

THE KERALA LAW ACADEMY LAW COLLEGE

34th Kerala Law Academy Moot Court

Competition 2025

(5th February to 8th February 2025)

Moot Court Proposition

SHAHU DIO v. STATE OF DHARMASTAN

- 1) Dharmasthan is a State in the Indian Union. The population of the State is 4,85,67418 and The literacy is 100%.
- 2) The schools in the State are famous for maintaining academic standards and discipline of the students. Traditionally, with respect to school discipline, educators have had two distinct aims: (a) to help create and maintain a safe, orderly, and positive learning environment, which often requires the use of discipline to correct misbehavior; and (b) to teach or develop self-discipline. Punishments are also adopted for students found to be guilty of misbehavior.
- 3) The Report of the Government Committee on Student Discipline (2023) contains the following observation:
- 4) There are “Various forms of punishments range from unpleasant verbal reprimands, “the evil eye,” proximity control (i.e., standing near the student), and taking away privileges (e.g., recess) to much harsher forms such as suspension, expulsion, removal to an alternative education program, and corporal punishment. Though corporal punishment has been banned from most of India’s classrooms since over a decade through a number of legal and regulatory policies certain teachers in classrooms, across the State of Dharmasthan, remains rampant. According to government data, between 65% to 99% of school children experience

physical and mental abuse at the hand of their teachers. Children are slapped in the face, scolded, told they are “slow learners” or “good for nothing”, caned on their backs and beaten with sticks, called names, or asked to stand with their hands raised outside the classroom for several hours. The situation of disadvantaged children studying in government schools is even more dire. Almost all of them are subjected to cruel forms of violence by their teachers, who for example bang children’s heads against a wall or punch them in the face until they bleed. In addition, teachers verbally abuse marginalised students in the most despising way for their parents’ poverty and socio-economic background.

Social norms around discipline and child rearing as well as misperceptions about the effectiveness of corporal punishment are the reasons why the legal ban of school corporal punishment is not enforced. Teachers, parents and society at large believe that it is beneficial for children, that it helps them to study, improve their behaviour and learn to “respect their elders”, and that discipline can only be taught effectively through punitive measures. There is little awareness that corporal punishment feeds not only into State’s learning crisis’ but also into the epidemic levels of violence against children and women in the State; it is not considered one of the “biggest problems.”

4) Modern School Dharpur is an institution in the State having the tradition of 80 years .Shahu Dio is the Mathematics Teacher at the school , having an impeachable and unblemished service record with over 30 years of experience. He is social activist, who filed more than 26 Public Interest Litigations . Amlock is the student in the same school. On 14-8-2024 an incident of disciplining a student, happened in the school, led to some controversy.

5) There was an allegation against Shahu Dio that, during the last period of the day, at 16.00 Hrs, under the impression that his student Amlock made fun of him by making noise in the open class, he disciplined Amlock by pinching him under the right arm and smacked his head,

6) On 22-8-2024 Amlock filed a petition before the Town Police Station Dharpur and the police registered a case for committing offences under Section 118 (1) of Bharatiya Nyaya Sanhita and Section 75

of the Juvenile Justice (Care and Protection of Children) Act, 2015.

7) On 29-8-2024 Shahu Dio approached the High Court of Dharmasthan praying to exercise of its inherent powers. A case was filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying to quash

all proceedings under C.P.No.96/2024 on the files of the Judicial First Class Magistrate Court, Dharpur in Crime No.22/2024 of Town Police Station, Dharpur.

8) It was contented that even assuming (not admitting to the same) that the allegations against the petitioner are true, the same will not stand the scrutiny of law and the various precedents set forth by the courts in India to attract the offence as alleged.

9 The Court heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused the relevant records. The Court analysed facts of the case in the following words:

“Specific allegation is that, that the student Amlock made fun of the teacher by making noise in the open class, and the teacher disciplined Amlock by pinching him under the right arm and smacked his head. Accordingly, the prosecution alleges commission of the above offences.”

10) The Court summarised the arguments of the petitioner in the following words:

“While seeking quashment of the proceedings, it is submitted by the learned counsel for the petitioner that, in this case, no serious injuries sustained to the victim. It is specifically pointed out that, in the statement given by the victim in support of the prosecution case, it is admitted that, at the time of occurrence there was misconduct on the part of the student.”

11. The Court further referred to a decision cited by the counsel for respondent in the following words:

“The learned counsel for the petitioner placed decision of the Kerala High Court in Sindhu Sivadas v. State of Kerala dated 6th June 2022 reported in [2024 KLT Online 2559], to contend that the Proceedings before the lower court may be quashed.”

12. After comparing the facts of the Kerala case with the Amlock’s case the Court cited the following

observation from Sindhu Case:

“On scanning the above penal provision, unnecessary mental or physical suffering to a child, on account of assault, abandonment, abuse, exposure or wilful neglect of the child or causing or procuring the child to be assaulted, abandoned, abused, exposed or neglected, are the essentials to constitute the said offence. When a teacher insists for wearing uniform, on seeing a student, who reached the school in colour dress, the same is intended for the purpose of maintaining the discipline of the school in the matter of uniform dress code, and the same, in no way, could be held as an act, which would cause unnecessary mental or physical suffering to the child, so as to attract the offence under Section 75 of the JJ Act. If, as part of maintenance of the discipline of the school when wearing of uniform dress is made mandatory, it is the duty of the students to obey the same, so as to keep the dignity and discipline of the school to impart education effectively. If such acts are given the colour of an offence under Section 75 of the JJ Act, the discipline of the school would become topsy-turvy and the same would disdainfully affect the discipline and the regiment of the school. Therefore, such disciplinary measures cannot be ushered into the purview of Section 75 of the JJ Act. In such view of the matter, the case at hand would require quashment, as offence under Section 75 of the JJ Act, is not made out, prima facie.”

13) The Court made the following observations while analyzing the facts of the case:

“Adverting to the facts of this case, it is relevant to refer the pedagogy in cultural concept of Guru-Shishya (teacher- student relationship) from the story of Ekalavya, told in the India’s great epics ‘Mahabharata’. The story of Ekalavya is about a young prince from a forest tribe, who becomes a skilled archer, despite being rejected by a renowned warrior and archery teacher. Ekalavya witnessed Drona teaching archery to the Kuru princes and wanted to learn himself. However, Drona refused to teach Ekalavya because he was not a prince. Ekalavya created a clay statue of Drona and practiced archery with it, mimicking Drona’s every move. Ekalavya became as skilled as Arjuna, Drona’s most talented student. When Drona encountered Ekalavya in the forest, he was astonished by Ekalavya’s talent. Drona demanded Ekalavya’s right thumb, as a token of respect for his teacher. Ekalavya cut off his thumb and gave it to Drona. Thus, when Ekalavya was instructed to offer his right thumb, which is the pivotal organ made him the best in archery, as a token of respect for his

teacher (gurudakshina), it was given without any hesitation.

As the world developed and technologies have been highly advanced, the teacher-student relationship became upside down. Now, as I could notice, teachers are in a world of fear, to deal with the students, apprehending

registration of criminal case and detention of them behind bars. Thus, teachers are imparting education bearing fear in mind that what to do and what not to do. Some of the students are in the habit of not respecting the teachers and every therapeutic restorative instruction given by the teachers and punitive steps taken by the teachers with bona fide intention, as part of their duty, are given the colour of serious non-bailable offences with a view to detain them in custody. This is a threat to the smooth functioning of the education institutions and this situation may lead to dangerous consequences. If the present scenario continues, how a disciplined young generation to be nourished, is a shocking factor.

This is a typical case only when the student made fun of him by making noise in the open class the teacher responded. Thus, the factual matrix of this case makes no offence under Section 75 of the JJ Act. Therefore, quashment prayer is liable to succeed.”

14) The Court allowed the Miscellaneous Case. It was held that “all proceedings, under C.P.No.96/2024 on the files of the Judicial First Class Magistrate Court, Dharpur in Crime No.22/2024 of Town Police Station, Dharpur stand quashed”.

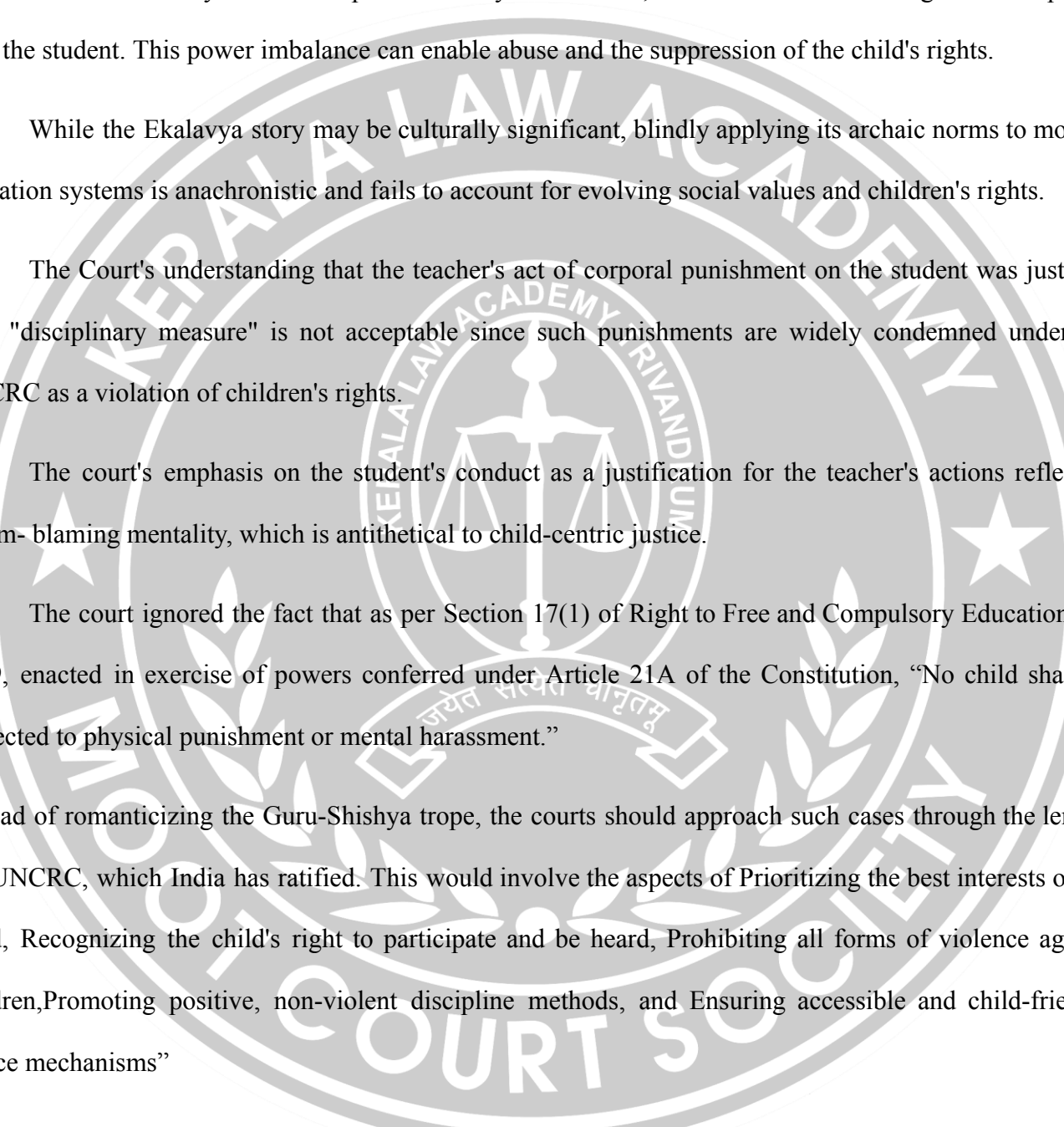
15.) On 4-10-2024 the State filed an appeal. The Division Bench spent 5 hours on 18th, 19th and 20th November 2024 to hear the arguments presented by both the sides.

14.) Being a sensitive case the court proceedings attracted media attention and newspapers and visual media published detailed reports. Media published distorted version of certain questions asked by the judges while hearing the arguments. “Whether teachers are Criminals?, High Court”. “Hooliganism in Schools Must be Prevented, High Court” are some of the headings of the distorted newspaper reports.

16.) On 27-11-2024 the Division Bench set aside the decision of the Single Judge and observed:

“The approach of the Learned Judge in referring the Guru-Shishya (teacher-student) relationship from the

Mahabharata story of Ekalavya appears to be problematic analogy in the context of modern child rights and the United Nations Convention on the Rights of the Child (UNCRC). The following aspects need to be considered.

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- a) The Ekalavya story involves the teacher, Drona, arbitrarily demanding the student's thumb as a show of respect. This directly violates the child's right to bodily integrity and autonomy, which is a core principle of the UNCRC.
- b) The Guru-Shishya relationship is inherently hierarchical, with the teacher wielding immense power over the student. This power imbalance can enable abuse and the suppression of the child's rights.
- c) While the Ekalavya story may be culturally significant, blindly applying its archaic norms to modern education systems is anachronistic and fails to account for evolving social values and children's rights.
- d) The Court's understanding that the teacher's act of corporal punishment on the student was justified as a "disciplinary measure" is not acceptable since such punishments are widely condemned under the UNCRC as a violation of children's rights.
- e) The court's emphasis on the student's conduct as a justification for the teacher's actions reflects a victim-blaming mentality, which is antithetical to child-centric justice.
- f) The court ignored the fact that as per Section 17(1) of Right to Free and Compulsory Education Act 2009, enacted in exercise of powers conferred under Article 21A of the Constitution, "No child shall be subjected to physical punishment or mental harassment."

Instead of romanticizing the Guru-Shishya trope, the courts should approach such cases through the lens of the UNCRC, which India has ratified. This would involve the aspects of Prioritizing the best interests of the child, Recognizing the child's right to participate and be heard, Prohibiting all forms of violence against children, Promoting positive, non-violent discipline methods, and Ensuring accessible and child-friendly justice mechanisms"

17) On the basis of the application of Shahu, the Court issued a certificate under Art 134 A of the Constitution to file appeal before the Supreme Court.

18) On 10-12-2024 Shahu filed an appeal before the Supreme Court.

19) It is contended that the decision of Dharmasthan High Court dated 27-11-2024 may be reversed and the Proceedings in the lower court may be quashed. It was further contented that necessary guidelines for the media reporting of the court proceedings may be issued by the Court, taking in to consideration of public interest.

