

# **Justice P. B. Sawant Seventh National Moot Court Competition 2019-20**

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## ***Mr. Rudra Pratap v. Governor of Eastland***

1. Indusland is the largest democratic country in the South Asia with the written constitution. It has parliamentary form of democracy with federalism, independence of judiciary, separation of powers, rule of law, national unity and integrity and judicial review etc. as its basic features.
2. Multi-party system is considered as an important feature of parliamentary form of democracy of Indusland. The National Workers Congress (hereinafter NWC) and National Party of Indusland (hereinafter IPI) are two national political parties along with other regional and small political parties.
3. Eastland, situated in southern part of the Indusland is one of its important developed states. The Eastland Democratic Party (EDP) is one of the influential regional parties in Eastland. The national and regional parties have dealt with various problems with difference of approach, and regional parties have generally preferred satisfaction of regional sentiments over national interest. The EDP which initially worked as a pressure group for protection of interest of people of Eastland, in the course of time gained the political entity under the leadership of its president, Mr. Rudra Pratap. It has taken controversial stand on many issues such as 90 % reservation to the people of Eastland in State Government's Employment. Few times, instigation was given by Mr. Rudra Pratap to his party workers for violent protests on the issue of reservation and it resulted in attacks on people from other states resulting in substantial loss of lives and property.
4. The ruling party in the state, the NWC criticized the stand taken by EDP as affecting national unity and integrity and destructive of democratic process. The violent protest by EDP had deteriorating impact on its image at national level but in regional politics it got massive support. As a result, in 2009 state assembly election the EDP had won 35 seats in 190 members legislative assembly. For next five years, the EDP used its position and various

parliamentary tactics to pressurize the ruling party; an alliance led by NWC with support of few independent MLA's regarding various regional problems.

5. In 2014 election, the EDP got majority with 100 seats and it formed government with Mr. Rudra Pratap as a Chief Minister. This government took various popular decisions including 80 % reservation in state government employment to the 'Sons of Soil'. But over the time, it was evident that the state administration was not able to implement these decisions effectively which resulted in unrest amongst some parts of the society. Further, Mr. Rudra Pratap had difference of opinions with the Governor of state, Mr. Vinay Prajapati on various important issues which resulted in confrontations even in public places, few times. The turf wars between these two important constitutional functionaries has resulted into holding of many important policy decisions by Governor's office by giving plentiful reasons. Regarding this, the Governor expressed his inability to go beyond the constitutional framework for the sake of accepting the popular demands made by the Chief Minister and his cabinet. On the contrary, the Chief Minister expressed the opinion that the Governor should not work as a hurdle in the progressive path adopted by the ruling party but by co-operating with the government should respect the majority and allow the ruling party to serve the people.

6. The state assembly election in December, 2019 witnessed some significant events where many loyalists from all most all parties had changed their political loyalty and joined other political parties against which they fought for decades together. In the assembly election no political party got the majority. The EDP, ruling party was not able to get the majority and secured only 85 seats. However, as a single largest party in a state it considered that it has a rightful claim to form the government. It also had a plan to take the help of Independent MLAs to form the government. The second largest party was NWC with 80 MLA's elected and as claimed by their spokesperson in a discussion on T.V. channel that they had the support of 10 MLA's of IPI and some other Independent MLA's. This party also considered itself a legitimate claimant to form the government and expected an invitation from the Governor.

7. As it was the case of hung assembly, the Governor in exercise of his constitutional power invited Mr. Vijay Rao, leader of NWC to form the government and administered him an oath as a Chief Minister. Mr. Rudra Pratap felt aggrieved by the decision of the Governor and considered it as a revenge of past conflicts.

8. The Governor appointed Mr. Chandra Kumar senior most member of the NWC as the pro tem speaker. He also called special session of the assembly for floor test. Accordingly, the pro tem speaker administered oath to newly elected members and confidence motion was put before the assembly according to rules which ultimately was rejected with majority. The discussion on confidence motion continued for days together which was alleged to be in favour of ruling party allowing it the maximum time and opportunity to save the government. The EDP alleged that the Governor through the speaker wanted to delay the result of floor test and hence attempted to interfere and influence the legislative proceedings. The Governor's action was perceived as a plan to prevent the formation of EDP government in the state.

9. After the failure of Mr. Vijay Rao to prove the majority in the assembly, the Governor was expected to give an opportunity to Mr. Rudra Pratap to form the government being the leader of single largest party. There was a news in the electronic media that Governor office's was planning to give invitation to Mr. Rudra Pratap to form the government. However, in a dramatic situation, subsequently unfolded, ten MLA's belonging to NWC and IPI with some Independent MLA's while speaking in press conference alleged that they were offered 10 crore each to remain absent or resign from the membership of legislative assembly before floor test. The move was alleged to be taken on the direction of Mr. Rudra Pratap.

10. Taking the cognizance of the allegations against the EDP, the Governor recommended dissolution of assembly to the president which was accepted. The recommendation was attempted to be justified as the only way to protect the constitutional morality and purity of democratic process. The official statement issued by the Governor's office expressed the concern that present political condition in the state was more prone to horse trading and the EDP would not be able to give stable government.

11. Disappointed with the move of the Governor, Mr. Rudra Pratap approached to the Supreme Court of Indusland. He mentioned that the Supreme Court as the sentinel on the quietude of the constitution is under an obligation to see that its cherished principles should prevail over individual's arbitrary behavior. According to his petition, action of Governor was against the constitutional philosophy and the appointment of pro tem speaker was violative of constitutional conventions. It was also contended that dissolution of the assembly by denying a fair chance to the largest party to form the government and dissolution of the

assembly on mere suspicion without proof cannot be said to be the judicious decision of constitutional functionaries like the Governor.

12. In response to the petition the Governor pleaded that the constitution has conferred wide discretionary power on him specifically in case of a hung assembly. He justified his action as an honest attempt to uphold the constitutional sanctity. He also argued that court should not entertain the petition as been opposed to the doctrine of separation of powers which has been recognized as a basic structure of the constitution.

The matter is put before the Supreme Court for consideration. The Hon'ble Court will hear arguments of both the parties on following important issues.

1. Whether the Supreme Court has the jurisdiction to entertain the present petition?
  2. Whether the discretionary power exercised by the Governor in inviting Mr. Vijay Rao to form the government was according to the constitutional provisions?
  3. Whether the appointment of the pro tem speaker was constitutionally valid?
  4. Whether the decision of the Governor to recommend dissolution of the assembly and Presidential Rule without giving an opportunity to Mr. Rudra Pratap was in accordance with the constitutional mandate?
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**Note: -**

- **Indusland is a country like India and its laws/rules/regulations are pari passu to that of India.**
- **Disclaimer – This moot problem is imaginary and for academic purpose only. Any resemblance with any fact, case, person or character is merely coincidental.**