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Gauhati University



Approved by
The Bar Council of India



SHIVAM SARAF MEMORIAL 1ST NATIONAL VIRTUAL MOOT COURT COMPETITION, 2020

Organised by

NEF LAW COLLEGE

GMC Hostel Road, Ananda Nagar GMC
Opp. St John's Hospital, Ananda Nagar,
Christian Basti, Guwahati, Assam -05

THEME:

**Family Law and it's diverging
interpretations.**

Date of competition:

3rd , 4th & 5th September, 2020

LAW- A MODERN OUTLOOK:

In his book 'The Lawyer', Martin Mayer describes Law School as the 'crown jewel' of the educational system, in part because Law School is the 'last generalist professional degree.' Today, law is a field of study that offers the recipient a wide range of career options, each requiring different skills but also possessing common characteristics. The options are endless in terms of practice areas and work environments. Lawyers can practice law by helping clients plan to avoid and solve problems once they develop, by representing and counselling business in a particular industry, by representing individuals sharing a common status or problems and by appearing (or not appearing) in court. Law school teaches you to open your mind and think differently. This type of training is valuable in any career. Today, law is the pathway to financial rewards, intellectual stimulation, prestige, family, influence, social change and career flexibility.



THE COLLEGE

NEF Law College established in 2006, is one of the finest centre for the promotion of Legal Education in the entire North Eastern region. It has a dynamic motive to fulfill the long standing need & dream of a "Law College of Excellence" in this part of the country with the uniformity with other reputed National and International Law Colleges. The college has undertaken the uphill task of promoting Legal education in the region, with an aim of developing new genre of efficient and new generation legal professionals.

The College is recognized by University Grants Commission (UGC) under section 2(f) of UGC Act, 1956 and is a minority educational Institute u/s 2(g) of NCMEI Act, 2004. The college is promoted and run by National Education Foundation (NEF) Trust, a pioneer Non Governmental Organization in the North Eastern region engaged in promoting and popularizing professional education.

COURSES OFFERED

The College offers full time regular courses:

1. Five Year Integrated B.A LL. B (Hons)
2. Five Year Integrated B.COM LL. B (Hons)
3. Five Year Integrated BBA LL. B (Hons)
4. LL. B (Three Years)
5. LL. M



OUR VISION

The new notion of law and jurisprudence demands a different attitude to legal studies and research. Theoretical knowledge-one more confined to legal texts without interdisciplinary studies and practical exposure is unwarranted in the present-day context, as one cannot develop the skill of deciphering the legal issues which have surfaced as a result of emergence of new economic understanding and technological development of the present millennium. All these necessitates Lawyers, Academics and Researchers with exposure and skill to play a crucial role in chartering the course of our nation with sensitivity, vision, conviction and dedication. This requires institution of high standards, which will stimulate intellectual inquiry and excellence.

In view of this, NEF Law College will not only imbibe the tradition of multidisciplinary approach to the legal studies and research but also will make a genuine endeavor to propagate such approach to both the privileged and unprivileged learners and researchers of law and jurisprudence and thus strive to emancipate such interdisciplinary culture from the elitist dogmatism and carry the same to the grassroots level of the institution. The institution will earnestly aspire to strengthen the foundation of democratic and social values in our young generation and mould them into “social engineers” who will work towards building a “new India.”

OUR OBJECTIVES

- To advance and disseminate learning and knowledge of law and legal processes
- To develop in the students a sense of responsibility to serve society in the field of law by developing skills in regards to advocacy, legal services, legislation, parliamentary practice, law reforms and such other matters
- To make law and legal processes efficient instruments of social development.

DIRECTOR'S MESSAGE

Dr. Zakir Hussain
Director



I hope this message finds you safe and healthy amidst the crisis the entire world is undergoing. I am delighted to announce that NEF Law College is organising a National Virtual Moot Court Competition in the memory of our beloved student Mr. Shivam Saraf. We at NEF Law College always strive to give our best to groom talents and young minds in the legal field. I believe that this competition will serve a platform for the students to display their mooting skills in a virtual manner. I thank and appreciate the untiring efforts of the faculty members and students in making this event successful. Thank you.



(Dr. Zakir Hussain)
Director

PRINCIPAL'S MESSAGE

Dr. Bhuban Ch. Barooah
Principal



The year 2020 has been defined by the COVID-19 pandemic, which has made a global impact on various sectors of health, economy, labour etc. and education being one of the most affected area. In this process, everyone is trying to adjust and cope up with the new virtual system otherwise students across the world are going to lose valuable time in pursuing education. Owing to the disease, educational institutions were the first victim of the pandemic as they were closed and possibly, they would be the last ones to be re-opened. It will definitely be an irreparable loss if we are unable to support the career of the students within timeline. Hence, it is imperative to adapt the new norm, so that the teaching-learning process can be continued for the well-being of the upcoming generation.

Considering all the factors, we have been organizing Friday Lecture Series, National Webinars and Competition on extra- curricular activities apart from the National Virtual Moot Court Competition.

In view of promotion of clinical legal education directed towards developing the perception, attitude, skills as well as sense of responsibilities of the budding lawyers in upholding the basic elements of professionalism, I think it would be highly recommendable to transform the 'legal education' into 'justice education'. Therefore, we take immense pleasure in inviting you all to the Shivam Saraf Memorial National Virtual Moot Court Competition, in the memory of our beloved student Mr. Shivam Saraf who was studying in 8th Semester of B.B.A, LL.B (H).

We solicit your co-operation by taking part in the competition. Thank you.

A handwritten signature in black ink, appearing to read 'Barooah', with a horizontal line underneath.

(Dr. Bhuban Ch. Barooah)
Principal

ACHIEVEMENTS OF THE COLLEGE

- ★ NEF Law College has been ranked 42nd among all Law Universities, Law Schools and Law Colleges in India by 'India Today' Magazine - July, 2020.

- ★ NEF Law College has been ranked 6th among "Top 10 Private Colleges with Best Value for Money" India Today Magazine - July, 2020.

- ★ The 'Competition Success Review (CSR)-GHRDC Law School Survey 2020' has ranked the NEF Law College as the Topmost Law School in the State of Assam and 2nd Position in the category of 'Top Law School of Excellence' among the Law Schools in India.

- ★ NEF Law College, Guwahati has been ranked 42nd in India's Best Law College, 2019 by the INDIA TODAY Survey published in May, 2019.

- ★ NEF Law College ranked 5th Top Law Institute in India (except National Law Universities) by "Civil Services Chronicle" Magazine (April-2019)

- ★ Higher Education Review Magazine has ranked NEF Law College as 6th most promising Law Colleges in India - 2017

- ★ NEF Law College won the College Search Student Choice award as most Social Responsible Colleges - 2017.



SHIVAM SARAF

Shivam Saraf born on 10th October, 1995 did his early schooling from Don Bosco High School, Guwahati and thereafter Assam Valley School. He was the best Hindi debator of the Assam Valley School and bagged a number of awards. He also represented the Assam Valley School in the Hindi Debating Competition at the National level. Shivam later joined NEF Law College for BBA, LLB course and had completed Seventh Semester. He was an active member of the Rotaract Club of Guwahati Luit and served as its Joint Secretary. Shivam was awarded as “We for her 2.O champion” by the Rotaract Club of the Guwahati Luit. He led the anti drug campaign “MUKTI UP FOR HOPE DOWN FOR DOPE” of the Rotaract Club of the Guwahati Luit as its Chairman to create awareness amongst 10000 youths in a year.

Shivam was a kind hearted and honest boy. He was always lively and cheerful and always extended his helping hand to his friends.

Unfortunately, Shivam expired on 9th of March, 2020 in a tragic accident.

Shivam was the only son of Dr. Ashok Saraf, Senior Advocate and grandson of Justice Dr. B.P.Saraf, Former Chief Justice of High Court of Jammu & Kashmir.

SHIVAM SARAF MEMORIAL 1st NATIONAL VIRTUAL MOOT COURT COMPETITION, 2020

Organised by NEF Law College, Guwahati, Assam

ADVISORY COMMITTEE

Justice Amitava Roy

Honourable Judge (Retd.)
Supreme Court of India

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|--|--|--|
| Justice I. A. Ansari Honourable Chief Justice (Retd.) Patna High Court Chairman, Punjab State Human Rights Commission | Mr. Apurba Kumar Sharma Senior Advocate, Gauhati High Court Executive Chairman Bar Council of India, New Delhi | Mr. Nilay Dutta Senior Advocate, Gauhati High Court Advocate General, Arunachal Pradesh |
| Justice B. K. Sarma Honourable Judge (Retd.) Gauhati High Court | Mr. H.R.A. Choudhury Senior Advocate, Gauhati High Court Chairman, Bar Council of Assam, Mizoram, Nagaland, Arunachal Pradesh and Sikkim. | Prof. R.C. Borpatragohain Advocate General, Assam Former Dean, Faculty of Law Gauhati University |
| Justice B. P. Katakey Honourable Judge (Retd.) Gauhati High Court Chairman, Assam State Police Accountability Commission. | Mr. G. N. Sahewalla Senior Advocate, Gauhati High Court | Prof. B. K. Chakravarty Former Dean, Faculty of Law Gauhati University |

CHIEF PATRON

Dr. Zakir Hussain
Director,
NEF Law College.

CHAIRMAN

Dr. Bhuvan Ch. Barooah
Principal,
NEF Law College.

CO- CHAIRPERSONS

Mrs. Farhana Ahmed
Assistant Director,
NEF Law College

Dr. Karavi Barman
Coordinator, IQAC
Assistant Professor,
NEF Law College

CHIEF CONVENOR

Mrs. Bonani Mahanta
Assistant Professor,
NEF Law College

CONVENORS

(Assistant Professors, NEF Law College.)

Mrs. Shruti Hazarika.

Mrs. Satavisa Bora.

Ms. Razina Ahmed.

Ms. Rashmi Rekha Phukan.

Ms. Premica Lumphui.

ACADEMIC COORDINATOR

Dr. Kasturi Bora,
Assistant Professor
NEF Law College

CHIEF STUDENT COORDINATOR

Abhilekh Deka
(B.A. LL.B. 10th Semester)

PROGRAMME COORDINATOR

Mrs. Bhaswati Borah,
Assistant Professor
NEF Law College

COORDINATORS

Sunidhi Sharma
(B.A. LL.B. 6th Semester)

Anshuman Deka
(B.com LL.B. 6th Semester)

Saqueeb Twarique
(B.com LL.B. 6th Semester)

COMMITTEE MEMBERS

I. Social media and advertising Committee :

In-charge – Ms. Rashmi Rekha Phukan

1. Bikash Das (BBA. LL. B 6th Semester)
2. Jitadipta Nandi (B.com LL. B 6th Semester)

II. Registration Committee:

In-charge – Mrs. Shruti Hazarika

1. SK Shah Karishma Mohammad (B.A. LL. B 10th Semester)
2. Momi Baishya (B.A. LL. B 8th Semester)
3. Neha Kashyap (B.A. LL. B 6th Semester)
4. Shristy Dey (B.A. LL. B 6th Semester)

III. Memorial Committee:

In- charge – Ms. Razina Ahmed

1. Akanksha Biyani (BBA. LL. B 10th Semester)
2. Krishangi Das (LL. B 6th Semester)
3. Manshi Lohiya (B.com LL. B 10th Semester)
4. Prerna Sharma (B.com LL. B 10th Semester)
5. Atlanta Deka (B.com LL. B 6th Semester)
6. Barasha Kalita (B.A. LL. B 6th Semester)

IV. Technical Committee:

In- charge - Ms. Premica Lumphui

1. Aditya Bhatra (B.com LL. B 10th Semester)
2. Hriday Kashyap (B.A. LL. B 10th Semester)
3. Jameel Ahmed Sikdar (B.A. LL. B 10th Semester)
4. Subham Biswas (B.com LL. B 6th Semester)

V. Rules and Guidelines/Moot Problem/Proposition Committee:

In- charge – Mrs. Satavisa Bora

1. Ankita Borkotoky (B.A. LL. B 10th Semester)
2. Krishangi Das (L.L. B 6th Semester)
3. Kasturi Sarma (B.A. LL. B 6th Semester)

VI. E- Certificates Committee:

In- charge – Mrs. Bonani Mahanta

1. Jabin Akhtar (B.com LL. B 8th Semester)
2. Rudrakshi Sharma (B.com LL. B 8th Semester)





AIM OF THE MOOT COURT COMPETITION

Mooting is one of the most integral part of a law student's academia. Moot court provides a replica of a court room, where a student obtains the opportunity to work on their legal knowledge, enhance their ability of legal research along with developing their communication and presentation skills.

NEF Law College, through this competition ought to serve a platform to the budding lawyers in order to express their thoughts and share their intellects in the field of Family Law and its diverging interpretations. We at NEF believe that growth and learning should never halt amidst the crisis that the world is facing. Hence, this competition is an opportunity for the aspirers to dedicate their time and effort for achieving endeavours.

MOOT PROPOSITION

"A child is an uncut diamond"- Austin O'Malley

Indica is a democratic country and has a detailed Constitution along with varie laws. Anisha, the daughter of Mrs. Sanjana Mehta and Mr. Rakesh Mehta is a well-established businesswoman in Palam, New Delhi. Dr. Neeraj, the son of Mrs. Anjali Kumar and Dr. Arjun Kumar is a PhD holder and a professor at R. M University, New Delhi.

Anisha got married to Neeraj as per Hindu Rites on 10th December 2007 and she shifted with Neeraj to stay along with her in-laws at Saket, New Delhi. In 2008, from the said wedlock the couple was blessed with a son named Karan. Although they belonged to a middle-class background, the family afforded all the comforts to Karan. Karan was immensely loved and pampered by his grandparents. Dr. Arjun, the grandfather was a retired man, therefore enjoyed spending most of the time with his grandson. Dr. Arjun used to take Karan to school all by himself and also used to bring him back, took him for vacations and imbibed in him all the valuable morals and ethics. The family led a happy life but unfortunately, when Karan was six years old, his father Neeraj passed away in the year 2014. Immediately after the death of the husband, Anisha shifted to her paternal home along with her son, Karan. There Karan was offered all the luxury as Mr. and Mrs. Mehta were quite well off.

As time passed, she got married to Mr. Rohan, a businessman at Gurgaon, Haryana on 29th November, 2016. Mr. Rohan already had two sons from his previous marriage, therefore Anisha decided not take Karan along with her. She left her child with her parents.

Karan was pampered with love and gifts at his maternal grandparents' house. However, Mr. and Mrs. Mehta had to travel for work about 300 kms away from their residence, as such they used to stay in a flat near their workplace and returned home to their grandchild only on weekends. Two caretakers were appointed for Karan, who were responsible for his well-being. Karan was admitted in the best school of New Delhi, which was 55 kms away from their home. The driver was responsible for taking him and bringing him back from school in their personal car. The child was also given expensive gadgets to play and pass his time with. Overall, the maternal grandparents' kept him in the lap of luxury and showered him with love whenever they returned.

When Mr. and Mrs. Kumar came to know about Anisha's remarriage and the fact that she had not taken the child along with her, they asked Anisha and her parents for the custody of the child to which they refused.

Aggrieved of this Mr. Kumar filed an application under section 7 of the Guardians and Wards Act, 1890, for their appointment as guardians and custodian of the child in the Family Court on 25th February, 2017. Mr. Kumar also filed a separate application before the Family Court for injunction against Anisha restraining her from giving the child in adoption to anyone including her parents. The Family court vide its order dated 26.2.2017 granted an ex-parte order of injunction against Anisha as prayed for and issued notice to file objection by 26.3.2017 for show cause.

Mr. Mehta appeared before Family Court and filed objection stating that the child was given to him in adoption by his daughter Anisha, verbally on 22.2.2017 and by a deed of adoption, which was executed and registered on 27.2.2017. Mr. Mehta prayed for vacation of the order of injunction by stating that Anisha had already given the child to him so there arises no the question of restraining.

Mr. Mehta further prayed for his appointment as guardian of the child on the strength of the adoption deed.

Anisha also filed her objection separately by stating that she was the natural guardian so the application for appointment of guardian was not maintainable.

In the meanwhile, Mr. Kumar had brought a separate suit before the District Judge for cancellation of the deed of adoption executed in favour of Mr Mehta.

The Family court after hearing the matter, rejected the prayer of Mr. Mehta on the ground that the matter of adoption was pending before the District Court.

The Family Court also rejected the prayer of Mr. Kumar on the ground that, in presence of natural guardian court cannot appoint any guardian.

Further, the Family Court allowed the prayer of Anisha on the sole ground that she was the mother (natural guardian) of the child.

Aggrieved by the decision of the Family Court, Mr. Mehta and Dr. Arjun Kumar filed their appeals in the Hon'ble High Court questioning the validity of the orders passed by Family Court.

Mr. Mehta appealed on the ground that even if the matter of adoption was pending before the Civil Court, the fact of adoption of the child could not be denied. He further stated in the appeal that unless the adoption is cancelled by a decree of Civil Court, the Family Court ought not to have denied his right of guardianship of the child.

Mr. Kumar assailed the validity of the decision of the Family Court on the ground that the Trial Court failed to look into the crucial issue of paramount intertest of the welfare of the child for the appointment of guardian.

After hearing both the parties, the High Court also rejected the appeals stating that there is no error of law made by the Family Court in its orders.

Thereupon, Mr. Mehta filed a SLP before Supreme Court against the order of rejection of appeal by High Court. Mr. Mehta in the Supreme Court claimed that once a guardian and custodian is appointed by the natural guardian, no person had the right to question or cancel it therefore he should be declared as the guardian and custodian of Karan in view of the adoption deed.

Dr. Arjun also filed a SLP in the Supreme Court against the order of the High Court praying for the Guardianship and Custody of the Child. The Supreme Court has admitted both the SLP's and has called for a clubbed hearing on 3rd, 4th and 5th of September, 2020

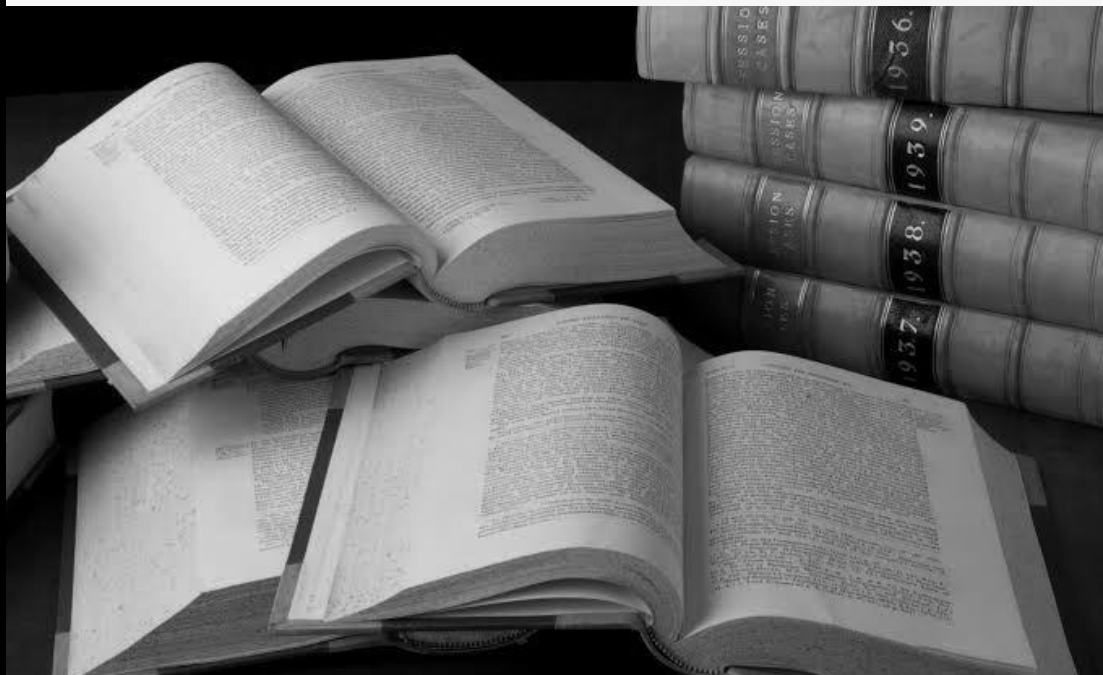
NOTE: All the laws of Indica are Pari Material to that of India.

MOOT COURT RULES AND REGULATIONS

*Read Carefully

Rules and regulations mentioned here
in below are important for every participant
to strictly follow:

[CLICK HERE](#) to read the rules and regulations.



REGISTRATION DETAILS

- The Last Date of Registration by the Team Members:
14th August 2020 by 23:59 hours IST.
- Registration Fee: Rs.600/-
- One team per college.
- The Registration shall be deemed to be complete only when the Registration form is duly filled and the payment is completed and is verified by the O.C. Payment to:

| |
|---|
| Bank Name: Bank Of India A/c Name: NEF Law College Branch: GSME Branch IFSC Code: BKID0005055 Sb A/c No.: 505510110000961 |
|---|
- Once the registration form is filled and the payment is confirmed, the O.C shall send a confirmation mail to the teams within 24 hours of registration.
- Once registered, the registration cannot be cancelled and no refund will be issued.
- The teams will be allotted their team code via mail before or on 16th of August.
- Any queries related to registration process will be taken up by the O.C till the 14th of August' 2020, 6:00 PM.

Click Here TO REGISTER



AWARDS

WINNER
₹30,000

RUNNERS UP
₹20,000

BEST MEMORIAL
₹10,000

BEST SPEAKER
₹10,000

BEST RESEARCHER
₹10,000

NOTE: E-Certificate will be awarded to all the participants.

HELPLINE NUMBERS

| NAME | CONTACT NUMBER |
|--|----------------|
| Mrs. Bonani Mahanta (Asst. Prof.) | 97065 13250 |
| Mrs. Shruti Hazarika (Asst. Prof.) | 99101 20998 |
| Mrs. Satavisa Bora (Asst. Prof.) | 84040 01092 |
| Ms. Razina Ahmed (Asst. Prof.) | 76368 87376 |
| Ms. Rashmi Rekha Phukan (Asst. Prof.) | 88764 28915 |
| Ms. Premica Lumphui (Asst. Prof.) | 70020 43389 |
| Abhilekh Deka | 87218 56499 |
| Sunidhi Sharma | 98640 11392 |
| Anshuman Deka | 80116 69084 |
| Saqueeb Twarique | 96784 08943 |
| Momi Baishya (Registration Committee) | 84719 19727 |
| Atlanta Deka (Memorial Committee) | 78966 11633 |
| Kasturi Sarma (Rules and Guidelines/ MootProblem/Proposition Committee) | 84739 26767 |
| Rudrakshi Sharma (E-Certificate Committee) | 75768 57586 |

For further queries, write us to
nefmootqueries@gmail.com

“Your participation will be highly solicited”