

### MOOT PROPOSITION

1. In 2014, The Republic of **Lapinda** witnessed a watershed general election in which Harvidha Dal Party took power under the leadership of Parvendra Lodi (“Lodi”), who was sworn in as Prime Minister. It was for the first time that a single political party won a decisive majority in parliament since 1984. Mr. Lodi is largely seen as a business and investment friendly political leader. The election mandate provided an opportunity for the new government to demonstrate leadership by making decisions without the shackles and compromises necessitated by coalition politics. This positive development manifested in a re-ignition of investor interest in the Lapindian economy, and the stock markets went on a bull run, reaching unprecedented heights.
2. Air Lapindana Limited is a government owned enterprise and the flag carrier airline of Lapinda since July 1930. It serves both domestic and international destinations. Air Lapindana Engineering Services Limited (“AIESL”), a wholly owned subsidiary company of Air **Lapinadana** Limited was formed in 2004 which serve as a one-stop-shop for all engineering requirements in aircrafts. The head office of the AIESL is located at Ahmrat, Gabadni. AIESL comprises of huge infrastructure to cater line maintenance, base maintenance, engine overhaul, accessories overhaul and component overhaul activities as per the capability at bases and line stations. The AIESL had a successful run until 2014 when the Comptroller and Auditor General of Lapinda (CAG) pointed out numerous lapses in the state owned AIESL and said that it has failed to achieve many of the objective in various functional areas and recommended financial restructuring plan for it. This failure resulted in less revenue generation for the enterprise leading to the disinvestment by the government in it.
3. Richhman Sachs group, Inc. is a **Lapindian** finance company that engages in investment banking, investment management, securities and other financial services including asset management, mergers and acquisitions and securities underwriting services. The disinvestment by the Government of Lapinda in AIESL led to the acquisition of its 40 percent shares along with voting rights, through agreement, by Richman Sachs in August 2014. Such a financial restructure of the AIESL resulted into the maximum growth in revenue generation. Further, upon the recommendation of investor, in order to expand its operations, AIESL employed 2,50,000 Information Technology professionals throughout the country in the year September 2015. Moreover, in order to retain its employees, the enterprise also issued Employees Stock Option Plan (ESOPs) to its one lakh employees with a vesting period of three years.

4. Subsequently, the investor started exercising its veto power in multiple affairs of the company such as providing standard operating procedures for line maintenance, base maintenance, engine overhaul, etc. The investor also influenced the promoters of AIESL to introduce the Artificial Intelligence (AI) and replace the manpower with the robotic technology. Thereafter, in January 2017 in order to increase the efficiency and reduce the cost of production and combat with the change in the Lapindian economy, the enterprise discharged 100,000 employees from its baseline operations after paying them one month's salary in advance.
5. Being aggrieved, AIESL Labour Union filed a writ petition in Ahmrat High Court contending that AIESL is an 'industry' and the discharge of mass employees led to the violation of the fundamental rights and provisions of the Industrial Disputes Act of Lapinda, 1947 ("the Act"). The Hon'ble High Court held that although the enterprise satisfies the triple test laid down by the Hon'ble Supreme Court of Lapinda in order to determine 'industry', however, the discharge of the employees does not stand in violation of the Act. The Labour Union, aggrieved by the decision of the High Court, filed a Special Leave Petition ("SLP") before the Supreme Court of Lapinda (Petitioner).
6. Way back in 1982, the Parliament of **Lapinda** amended the Act to exclude many kinds of establishment from the definition of 'industry', but the amendment was never notified. The official reason for not notifying the amendment was that no alternative machinery was provided for redressal of grievances. Thus, in order to revise the judicial interpretation of the term 'industry', the Apex Court decided to constitute a nine judge bench to adjudicate upon the case at hand.
7. On the other hand, a complaint was made to Securities and Exchange Board of **Lapinda** ("SEBL") claiming to exercise ESOPs issued by AIESL. In order to determine such liability, SEBL relied upon 'Control Test' as provided under SEBL (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and concluded that the rights conferred upon the investors through the agreement amounted to Control. However, aggrieved by the decision of SEBL, the investor filed an appeal before the Securities Appellate Tribunal ("SAT"). The Hon'ble SAT rejected SEBL's views stating that none of the clauses of the agreement demonstrated control in the hands of investor. Eventually, SEBL filed an appeal before the Hon'ble Supreme Court of Lapinda against the order of SAT (Petitioner).
8. In the meanwhile, Labour Shakti Sanghatan ("LSS"), a non-governmental organization, has been actively involved in addressing the grievances of employees and has been serving as a connecting link between the employees and employers, conducted a study which focused upon the implication of labour laws on employees. The study revealed that there was uncertainty in the State amendments and the Central laws. Taking this into consideration, LSS filed a Public Interest Litigation ("PIL") in the Apex Court for its recommendations, contending that entry of Labour Laws in the concurrent list allowed amendments only to some Central Laws and to add new State Statutes to a certain extent. Perverse incentive from this arrangement encouraged State Governments to procrastinate

and defer from the Union. On the contrary, individual states are better at bending labour laws to balance flexibility and security with respect to their political economy according to different positions of states. This entry in the concurrent list increases inflexibility in labour laws in terms of individual state and movement of labour laws from concurrent list to state list would prevent unilateralism at a national level.

9. The Hon'ble Supreme Court taking cognizance of the matter has issued notice to the Union of Lapinda to file their submissions on the subject matter and contend against LSS before it.
10. The Hon'ble Supreme Court of Lapinda has clubbed this PIL with the SLP filed by AIESL Labour Union and the appeal filed by SEBL. Thus, the issues for consideration before the Supreme Court are:
  - (i) Whether the present industrial scenario necessitates the revision of the definition of the term 'industry' and whether the AIESL can be termed as 'industry'?
  - (ii) Whether the process of discharge of employees by AIESL stands in violation of the Act?
  - (iii) Whether the exercise of rights by the investor amounts to 'Control' as per SEBL Takeover Regulations, 2011?
  - (iv) In the light factual matrix, whether the employees can exercise the ESOPs even after being discharged from the employment?
  - (v) In the present industrial scenario, whether there is a need to move labour laws from Concurrent list to the State list of the Constitution of Lapinda?