26.10.2015, Sunitha and Ajith filed a writ petition before the High Court of Jeevasthan challenging the order of the Principal on the following grounds.

1. The Governing Body has no power to formulate the Code of Conduct of the students since such powers have to be exercised either by the University or by the Principal.
2. Rule 10 is in violation of Article 14, 21 and 19(1) (a) and (b) of the Constitution.
3. Punishment is disproportionate to the gravity of the alleged misconduct.

It is further contented that the report of the Commission shall be quashed since there is error of law apparent on the face of record.

On behalf of the Principal, all the contentions are refuted. It is contented that the management and the Governing Body of the minority educational institutions have the power to formulate and implement Code of Conduct for its staffs and students. It is further contented that the finding of the Commission is legal and the action of the Principal is constitutional.