

16th - 17th February, 2020

MOOT PROPOSITION

Mr. Rakesh works in a private information-technology company-AthrealPerfectX Corporation. It is a subsidiary company of Athreal International based in Sunshineland. The company AthrealPerfectX provides a variety of services to its customers, both public and private. The company also provides its services to the armed forces of PerfectX for which it has been especially authorised by the government of PerfectX. The nature of services provided by AthrealPerfectX to the armed forces is twofold. One comprises of general services, and the other comprises of high-tech, highly classified services. For the purpose of dealing with the latter services, a separate department has been incorporated in which members of the armed forces are also sent on deputation to occupy important positions. This enables them to coordinate, supervise and check the work being done by the department. Persons working in this department are given certain privileges which are not available to the common citizen, but they are not deemed to be members of the armed forces in anyway although they are governed by the rules of conduct framed for the armed forces.

AthrealPerfectX keeps its office campus under strict surveillance through video and audio recorders. For all official communication or any communication related to the company in whatsoever manner has to be done strictly through the official email id provided by the company. All communications are monitored by the company whether they are of personal or professional nature. This is intimated to all the employees and they are made to sign a consent letter also. The same is also included in the Rules of Conduct of the company, given to them at the time of joining.

Mr. Rakesh has been working in AthrealPerfectX since 1st March, 2010. Due to his performance and expertise, he was inducted into the CodeF40 department in December, 2016. In the year 2015, the governments of Sunshineland and PerfectX entered into an MoU through which the government of Sunshineland had promised to help the government of PerfectX in its fight against terrorism and other problems by providing expert assistance and training in the field of information technology so that PerfectX can use the potential of modern technology to fight the constantly changing and evolving nature of modern conflicts especially terrorism and other related problems. This uses modern technological tools such as data mining etc. Athreal International, which is a leading player in information technology as well as other Science and Technology related fields was nominated on behalf of the government of Sunshineland to carry out this work. It was further agreed that the government of Sunshineland would send members from its own armed forces to supervise, train and assist the members of the armed forces and AthrealPerfectX Corporation to achieve the stated objectives of the MoU. The MoU also granted immunity to the members and personnels' sent by Sunshineland to carry out the above objectives, whether they belonged to the armed forces of Sunshineland or whether they were ordinary citizens of Sunshineland coming in as employees of AthrealX International. The particular clause of the MoU reads as under:

“6. All citizens of Sunshineland going to or residing in PerfectX for the purpose of carrying out the objectives of the MoU or for any matter or purpose related thereto, whether belonging to the armed forces or not, shall have immunity from prosecution in the courts of Perfect X. No court in Perfect X shall have jurisdiction over the citizens of Sunshineland who are there in pursuance of the MoU.”

Mr Aaron was also sent to PerfectX by Athereal International as part of the team to carry out the MoU. He was placed as “Strategic Lead Supervisor” in AtherealPerfect X. During his tenure in AtherealPerfectX, he came in contact with Mr. Rakesh and both of them became fast friends in a matter of time. Mr. Rakesh was also given an in-house departmental warning as it was strictly mandated to confine the interaction to only professional purposes and maintain strict professional relationship. His friendship with Mr. Aaron was taken seriously as being against the rules of conduct. This eventually turned into office gossip after it came to be known that Mr Aaron was gay. During this time, CodeF40 came in into limelight after the publication of an article in the newspaper 'The Resistance' that highlighted the surveillance activities being performed by AtherealPerfectX and use of data of the citizens by the company etc and its being authorised by the government to carry such activities.

Meanwhile, Mr. Aaron was also notified that his conduct was not conducive to the professional environment of the company and was also a source of distraction and rumours. He was warned to uphold the rules of conduct. Mr. Rakesh was also called upon to explain his conduct and was questioned by a senior officer on deputation from the armed forces who was working in the company. Mr Rakesh refuted all allegations concerning any relationship between him and Mr. Aaron which would amount to more than professional relationship in any sense.

A departmental enquiry was instituted which reached the conclusion on the basis of email conversation between Mr. Aaron and Mr. Rakesh, that Mr. Rakesh was in a homosexual relationship with Mr. Aaron. Mr. Rakesh challenged this finding in front of a second departmental enquiry panel which also worked as a mechanism to review the finding and decisions of the first departmental enquiry panel. While the enquiry by the second departmental panel was going on, another article was published in 'The Resistance': “Those who Lost their Way are now Lost – Speaking through Aaron”. In this article it was written that karma hits back in strange ways, which referred to employees working in the Corporation who were contributing to establish a surveillance state. It stated that the very people who were undermining other peoples’ liberty were now feeling helpless while protecting their own liberties.

Mr. Rakesh was found guilty of being in a homosexual relationship with Mr. Aaron and was thus handed a letter of dismissal from service. Mr. Rakesh was aggrieved by this decision and knocked the door of the Supreme Court of PerfectX by filing a writ petition contending that the monitoring of his personal communication by AtherealPerfectX and the publication in 'The Resistance', which featured his name, was a violation of his fundamental right to privacy.

Also that the 'code of conduct' which binds the employees is unconstitutional.

In a separate case, Mr. Harish, who belongs to the armed forces of PerfectX and who has been deputed to the CodeF40, came out openly as gay and challenged the constitutionality of the 'code of conduct' of AtherealPerfectX and the provision relating to the armed forces prohibiting people of such sexual orientation from being inducted into the armed forces or from disclosing their sexual orientation or from maintaining or entering into any relationship of such nature. He has filed a writ petition before the Supreme Court of PerfectX contending that this is a violation of his fundamental rights.

Mr Hobbes, also a citizen of Sunshineland who is working in the CodeF40 department was involved in an altercation with some locals after he came out of a café late at night. According to Mr Hobbes, the reason of the altercation was some racial comments passed by the locals. This enraged the locals and they resorted to physical violence. The scene became ugly and Mr. Hobbes, perceiving a threat to his life, resorted to self defence, which eventually resulted in the death of two persons. The facts of the event stated by the other persons involved in the altercation who were also friends with the victims, are contrary to this. According to them, it was Mr. Hobbes who was drunk at that moment and came to them, asking one of the victims as to why they were staring at him. On being told that this was not the case, he started abusing them which resulted in the altercation and eventually the death of two of them. Therefore they alleged that it was a purely cold-blooded murder by

committed by Mr. Hobbes. He is being prepared to be sent back to Sunshineland by the Govt. of PerfectX as per the MoU, although his name has been registered in the FIR. He has taken refuge in the embassy of Sunshineland in PerfectX and therefore the police have not been able to question him. The Embassy has reported that he will not be produced before the PerfectX authorities, stating this as justified according to the MoU between Sunshineland and PerfectX.

This has been challenged by a civil rights organisation named “Adhikar Suraksha Samiti” alleging that the conduct of the Government in preparing to send Mr. Hobbes back to Sunshineland, and the MoU taking away the powers of the Supreme Court and the power of the Indian authorities to question Mr. Hobbes is unconstitutional. This is violative of the fundamental rights of citizens.

Another writ petition has been filed by “Adhikar Suraksha Samiti” contending that the nature of activities being undertaken by AtherealPerfectX which enables it to get access to the data and information on citizens and the authorisation given to it to carry out functions which are sovereign in nature are unconstitutional per se.

The Supreme Court of PerfectX has clubbed all the petitions and decided to hear them together. The petitions have been opposed by the Government of PerfectX contending that the petitions are void of any substance and do not violate the fundamental rights of the citizens in any sense.

Please frame the issues of the petition and prepare a memorial for the Petitioners and the Respondents.

The Constitution and the laws in force in India will be taken as the Constitution and the laws in force in PerfectX.

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