



BITS PILANI – K.K.BIRLA GOA CAMPUS'

WAVES – 2015

In association with

NALSAR UNIVERSITY OF LAW



Presents

LEX OMNIA MOOT COURT – 2015

MOOT PROPOSITION



PROPOSITION

1. Pammu is a quasi-federal coastal country which has a rich cultural history and is home to varied religious and ethnic groups. The laws of Pammu are in *pari materia* to the laws of India. The capital city of Pammu is called Venkypura. There are two major national political parties in Pammu, namely Janhit Party (hereinafter, referred as **JP**) and Sabka Vikaas Party (hereinafter, referred as **SBP**). The Sabka Vikaas Party had won the general elections in 2004 and again in 2009. The end of the second tenure of SBP had been marked by a number of scams, where central ministers of the government were allegedly involved. As a result, there was a general sense of discontent against the government. However, the government was fairly popular with regard to its social policies and was considered to be quite tolerant as far as speech and expression of the general populace was concerned. The next elections were scheduled for May 2014.
2. In the parliamentary session held in December 2013 before the next general elections, the SBP government introduced a bill in the Parliament which sought to bring in an amendment to the Representation of People's Act, 1951 in order to introduce certain educational qualifications for being eligible to contest polls for Member of Parliament. This amendment was vehemently opposed by all the opposition parties, including JP and these parties decided to not let the house function till the amendments were withdrawn. The government refused to do so and the entire session of parliament was washed out as a result. This resulted in a lot of financial loss for the government as far as the central exchequer was concerned. After the session was adjourned, the Union Government came out with an ordinance titled the Representation of People's Act (Third Amendment) Ordinance, 2014. This ordinance expanded the eligibility criteria for contesting MP election by providing that a candidate must have passed class 10 of the Board of Secondary Education or its equivalent.
3. During the election campaign, SBP said that its ordinance was an electoral reform measure raise that would raise the standard of elected representatives who would be able to get better acquainted with Government schemes and policies for more informed implementation. They also said that it was a progressive reform that would work as a catalyst to advance the educational standing of the State. Another important election issue was the regulation of the pornographic websites that had proliferated on the net. The SBP said that such websites were in bad taste, disrespected women and was against the cultural tenets of the Pammu



culture and it promised to bring in measures, if elected, to take down such websites immediately. Such views also struck chord with the traditional supporters of SBP who were ideologically inclined to such thoughts.

4. Elections were held in May 2014 and confounding all pre-poll predictions, the SBP came out as the single largest party, though its numbers were significantly reduced from its last election tally. SBP formed a post-poll coalition with several smaller regional parties and formed the government. In one of its first acts, the government decided to ask the Law Ministry to invite suggestions from the general public on how to tackle the proliferation of online pornographic websites. After a few months, the Telecom Ministry came out with an Order (hereinafter, the **“Telecom Order”**) directed to the Internet Service Providers. The Telecom Order ‘advised’ telecom operators and internet service providers to ‘control free and open access’ to around 900 porn sites.
5. As soon as the Telecom Order came into force, there was a huge outcry in the national as well as social media forums against what was seen as moral policing by government. The government defended its decision and the Telecom Minister Mr. Nareshwami Lal Sibbal said, *“There is no total ban. This was done in the backdrop of some websites promoting “revenge porn”. The idea is also to protect Pammu’s cultural fabric.”* The Government also said that it had acted on the representations received by it, though it refused to make them public. However, the civil society said that this step was highly regressive and was aimed at getting in internet censorship through the backdoor.
6. The Government followed the porn ban with a "beef ban". The government passed the Gauvansh Sanrakshan and Gausamvardhan Bill, 2015. The bill imposed criminal sanction on slaughtering of cows, bulls and bullocks; selling of beef and as well as consumption of beef. The previously existing exemption for slaughter of old and cattle unfit for agriculture was also taken away through this law.
7. In light of the above, Mr. Mootkar Ritwick Roshan approached the Supreme Court of Pammu under Article 32 of the Constitution of Pammu that his right to contest the elections has been affected by arbitrary conditions put forth via ordinance. He comes from a small village called Allahapur in south-west part of Pammu, which has abysmally low literacy rate. The entire village doesn’t have a primary and a secondary school. Thus, as someone who has never received any formal education, he contends that the Ordinance goes against his very



right of contesting elections. NGO Common Cause filed two separate petitions in the Supreme Court against the so called porn ban and the beef ban. The NGO also intervened in the writ petition filed by Mr. Roshan on behalf of the plaintiff.

8. After preliminary hearing on the matter, the Supreme Court granted leave to hear the petitions. As the plaintiffs and the respondents were same in all the three cases and as all of them dealt with the ban raj, for the sake of convenience, the Supreme Court decided to club the matters:-

- a) Whether the Representation of People's Act (Third Amendment) Ordinance, 2014 is arbitrary in nature and affects the right of Mr. Mootkar Ritvick Roshan to contest the elections.
- b) Whether the Telecom Order only targeting the websites prompting "revenge porn" is valid.
- c) Whether Gauvansh Sanrakshan and Gausamvardhan Act of 2015 is constitutionally valid.

The Supreme Court of Pammu has decided that the present petition is maintainable and it has the requisite jurisdiction to hear the matter.