

## 4<sup>th</sup> Justice P.B. Sawant National Moot Court Competition 2016-17

### Moot Problem

*Vijay Mohan*

v.

*Hon'ble Speaker, Lok Sabha*

1. Indus land is federal, democratic country having Parliamentary form of Government. The country is situated in South Asia. Mr. Ram Singh is presently representing Bharatpur constituency in Lok Sabha. Ram Singh belongs to Democratic Party, a national and ruling party in Federal Government of Indus land.
2. Bharatpur is an Industrial Hub and historical place which is being visited by millions of people around the world and therefore the domestic Airport at Bharatpur is found to be insufficient. Due this reason, many developing projects promised by Democratic Party in their electioneering included International Airport at Bharatpur. When Democratic Party came in power, the Federal Government decided to construct the Airport near Bharatpur. Accordingly the Airport Authority of Indus land finalized the place near Bharatpur.
3. Ram Singh was not happy with the decision of the Airport Authority as in his opinion compensation offered by the Government for the acquisition of fertile land of farmers was insufficient.
4. To sort out the problem of compensation, the Minister In charge of Civil Aviation arranged a meeting with members of Parliament including Ram Singh, District Magistrate and other senior administrative officers. While answering the allegation of Ram Singh regarding insufficiency of compensation offered by the Government, the District Magistrate opined that the compensation offered is three times more than the market value of the land selected for the Airport. The difference of Opinions resulted in exchange of heated words and the meeting ended without any conclusion.
5. After few months, as the Airport Authority wanted to finalize the plan directed its officers to revisit the proposed land to find out the possibility of alternative land in the same area. Accordingly, the senior officers of Airport Authority with the District

Magistrate visited the place. Ram Singh with his supporter opposed the authorities to work there. Heated oral arguments were followed by an attempt on the part Ram Singh and his supporter to physically attack the District Magistrate. Fortunately, the police officers interrupted and avoided the unwelcome incident.

6. Mr Vijay Mohan, an investigative Journalist working in a national daily '*Indus Post*' started publishing article series on corruption by the name '*Lok sevak or Dhan Sevak- Some untold Stories of corruption in Public sector*' (Servant of people or servant of money - Some untold Stories of corruption in Public sector). In the series Vijay Mohan had written one article explaining in detail that how some Member of Parliament in coalition with senior administrative officers were making money out of Government's development projects. In this article while explaining Ram Singh's opposition to the Airport near Bharatpur it was alleged that Ram Singh had taken considerable amount of money to help his friend for establishing a sugar factory and a winery in proposed Airport land.
7. Vijay Mohan also wrote that Ram Singh and other Members were trying to pressurize the District Administration and senior officer of Airport Authority with intention of either delaying or cancelling the project. He further added that he had video footage of discussion between Ram Singh and his close supporters about disturbing the visit of District Magistrate and senior officers of Airport Authority. He mentioned that the Commissioner of Police, Bharatpur on being approached with all evidence against Ram Singh refuse to take the cognizance of the matter. Vijay Mohan observed that this refusal to take cognizance might be the pressure exercised by Ram Singh and others who belonged ruling party.
8. The article shattered the waves among the Political and Social arena in Indus land. It starting great debate on the accountability of the members of Parliament towards their voters. Ram Singh had given notice of Contempt of Parliamentary Privileges to the Speaker of Lok Sabha against Vijay Mohan and the Editor. Around 42 members including those who had directly or indirectly been named in news article supported and signed the notice. Hon'ble Speaker in exercise of his powers under the Rules of Procedure and

Conduct of Business in Lok Sabha, referred the matter to the Committee of Privileges for examination, investigation and report.

9. The committee observed the procedure which is laid for the working of Privilege Committee. The Committee gave an opportunity to Vijay Mohan and the editor of '*Indus Post*' to defend their side. The committee accepted the sincere apology of the editor but Vijay Mohan refused to accept the charge. The Committee was not convinced by the evidence produced by Vijay Mohan and found that he had misinterpreted facts in dramatic way so as to enable him to attract the attention of the people.
10. The Committee held Vijay Mohan guilty of contempt of privileges and recommended a token punishment of four days simple imprisonment. There was discussion in the house on the recommendation and acceptance of the same. Accordingly the Speaker directed the arrest of Vijay Mohan. He was arrested and without producing him before the Magistrate, was directly sent to Bharatpur Central Jail. The arrest of Vijay Mohan triggers the discussion and debate on Parliamentary Privileges all over the Indus land.
11. Against the arrest, alleging to be arbitrary, Vijay Mohan approached the Federal Court of Indus land. He has claimed that the Parliamentary Privileges has not been interpreted correctly by the Speaker of Lok Sabha in his case. He questioned that how publication of news article could be considered as violation of privileges without trying to find out whether there was truth in the article or not?
12. He further pleaded that Parliamentary Procedure dealing with violation of privileges violates the Principles of Natural Justice. He asserted that the Chairman and the member of committee deciding the cases of contempt of privileges are members of Parliament and hence there is possibility of bias. He pointed that the committee failed to appreciate the evidence produced by him properly. He also claimed that even in case of arrest of a person, by the order of Speaker, he should be presented before magistrate and that too within specified time.
13. He said that the series of article published by him are good example of the spirit of Journalism exhibiting the role of journalists in Democratic set up. He said that he has not committed any wrong but merely exercised his right to speech and expression.

14. Vijay Mohan said that the protection of Parliamentary Privileges can't be availed by a member involved in corruption and the presiding officer of houses while granting this privileges should exercise due care.

15. While addressing in a formal program in Parliament, the speaker when questioned about writ petition filed by Vijay Mohan in Federal Court, expressed his opinion that Parliamentary proceeding are beyond the jurisdiction of the courts. He argued that the power of houses or its presiding officer in matter of Parliamentary Privileges is similar to the power of court dealing with matters of its own contempt. He asserted that if the Federal Court entertains the petition then it will be express violation of basic structure of Constitution particularly separation of powers.

Issues raised before Hon'ble Federal Court of Indus land are as follows:

- 1) Whether the Federal Court of Indus land has jurisdiction to entertain the petition?**
- 2) Whether the decision of speaker to punish Vijay Mohan violates the principles of Fair Play and Natural Justice?**
- 3) Whether the arrest of Vijay Mohan and his non production before Magistrate violates provisions of the Constitution?**
- 4) Whether the Member of Parliament alleged to be involved in corruption can avail the protection of Parliamentary Privileges?**

**Note:-**

- **Indus Land is a democratic Country like India and all Indian laws/rules/regulations are similar and applicable to Indus Land.**
- **Disclaimer – This moot problem is imaginary. Any resemblance with any fact, case, person or character is merely coincidental.**