

18th M. C. CHAGLA MEMORIAL GOVERNMENT LAW COLLEGE
NATIONAL MOOT COURT COMPETITION 2012

MOOT PROPOSITION - A

W.P. 25 / 2025

Raise Your Fist Foundation v Union of India

1. January 26, 2025: For the first time since independence, the Indian population was empowered to vote for a policy and not a politician. The National Online Vote (“**NOV**”) was introduced by a Presidential Ordinance as a voting mechanism in 2023. The NOV enabled the entire voting population to vote through an online mechanism on their personal computers or at computer voting centers established in every town, city and village. The literacy rate coupled with the accessibility of the common man to computers and computer technology, allowed effective participation of the entire population in the NOV. After several reports from numerous expert-bodies, it was upheld as being constitutional by a seventeen judge-bench of the Supreme Court in 2024¹. On January 26, 2025, the NOV became binding law. A NOV could be called for if 3/4th of all the Members of Parliament, present and voting, vote in favor of the proposal to be referred to a NOV.
2. On January 27, 2025, the ruling party introduced the Constitution (Four Hundred and Fiftieth Amendment) Act (“**Amendment**”). The Amendment read as follows:

“The onward march of technology has opened up new vistas of citizen empowerment previously out of reach. The National Online Voting is one such innovation. With the entire population now capable of voting on important policy matters, the system of institutional checks and balances deserves to be diluted in favor of a system of direct accountability to the people. Already Parliament is bound to pass laws in accordance with the popular mandate in matters referred to the National Online Vote, if the proposal garners the support of more than 3/4th of the total population. In the judicial realm, there is now room to include some form of dialogic or soft-form review whereby judicial decisions on borderline issues are not binding but advisory and serve to sharpen and better inform the contours of public debate. As a step in that direction, it is hereby enacted that Article 141A be added to the Constitution which shall read as follows:

Notwithstanding anything contained in this Constitution or declared to be implicit in the Constitutional scheme by caselaw, Parliament shall have the power by an affirmative vote of 3/4th of all Members of Parliament, present and voting, to refer decisions of the Supreme Court on matters of Constitutional importance to a National Online Vote. The Supreme Court decision shall be incorporated in the form of a

¹ Alok Shah v Union of India AIR 2024 SC 25687

legislative amendment unless rejected by a vote of 3/4th of the population. If rejected, the decision shall be non est.”

3. In order to cloak the Amendment with unimpeachable legitimacy, Parliament referred the Amendment to a NOV on January 29, 2025. It was passed by an affirmative vote of 77% *for* and 23% *against*.
4. On January 30, 2025, a seventeen judge bench of the Supreme Court found abortion to be unconstitutional. Parliament by a 3/4th majority referred the matter to a NOV (“**Abortion NOV**”). In the NOV, the decision was rejected by an overwhelming vote of 90% *against* the decision, and abortion continued to remain a constitutional practice in India.
5. Unhappy with the result of the Abortion NOV, Raise Your Fist Foundation (“**RYFF**”), filed a PIL, challenging the Amendment on the ground that it violated the basic structure of the Constitution.
6. A fifteen judge-bench has been constituted by the Chief Justice of India to hear the matter. The questions before the Court are as follows:
 - I. Whether the Public Interest Litigation is maintainable?
 - II. Whether Constitutional Amendments effected after a popular referendum through the NOV, are susceptible to challenge on grounds of Basic Structure violations?
 - III. Whether dialogic / soft-form review proposed to be incorporated through the Amendment violates the Constitutional scheme and the basic structure and impinges on the independence of the judiciary and is violation of the principle of separation of powers?