

2nd NATIONAL MOOT COURT COMPETITION, 2019



School of Law
Bahra University, Wagnaghat, Solan (H.P)

***2nd NATIONAL MOOT COURT
COMPETITION, 2019 @
BAHRA UNIVERSITY***

OUR MEDIA PARTNERS:





About the University:

Bahra University is a world class, multi-disciplinary University located amidst the picturesque surroundings of Shimla hills, aiming to advance knowledge and educate student's that will best serve the nation and the world in the 21st century. It is a prestigious venture of Rayat & Bahra group - one of India's largest and most reputed educational group. The University seeks "To be on the forefront of knowledge creation and dissemination in the global context'. With its world class teaching standards, outstanding faculty and innovative academic programs, Bahra University intends to sets a new benchmark in the Indian education scenario. The university is set up on 25 acres of land, state-of-the-art residential campus, located amidst the scenic beauty of Shimla Hills, education at Bahra University is holistic, aimed at developing the intellectual and personal strengths of students, nurturing creativity and innovation through challenging project work, participative learning and providing an environment conducive to sparking ideas and imagination. The University integrates teaching, learning, research and extension education into a holistic framework. The University provides access to the high quality education, cutting-edge research and development of new technologies. As a platform for excellence in teaching, learning & administration, state-of art information technology is extensively used at Bahra University, contributing to the development of well-trained graduates, post graduates and doctoral students to meet the future professional manpower needs of the global market. The university

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prepares future leaders in various walks of life - science, Technology, business, basic sciences, social sciences, arts, sports and the community services.

About School of Law:

School of Law at Bahra University offers B.A.LL.B, LL.B and LL.M courses covering wide areas of civil laws, criminal laws, International laws and modern scientific forensic and cyber laws etc. Bahra University established the School of Law in the Year 2013 on its campus to offer 5 year Integrated Law Course. Later on started three year LL.B. course and 1 year LL.M. course. School of law has completed the six years with academic excellence. We endeavor to make our students best in whatever they do and polish them into professionals who would make a mark in the legal arena. In order to help the students to achieve their goal in life courses are designed in such a manner so that the capabilities and liking of students are judged and they are helped to achieve their goal with perfection. Legal education is an instrument of social change and lawyers are the social engineers of the society and the role of law, both as an instrument of social change and as a defender of societal values becomes one of paramount significance. Legal education is an important component of the administration of justice. In order, to meet the societal needs the University has established School of law. The basic problem of legal education has been the existence of big gap between law and its practice. In order to bridge this gap the university has designed a training scheme from the 1st Semester till the completion of the course/degree. The students are required to work in law offices/law firms in a defined manner. They are not only trained to work with the legal material but efforts are made to inculcate reasoning in them to appreciate and solve legal problem in right perspective. Academic standards at Bahra University have remained consistently high.

About the Competition:

The Moot Court Committee, School of Law, Bahra University takes great pride in organizing its 2nd National Moot Court Competition, 2019 which is based on Criminal and Constitutional Law. The competition will provide a platform to students across the nation to put on display their advocacy skills, practical application of laws, to refine their research capabilities, to build up their confidence and professional ethics.

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Chief Patron:

Shri. Gurvinder Singh Bahra
Hon'ble Chancellor,
Bahra University, Wagnaghat

Patron:

Prof. (Dr.) Satish Kumar
Vice- Chancellor,
Bahra University, Wagnaghat

Executive Director (Dean):

Prof. (Dr.) Hans Raj Jhingta
LL.M., Ph. D
Director,
School of Law,
Bahra University, Wagnaghat

Moot Court Committee (School of law): **(CONVENER)**

Dr. Rachita Negi (Head of Department)
School of Law,
Bahra University, Wagnaghat

(CO- CONVENER)

Mr. Umesh Kumar
Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Ms. Neha Rai

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

(ORGANISING SECRETARY COMMITTEE)

Dr. Mandeep Verma
Assistant Professor,
School of Law,

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Bahra University, Wagnaghat

Dr. Aditi Didwal

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

(ORGANISING COMMITTEE)

Mrs. Dimple Jishti

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Mrs. Poonam Verma

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Mr. Nitish Verma

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Mr. Vikram Kaushal

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Mr. Gian Chand

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

Dr. Ajay Chauhan

Assistant Professor,
School of Law,
Bahra University, Wagnaghat

STUDENT COORDINATORS

PRANAV KAUSHAL – 7807237063

LAKSHAY BANSAL – 9816990553

SHYAM PRATAP – 7726929361

GAJRAJ SINGH – 7678673561

GAGANDEEP

SANDHYA

SUNANDA

How to Reach Bahra University?

Bahra University is surrounded with lush green flora and fauna in the hills of District Solan, Himachal Pradesh. Bahra University is situated on Chandigarh-Shimla Highway (NH-22), just 90 kms from Chandigarh (north) and 23 kms from Shimla (capital of Himachal Pradesh). It can be reached by trains connecting Kalka to Shimla. Nearest railway station is kaithlighat 5 kms away from Bahra University on Kalka-Shimla Heritage rail route. Second nearest station is Shimla 23kms away from Bahra University. It can also be reached by air routes where Chandigarh and Shimla happen to be the nearest airports. Shimla Airport is 23 kms far from Bahra University.

The moot hosts will arrange for a pick-up facility at waknaghat from the road point if transporting by road, and from Kaithlighat railway station if transporting by Rail service only if informed in advance.

MOOT PROPOSITION

Indiana is a country whose laws are *in pari materia* with the laws of India. The Constitution of Indiana, like the Indian constitution, emphasises inter alia the need to protect women and children and allows for the making of special laws for this purpose. In 2014, noting the increasing crime amongst youth, the need to protect vulnerable youth and the increasing maturity levels amongst teenagers in Indiana, the government of Indiana enacted a new legislation, with the dual purpose of protecting children in need of care and to deal with children in conflict with the law.

Samar, Aaryan, Subhash and Ratan have grown up in tough conditions in the Munga district of South Indiana. While Samar and Subhash have never known their fathers, Aaryan comes from an abusive household, where he was always beaten up by a drunken father. Ratan is an orphan who has grown up on the streets, fighting for each meal since the day he was 4, when he was abandoned by his parents. He was in and out of a few orphanages till the age of 10, after which he lived only off the streets. In their early teens, the four boys met at a local play ground and an instant friendship was struck among them. Initially they would play together, football being the game of choice at the local maidaan. Soon, they began spending more time together. Slowly but surely they were led astray. They began consuming alcohol and slowly moved on to cheap drugs. In 2015, by the time they were 14, they were a notorious gang who committed several petty offences in order to fund their drug habit. They were infamously known as the “baccha gang”. They mainly focused on shop lifting, pick pocketing, stealing petrol, cycles and footwear from outside religious places, etc.

Although the police had caught them a few times, they were never arrested and were always let free, primarily owing to their age. The police did maintain a roster of known offenders and as such, the names of the four boys had been entered on this roster as petty thieves in the Kalaghat police station in Munga.

In Early 2016, the “Baccha Gang” befriended and included within their fold, a 12 year old boy by the name of Sam. Sam came from a middle class family. His parents had recently divorced and he was a disturbed child looking for a sense of belonging and family. He immediately took a liking the four members of the gang who treated him like a younger brother. Initially, Sam had no idea that the gang involved itself in criminal activity. He could be found playing with the four boys in the maidaan, and spending the entire day with them. He stopped going to school and would spend the whole day with them at times. They would sometimes ask him for money, which he would steal from his mother’s purse and give them. Sometimes, they made him carry strange looking paper bags in his school bag. They even taught him how to smoke and drink.

By June 2016, Sam had realized the full extent of the gang’s activities and was not comfortable being with them. He slowly and surely started distancing himself from the gang with the hope that he could soon be rid of them altogether. He began focusing on school, attending school every day and sports. By August of 2016, he rarely saw the baccha gang.

This did not go well with Samar, the eldest of the four boys. He told the rest of them that they needed to make sure Sam learnt a lesson and mended his ways. On the night of the 5th of January, 2017, at around 7 PM, the baccha gang met Sam at Kila tea stall. After a brief talk they all left, are going towards the woods that were on the outskirts of Munga.

On the Morning of 6th, Sam’s mother, along with her father, approached the Kalaghat Police to file a report about a missing person. They said that Sam had

left home around 5 in the evening and had not yet returned. The police launched a manhunt and after 2 days the body of Sam was found in the woods surrounding Munga. An autopsy revealed that he had died of severe injury to the head, primarily the result of blunt force trauma caused by repeated beating with a hard blunt object on the skull. His entire face was badly disfigured and the body was identified by clothes and a school ID in the pant pocket. The Autopsy also showed signs of a struggle, several bruises on the body, foot mark shaped bruises, internal haemorrhage and blood loss. Forensic experts were able to recover a stone near the spot where the body was found with blood and tissue that matched Sam. Sam would have been thirteen on the 10th of January. The brutal murder was picked up by the media and created mass hysteria and outrage. People were calling for the culprits to be caught and brought to book as soon as possible.

Unfortunately, no evidence was found, no suspects were arrested and the matter cooled down. On June 21st, 2017, Samar was arrested on charge of robbery. During a search that followed, a notebook belonging to Sam and a few photos of Sam and his family were recovered from his residence. Finding this sufficient to question him as a suspect for the murder of Sam, the Police began a hard line of questioning. It came to fore that, on the night of the murder, the baccha gang were the last to see Sam and they had all left for the woods together. Aaryan, Subhash and Ratan were arrested immediately and they were all booked for murder.

According to documents, on the date of the murder, Samar was 18 years and 12 days, Aaryan was 17 years and 350 days, Subhash was 17 years and 5 days. Ratan was 16 years and 200 days old. But their medical reports showed that they were all over the age of 20 on the date of arrest.

Indiana enacted the Juvenile Justice (Care and Protection of Children) Act, 2014 on the 31st of January, 2014. This Act is *Pari in Materia* with *The Juvenile Justice (Care and Protection of Children) Act, 2015* as enacted in India. In accordance

with this law, the three boys aged below 18 but above 16 at the time of alleged commission of the crime, were sent before the Juvenile Justice Board, who had to decide if or not, they were to be tried as adults. The Boys vehemently denied any involvement in the murder of Sam and claimed no knowledge of his whereabouts after they had all returned from the woods on that fateful day. The Board, with the help of eminent psychologists and psychiatrists, determined that the boys were well aware of their actions and capable of being tried as adults and accordingly committed the matter to the Sessions court at Munga, since no special children's court had been established. Based on the evidence before it, the Sessions court found all three boys guilty of the murder of Sam and the Judge commented that it was a fit case for life imprisonment but since his hands were tied by the law, he sentenced them to 8 years of Rigorous imprisonment each.

Samar, on the other hand, was tried as an adult by the Sessions court, as he was over the age of 18 on the date of commission of the offence. He was found guilty of the torture and brutal murder of Sam and sentenced to life imprisonment in prison, with life meaning life.

Samar filed an appeal in High Court but respective High Court upheld the decision of Session Court. After that he filed an appeal in Supreme Court of India.

Immediately thereafter, A public interest litigation was filed by an organization called People for the Education and Protection of Children (PEPC) under Articles 226 and 227 of the Constitution of India before the High Court of South India. The PIL alleged that the Juvenile Justice (Care and Protection of Children) Act, 2014, primarily Section 15 and the committal proceedings were unconstitutional and violative of Articles 14 and 15 of the Constitution and that the Act itself violated Article 20(1) and 21 of the constitution. PEPC vehemently urged that the whole concept of treating 16-18 year olds differently after having defined a child as any person below the age of 18 is unconstitutional and baseless. The PIL also

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reiterated that the decision of the Board to try the three boys as adults was subjective and biased, primarily due to public rage, that, it had been six months since the incident and the state of mind of three children during the incident could not be determined after six months. The PIL also contended that the Act was against the UN Declaration on the Rights of the Child, a declaration to which India was a signatory and which it adopted. The Supreme Court on its own motion transferred the writ to itself, to be heard in the same case of Samar and clubbed the both, Writ Petition as well as appeal filed by Samar.

The Supreme Court shall hear the matter, on all points including admissibility. Law of India, namely The Constitution of India, The Indian Penal Code, the Criminal Procedure Code, The Law of Evidence and the Juvenile Justice (Care and Protection of Children) Act, 2015 are materially the same as The Indian Constitution, Indian Penal Code, The Criminal Procedure Code, The Law of Evidence and the Juvenile Justice (Care and Protection of Children) Act, 2015 as enacted in India.

RULES AND REGULATIONS

I. DATES AND VENUE

1. The 2nd National Moot Court Competition 2019 is scheduled for **23rd to 25th APRIL, 2019.**
2. The venue for the event is Bahra University, Solan (Waknaghat), Tehsil, Kandaghat, Distt Solan, Himachal Pradesh, PIN - 173234

II. PRIZES

i.	Winning Team	Rs. 21000
ii.	Runners Up Team	Rs. 11000
iii.	Best Student Advocate	Rs. 2100
iv.	Best Researcher	Rs. 2100
v.	Best Memorial	Rs. 2100

III. TEAM REQUISITES:

- Each team shall comprise of Three (3) members **ONLY** out of which two (2) will be speakers and one (1) researcher.
- Arguments shall generally be in English only.
- The competition is open for bonafide students pursuing five year and three years LL.B course.
- Teams should not disclose the identity of their institution during the course of proceedings in the Court Rooms. Any disclosure of team identities shall invite penalties including disqualification.
- Each team shall be provided with the unique team code for the competition.

IV. REGISTRATION

- a. The Registration form complete with all Team Details must be submitted online by **25TH MARCH, 2019** (nmccbu2019@gmail.com).
- b. A registration fee of **Rs. 5000**.
- c. No change in the names of the participants shall be permitted after the receipt of the Registration Form.
- d. Teams should clearly mention the names of all participants in the team, including course, year/semester of study and contact no.
- e. No team would be facilitated with the certificates during the competition. The same shall be provided only in the Valedictory Ceremony. No certificates will be sent through courier.

Online Registration: All the participating institutions have to confirm participation by sending an email consisting of a scanned copy of registration form and Demand Draft to nmccbu2019@gmail.com on or before 25th March 2019.

Registration by Post: The duly filled in hard copies of the Registration Form along with a demand draft of INR 5,000/- (Indian Rupees Five Thousand Only) must reach the Organizers by 30-03-2019.

Address for Post: The hard copy of the Registration Form along with Demand Draft shall be sent on following address only through Speed Post/Registered Post

To
The Dean,
School of Law,
Bahra University,
P.O. Wagnaghat, Distt. Solan, Himachal Pradesh, 173 234

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Demand Draft: The demand draft of **INR 5,000/-** (Indian Rupees Five Thousand Only) shall be drawn in favour of **“Bahra University, Wagnaghat”** payable at UCO BANK, Wagnaghat, Solan Himachal Pradesh.

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The participating teams must send their Registration Forms accompanied with demand draft only through Speed Post. The teams shall solely be responsible for any kind of delay in receipt of Registration Form.

V. DRESS CODE

Inside the court room the participants shall follow the below mentioned dress code:

- Females: White Kurta, Black Salwar and Black Dupatta or White Shirt and Black Trousers along with the Black Coat and Tie.
- Males: White Shirt, Black Trousers, Black Tie along with Black Coat and Black Shoes.

VI. ACCOMMODATION

The participants would be provided Accommodation for the period of the Competition in the premises of the Institute. Please note that separate accommodation will be provided for girls and boys. However, they may sit together for team work in the library/café of the institute. You are advised to check the weather conditions of Shimla before leaving from your native places.

VII. COMPETITION ROUNDS

- All the rounds shall be on Knock Out basis EXCEPT Preliminary Rounds.
- These shall spread over a period of 2 days -
 - a. *Preliminary (both side)*
 - b. *Quarter Finals*
 - c. *Semi- Finals*
 - d. *Grand Finale*

VIII. RULES FOR ALL THE ROUNDS

- a. The criteria of marking shall be the court wins in each court room in Preliminary Rounds. In case of tie, cumulative marks of the teams will be taken into consideration.

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- b. *MARKING CRITERIA FOR THE ARGUMENTS*: Each Speaker shall be marked on a total of 100 marks by each Bench Judge. The following will be the Marking Criteria and the Marks allocated to each speaker by each Judge in all Rounds:

1. Appreciation and Application of Facts. (20) Marks
2. Identification and Articulation of Issues. (10) Marks
3. Application of legal principles. (20) Marks
4. Use of authorities and precedents. (20) Marks
5. Response to questions. (10) Marks
6. Presentation skills. (10) Marks
7. Clarity of thoughts and logical structure of Arguments. (10) Marks.

IX. TIME SCHEME FOR ORAL ROUNDS

i) PRELIMINARY ROUND AND QUARTER FINALS

- Each team shall be given a total of 30 minutes (maximum) to present their case.
- Each speaker should speak for a minimum 10 minutes.
- One speaker shall not take more than 17 minutes of the total time.
- The maximum time for Rebuttals and Sur-Rebuttals is 5 minutes.

ii) SEMI FINAL ROUNDS AND FINAL ROUND

- Each team will get a total of 45 minutes to present their case.
- Each speaker should speak for a minimum of 15 minutes.
- One speaker shall not take more than 25 minutes of the total time.
- The maximum time for Rebuttals and Sur-Rebuttals is 7 minutes.

iii) MAXIMUM TIME ALLOTTED

The maximum time provided would include the time that each team may wish to reserve for their rebuttal/sur-rebuttal. At the commencement of each session, the team shall notify the Court Officer/Court Clerk regarding the division of time between the 2 speakers (including rebuttal/sur- rebuttal)

X. MEMORIALS

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- All teams must submit the soft copy of their Memorials for both sides. Also, the teams shall bring along SIX (6) Hard copy of their typed Memorials for both sides which shall be submitted at the time of registration.
- The Memorials must fulfill all the following specifications;
 - Cover page / Cause title
 - Index
 - Index of Authorities
 - Statement of Jurisdiction
 - Synopsis of Facts
 - Statement of Issues
 - Summary of Arguments / Pleadings
 - Body of Arguments / Pleadings
 - Conclusion / Prayer
- The memorials shall not be in more than forty (40) pages and the Arguments Advanced shall not exceed more than twenty five (25) pages.
- The Memorials shall be typed on A4 size page in Font type: Times New Roman, Font size: 12, 1.5 line spacing & 1 inch margin on each side. 19th Blue Book pattern shall be followed.
- The Cover Page of the Memorials must follow the following color scheme, Blue for the Applicant Cover Page and Red for the Respondent Cover Page. The Memorials must be spiral bound ONLY. Each team would be provided with a MEMORIAL CODE at the time of online registration which will be mentioned on the top right hand side of the cover page of each memorial in **BOLD LETTERS**
- The memorials exchange will be for Preliminary Rounds, Quarter Finals, Semi-Finals & Finals.
- The Memorials must not contain any Annexures/ Photographs / Sketches/ Exhibits / Affidavits etc.
- Memorials that do not comply with the above mentioned specifications will be penalized.

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- Identification of any type on the memorials shall invite disqualification.
- One soft copy of memorials of each side (in PDF format) and scanned copy of Travel Form must reach the organizers latest by **18TH APRIL, 2019**.

XI. MARKING CRITERIA FOR MEMORIALS

- Memorial from each side shall carry total of hundred marks.
- The following shall be the criteria for marking the memorials:
 - a. Knowledge of Facts (10)
 - b. Knowledge of Law (10)
 - c. Proper and Articulate Analysis (10)
 - d. Evidence of Original Thought (10)
 - e. Grammar and Style (10)
 - f. Correct Format and Citation (10)
 - g. Extent and Use of Research (20)
 - h. Clarity and Organization (20)
- One soft copy of memorials of each side (in PDF format) and scanned copy of Travel Form, must reach the organizers latest by **18TH APRIL, 2019** on nmccbu2019@gmail.com.

XII. ORAL SUBMISSIONS

- Each team shall comprise of two (2) speakers, as has been specified earlier.
- Court language shall be English.
- Each team will have a maximum of thirty (30) minutes to present their Oral Submissions in Preliminary Rounds. No speaker will be permitted to address the Court for more than seventeen (17 minutes). This includes the time the speaker addresses the

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Court during the rebuttal/sur-rebuttal. The maximum time for rebuttal/sur-rebuttal is five (5) minutes.

- The maximum time allotted in semi-finals and final shall be forty five (45) minutes for each team. No speaker shall be allowed to address the Court for more than twenty five (25) minutes. This includes the time the speaker addresses the court during rebuttal/sur-rebuttal.
- At the commencement of each session of Oral Submissions, each team must notify the Court Officer of the amount of time that the team reserves for their rebuttal/sur-rebuttal.
- At the commencement of each session of Oral Submissions, each team shall notify the Court Officer as to the division of time between the 2 speakers.
- If any speaker continues to speak after the completion of his/her time, he/she shall entail penalty, which shall be upon the discretion of the judges.
- The final decision as to the time structure and the right to rebuttal/sur-rebuttal will be that of the Bench Judges.
- During the course of oral submissions the participants cannot submit to then court any material containing pictorial representation whatsoever. Further the participants will not be permitted to make any audio/visual representation nor will they be allowed to use personal computers, laptops and any other technical or mechanical device during their oral submissions.
- Speakers shall not be allowed to pass annexures to the judges; instead the teams may make a compendium of annexure that shall be given to the judges before the start of the proceedings.
- If at any instance, a submission is made with any material in violation to the above clause and if any picture, sketches, photos, cartoons, caricatures, audio film, video film, projector- slide or a computer generated image is submitted or presented to the court, the teams shall be disqualified from the competition forthwith.
- During the course of the Oral Submissions speaker shall neither reveal his/her identify nor the identity of their University / College by any means whatsoever.

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<u>EVENT</u>	<u>DATE</u>
I. Notification of the Competition and Release of the Moot Proposition	1 st week of March, 2019
II. Last Date of online Registration	25 th March, 2019
III. Last Date of Submission of Demand Draft and Hard Copy of Registration Form	30 th March, 2019
IV. Last Date for Seeking Clarifications	5 th April, 2019
V. Last Date of Submission of Soft Copy of Memorials	18 th April, 2019
VI. Formal Registration (Reporting Day)	23 rd April, 2019
VII. Draw of Lots and Exchange of Memorials	23 rd April, 2019
VIII. Researcher's Test	23 rd April, 2019
IX. Preliminary Rounds and Quarter Finals	24 th April, 2019
X. Semi Finals and Final Round	25 th April, 2019
XI. Valedictory and Prize Distribution	25 th April, 2019

REGISTRATION FORM

Name of the Organization / Institution:

Address:.....

.....

.....

.....

Contact no. of the Institute :

Name and Contact no. of the Teacher incharge of the Moot Society:

City:.....

State:.....

Pin:.....

PARTICULARS OF THE TEAM MEMBERS:

First Speaker

Mr. / Ms. _____

Semester / Year _____

Contact No _____

e-mail ID _____

Signature:

PASSPORT
SIZE
PHOTOGRAPH

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Second Speaker

Mr. / Ms. _____

Semester / Year _____

Contact No _____

e-mail ID _____

Signature: _____

PASSPORT
SIZE
PHOTOGRAPH

Researcher

Mr. / Ms. _____

Semester / Year _____

Contact No _____

e-mail ID _____

Signature: _____

PASSPORT
SIZE
PHOTOGRAPH

DEMAND DRAFT DETAILS:

NAME OF THE BANK: _____

DD NO.: _____

DATE: _____ **PAYABLE AT:** _____

Accommodation Required (YES/NO): _____

Signature and Seal of the Head of the Institute

TRAVEL FORM

ARRIVAL DETAILS

Date _____

Time _____

Mode of Travel:

Train / Flight No:

Train / Flight Name:

Arrival Place:

DEPARTURE DETAILS

Date _____

Time _____

Mode of Travel:

Train / Flight No:

Train / Flight Name:

Contact Person (Name and Mobile Number) (one must be non-participant, preferably

Teacher Associated with the team):

1.....

2.....

NOTE: All the teams have to arrive before 12:00 pm on 23rd April, 2019 for the registration and draw of lots for Preliminary Rounds.