

MOOT PROPOSITION

- 1 The world's largest democracy the Republic of Arya, situated in the Assuwa continent is a fast-developing country. It has an extremely diverse landscape ranging from the Himalayas in the North to rich beaches in the south to evergreen forests in the east and scorching desert in the west. Constitution of Arya is its *grundnorm*. The country is known for its natural heritage and diverse culture. The Aryan landmass is home to a huge variety of flora and fauna. It has an amazingly wide variety of wildlife animals and birds that live in the varied terrains of the country. People since immemorial times have worshiped nature. The need for protection and conservation of the environment and sustainable development is reflected in the constitutional framework of Arya, its international commitments and national laws.
- 2 Arya is the 4th biggest economy in the world and is primarily dependent on its agricultural and industrial sectors for its growth and employment generation. The Chemical and Petrochemical (CPC) industry plays a pivotal role in a country's industrial and agricultural development. Aryan CPC industry is one of the fastest growing in the world and has reached significant milestones in terms of capacity additions and value growth post the country's independence. The growth is largely driven by the country's rising consumption needs and export capacity. Arya also has a very booming agricultural sector. It also is the largest exporter of rice and the third largest exporter of wheat in the world.
- 3 However, in the past four decades, experts have raised concerns about damage to the environment and wildlife of the country. Many species of plants and animals have either become extinct or have been pushed to endangerment due to non-judicious industrial growth and agricultural practices.
- 4 Boost Group of Industries Ltd. is a multinational corporation (Boost Arya Ltd.) having its headquarters in the state of Pandu Ranga, Arya. Among its other businesses, it has the largest chain of CPC plants in the continent and the third largest in the world. Petrochemical plants refine crude oil and convert the components of crude oil and natural gas such as ethane, propane, butane and methane into chemicals like ethylene, propylene, butadiene,

and methanol. These chemicals are the building blocks for plastic, industrial chemicals, agricultural pesticides, etc.

- 5 The Boost Group has four fully functioning CPC Plants across the states of Pandu Ranga since 2000. The state of Silsa is the neighbouring state of Pandu Ranga, with the lowest GDP and employment rate among all the other states, in the country. To make the state self-sufficient by producing its own chemicals, pesticides, insecticides and fertilizers at reasonable rates, to boost industry, agriculture and to generate employment on a large scale the government of Silsa invited proposals for setting up a CPC plant in its territory. Amongst the several proposals, the Boost Group of industries' proposal was found to be the most promising. In 2006 the government of Silsa to promote industrial growth in the state declared the southern part of the city of Jagadpur and its outskirts as a Special Economic Zone (SEZ), entitling the beneficiaries with simplified access to all governmental formalities and taxation benefits.
- 6 The environmentalists of Arya raised objections and also held protests against setting up a CPC plant in the area as people of the *Khabo* tribe lived in the district. These tribals were dependent on nature and natural resources in the area for their livelihood. People living in the neighbouring villages supported the upcoming project as it will generate employment for the locals, although a few people also joined the protest against the construction and operation of the CPC Project in the area. The objections and the protests of environmentalists were ignored by the government of Silsa.
- 7 After acceptance of the proposal to set up the CPC industry from the state government, Boost Group of Industries filed applications for all the required government formalities including licenses from the concerned departments and Environmental Clearances (ECs). After taking into consideration necessary parameters like compliance with provisions of the Water Act, the Air Act, the Environment Protection Act, the Environment Impact Assessment and the submission of the Safety Audit Report to the authorities under the Environment Protection Rules, NOCs were granted by the Ministry of the Environment

Forest and Climate Change (MoEFCC), the Central Pollution Control Board and the Silsa State and Pollution Control Board to the company to set up its plant at Jagadpur.

- 8 In pursuance thereto in 2007, the company set up the plant at the designated SEZ and installation of process piping which refers to the entire system of pipes that transport fluids like air, steam, water, chemicals, fuel, effluents, etc. in and around the industrial unit was done. The map showing this proposed plan for the installation of process pipes was duly approved by the Municipal Corporation of Jagadpur. On getting approval the company started refining crude oil and producing chemicals in the year 2010. The company was required to submit the annual audit and safety measures reports to the concerned authorities.
- 9 The CPC plant was sanctioned a designated area of 70 acres to dispose of its hazardous waste which is produced from its daily processing of petrochemicals. But according to locals, the waste so disposed of was not properly managed by the corporation, they complained about a chemical smell emanating from the waste disposal area. In April 2021 the Silsa Pollution Control Board issued directions for proper treatment and disposal of the waste on time bound basis. Boost Arya Ltd. submitted the compliance report within 7 days of the directions issued.
- 10 A land area of 470 acres was marked as a buffer area around the CPC plant. The buffer zone was covered with local vegetation like Karanj, *Ber*, *Imli*, *Khair*, *Mahua*, *bel*, *Babool*, *mithineem*, *mainphal*, *pilu*, *karonda* and other local bushes and grasses. According to the Master Plan of 2010, prepared by the government of Silsa, beyond that buffer zone in villages Samsar and Nilibar (falling under the jurisdiction of Jagadpur), agricultural land of 3000 *bighas* was allotted to economically weaker section (EWS) farmers. The government also provided subsidies to the farmers for purchasing farming equipment, irrigation, new varieties of seeds, fertilizers, pesticides, etc. Several farmers slowly encroached on some pockets of the buffer zone and started the cultivation of vegetables and crops in this area.

- 11 During the rainy season, the periphery of the CPC Plant and the buffer zone are overgrown with seasonal tuberous plants like *Pit Kanda* (a deep-rooted tuber), *Kasha Kanda* (edible tuber) and *Kulia Kanda* (tuber known for its intoxicating properties). These tuberous plants are consumed by the tribals to satisfy their hunger, meet their nutritional needs and for intoxication. The tribals used spades and other digging tools for digging the roots during the wee hours of the day. To avoid notice, after digging *kanda* the tribals covered the area again with the soil.
- 12 In the city of Jagadpur and nearby villages like other cities and villages of Arya, people kept hens, ducks, geese, goats, cows, buffaloes, sheep, pigs, donkeys, etc. as domestic animals. Crows, sparrows, mayans parrots, peacocks, monkeys, langurs, etc. inhabiting the area also frequented the Boost Arya Ltd. plant. Many of these birds and animals lived in the thick green cover of the buffer zone.
- 13 The bylaws of the Jagadpur, prohibited roaming of domestic animals on roads, SEZ, buffer zone and commercial areas falling under the jurisdiction of Jagadpur Municipal Corporation. Any domestic animals found wandering are seized by the Municipal Corporation and are released only after payment of a fine by the owner of the animal. Taking advantage of the situation of the non-presence of Municipal Corporation staff at night time, the farmers living on the outskirts of the buffer zone i.e. *Samsar* and *Nilibar* let their cows, buffaloes, and calves loose after sunset to graze in the open green areas and buffer zone. After grazing all night in these areas, the animals were brought back by the farmers to their homes before dawn.
- 14 In the third week of July 2021, the Wild Life Department Jagadpur recorded the unnatural death of 5 monkeys and 6 Black Faced Langurs. Similarly, unusual deaths of cows, buffaloes and sheep were reported by the farmers allotted land on the outskirts of the buffer zone in the village *Samsar*.

- 15 The post-mortem report of the animals recorded chemical toxicity as a cause of death. This news of the death of domestic and wild animals spread like wildfire amongst the circles of animal lovers, who through the registered NGO Jagadpur Society for Protection and Care of Animals (JSPCA), filed a case before the Hon'ble National Green Tribunal, North Zone Bench, Arya for taking action against the Boost Arya Ltd. for causing environmental pollution in the area and death of animals caused due to environmental pollution. The Tribunal issued a notice of motion on the petition and asked the Union Government of Arya through its Chief Secretary, Union MoEFCC and also the State Government of Silsa, through its Chief Secretary, Secretariat to furnish a detailed report regarding the incident and the Government's stand regarding the unfortunate incident.
- 16 The report submitted by the National Water and Soil Authority to MoEFCC highlighted the presence of toxic chemicals in the soil and water bodies up to 7 acres from the CPC plant in the buffer zone caused due to leakage from effluent pipes of the plant. According to the investigation carried on by the State Government, it also came to notice that some tribals had been regularly encroaching on the Boost Arya Petrochemical Plant premises. They had been digging edible tubers growing naturally near its outskirts and this process might have impacted the underground effluent pipes. The company was also found to have not filed the annual audit and safety reports in the year 2021 to the concerned authorities.
- 17 Unfortunately, in the first week of August 2021, there was a report of 134 cases of severe stomach ache and vomiting among people living in Jagadpur and the village *Samsara*. Two people also lost their life due to this. However, the pathological test could not ascertain the exact cause of the ailments. The Chief Medical Officer of the Civil Hospital Jagadpur brought this to the notice of the District Collector. This incident was widely reported by the regional, national and international media. The local environmentalists blamed the toxicity caused by the effluents of the Boost Arya Ltd. for the death of two persons, severe stomach ailments and loss of life of domestic and wild animals.

- 18 A group of environmentalists along with a registered NGO ‘Jeewan Suraksha’ filed a case before the NGT against Boost Arya Ltd. for the deaths and illnesses caused due to spillage of pollutants from Boost Arya Ltd. and environmental harm.
- 19 The Hon’ble NGT took cognizance of both incidents and clubbed both matters together and after hearing both sides, passed an order against Boost Arya Ltd., thereby holding them liable for the soil and water pollution leading to the death and sickness of people living in the village Samsar and loss of life of domestic and wild animals. A sum of Rs. 27 crores was directed to be paid as compensation to the heirs of the deceased, persons who suffered sickness, reimbursement for their medical treatment, death of domestic and wild animals, clean up and restoration of ecology.
- 20 Boost Arya Ltd. preferred an appeal against the order of the NGT before the Hon’ble Supreme Court of Arya. The Hon’ble Supreme Court of Arya issued a notice of motion in this case and stayed the award of the NGT.
- The issues for consideration before the Hon’ble Supreme Court of Arya in the present appeal are as follows:
- Whether setting up of the Boost Arya Ltd. plant in the city of Jagadpur done lawfully?
 - Whether Boost Arya Ltd. was at fault for improper disposal of the waste originating from its CPC plant and the spillage of effluents contaminating the environment?
 - Whether the Boost Arya Ltd. is liable to pay the award money for the loss of human life, compensation and medical reimbursement for sickness caused, death of domestic/wild animals and harm caused to the ecology?

Argue on Behalf of:

1. Boost Arya Limited
2. ‘Jagadpur Society for Protection and Care of Animals and Jeewan Suraksha

The laws of Arya are *pari passu* with the laws of India



**5th Surana & Surana and University Institute of Legal Studies
National Environment Law Moot Competition, 2022-23**

20 – 22, January 2023



Additional Information

Buffer land is owned by Boost India, is not Govt. land

Buffer Area 470 acres

Waste Disposal Area- 70 acres

Plant size 2530.90 acres

Total Site Area (all inclusive)- 3070.90 acres