

MOOT PROBLEM No. 1
IN THE HONBLE'SUPREME COURT OF INDIA
SPECIAL LEAVE PETITION 1 OF 2016

PQR & Ors

Petitioners

Vs.

State of Mahadpur

Respondents

The State of Mahadpur, by an amendment dated 4th November, 2016, brought about an amendment to the Mahadpur Preservation of Animals Act, 1976 [hereinafter referred to as the MPA, 1976]. It was published in the Mahadpur Gazette on 4th November, 2016. The said amendment has received President's assent on November 4th, 2016.

The newly added Sections, namely, Sections 5A to 5D, in effect, imposed a total ban, inter alia, on the transportation, slaughter, import and possession of any flesh of cows, bulls and bullocks slaughtered outside the State of Mahadpur.

Also, by sections 9A and 9B, the burden of proving that the slaughter, transport, export outside the State, sale, purchase or possession of Flesh of cow, bull or bullock, was not in contravention of the MPA, 1976 is upon the accused.

There was a major furore amongst certain class of the Public as well as the slaughter House Owners, that the said total Ban, being first of its kind, is highly arbitrary and Unconstitutuioanl.

Being aggrieved by the said ban, a Public Interest Litigation came to be filled by a public spirited citizen, PQR, in the Hon'ble High Court, challenging the vires of the MPA Act, 1971. The Slaughter Houses Association also filed a Writ Petition on 13th

December, 2016 challenging the vires of the MPA Act, 1971. The said Petitions raised several challenges, inter alia.

- a. Sections 5A to 5D violates Article 21 of the Constitution of India. Right of Privacy includes right of choice. The provisions as amended have taken away the fundamental right of Citizens right of choice and right to be left alone.
- b. Section 9-B is also violative of Article 21 of the Constitution of India since, the reverse burden of proof is cast upon the accused to show that he is innocent, violating the general presumption of the accused being innocent until proven guilty.
- c. The amended provisions have also been challenged on the ground of being violate of article 19(1) (g), inter alia, freedom of trade.
- d. There is also a challenge on the amendments being violate of the Fundamental Right to Practice and Propagate Religion under Article 25 as well as violation of Cultural Right under Article 29.

The State of Mahadpur, defended the vires of the said Amendment, inter alia, on the following grounds namely:

- a. Right of privacy is not an absolute fundamental Right. Every Fundamental Right is subject to reasonable restrictions.
- b. Fundamental Rights cannot be read in isolation but along with the Directive Principles and Fundamental Duties. The Petitioners cannot seek violation of Fundamental rights when a Legislation seeks to achieve a “Compelling Public Interest”.
- c. Reasonable restrictions in implementation of Directive Principles of State Policy should be upheld as being in Public Interest and individual interest must yield to the same.

- d. The Apex Court has brought within its ambit the Right of Life for Animals as well.

The Hon'ble High Court has upheld the validity of the amendments and the Petitioners are before the Hon'ble Supreme Court in a Special Leave Petition under Article 136.

The Mahadpur Preservation of Animals Act, 1976 and the amendments are Pari material to the Maharashtra Animal Preservation Act, 1976.

Participants can incorporate and urge additional ancillary points.

MOOT PROBLEM No. 2

The Chairman, Railway Board & ORS.....PETITIONER

Vs.

Mrs. Chanda Bose & ORS.....RESPONDENT

Heena Ibrahim, a citizen of Bangladesh came to India on official duty in the month of December 2016. Before returning to Bangladesh, she wanted to visit Ajmer Sharif. With that intent in mind, she arrived at Calcutta on 24th December, 2016 and stayed at a hotel at 10, Sudder Street, Police station Taltola.

She arrived at Howrah Railway Station on 1st Jan, 2017 at about 14.00 hours to avail Jodhour Express at 23.00 Hours for paying a visit to Ajmer Sharif. She had, however, a wait listed ticket and so she approached a Train ticket Examiner at the Station for confirmation of berth against her ticket. The Train ticket Examiner asked her to wait in the Ladies Waiting room. She accordingly came to the ladies waiting room and rested there.

At about 17.00 hours on 1st Jan, 2017, two unknown persons (later identified as one Ashoke Singh, a tout who posed himself as a very influential person of the Railway and Siya Ram Singh a railway ticket broker having good acquaintance with some of the Railway Staff of Howrah Station) approached her, took her ticket and returned the same after confirming reservation in Coach No. S-3 (Berth No.17) of Jodhpur Express. At about 20.00 hours Siya Ram Singh came again to her with a boy named Kashi and told her to accompany the boy to a restaurant if she wanted to have food for the night. Accordingly at about 21.00 hours she went to a nearby eating house with Kashi and had her meal there. Soon after she had taken her meal, she vomited and came back to the Ladies Waiting room.

At about 21.00 hours Ashoke Singh along with Rafi Ahmed a parcel Supervisor at Howrah Station came to the ladies Waiting Room before boarding the train. She appeared to have some doubt initially but on being certified by the lady attendants engaged on duty at the ladies Waiting Room about their credentials she accompanied them to Yatri Niwas. Sitaram Singh, a khalasi of electric Department of Howrah Station joined them on way to Yatri Niwas.

She was taken to room No.102 on the first floor of Yatri Niwas. The room was booked in the name of Ashoke Singh against Railway Card pass no. 3638 since 30th Dec, 2016. In room no.102 two other persons namely, one Lalan Singh, Parcel Clerk of Howrah Railway Station and Awdesch Singh, Parcel Clearing Agent were waiting. Heena Ibrahim suspected something amiss when Ashoke Singh forced her into the room. Awdesch Singh bolted the room from outside and stood on guard outside the Sunil Sharma (Age 16 years boy helper in railway on contract basis) took liquor inside the room and also forcibly compelled her to consume liquor. All the five persons who were present inside the room brutally violated, and committed gang rape on Heena Ibrahim, who was in a state of shock and daze.

When she could recover, she managed to escape from the room of Yatri Niwas and came back to the platform where again she met Siya Ram Singh and found him talking to Ashoke Singh. Seeing her plight Siya Ram Singh pretended to be her saviour and also abused and slapped Ashoke Singh. Since it was well past midnight and Jodhpur Express had already departed, Siya Ram requested Heena Ibrahim to accompany him to his residence to rest for the night with his wife and children. He assured her to help entrain Poorva Express on the following morning.

Thereafter Siyaram accompanied by Ram Samiram Sharma, a friend of siyaram took her to the rented flat of Ram Samiram Sharma at 66, pathuriaghata Street, Police Station Jorabagan, Calcutta. There Siyaram raped Heena Ibrahim and when she protested and resisted violently Siyaram and Ram Samiran Sharma gagged her

mouth and nostrils intending to kill her as a result Heena bled profusely. On being informed by the landlord of the building following the hue and cry raised by Heena Ibrahim, she was rescued by Jorabagan Police.”

On the basis of abovementioned facts one social activist and Advocate Mrs. Chanda Bose and few NGO Members filed petition under article 226 as Public Interest Litigation against Railway Board and Union of India for Heena Ibrahim, the victim, and many such other victims of rapes committed in the railway premises, saying that the main accused in the instant case are employees of the railways, and the Union of India and they are perpetrators of the heinous crime of gang rape repeatedly committed upon the helpless victim Heena Ibrahim.

It was on the basis of the above facts that the High Court awarded a sum of Rs. 10 lacs under Article 226 as compensation to Heena Ibrahim, as the High Court was of the opinion that the rape was committed at the building (Rail Yatri Niwas) belonging to the Railways and the gang rape was perpetrated by the railway employees.

Now the case is before the Supreme Court. The points to be argued before the Supreme Court are:

- Whether Heena Ibrahim who is a foreigner and not an Indian citizen is entitled to any relief / compensation under Constitution of India?
- Whether the commission of an offence like rape by the person concerned, would make the railway or the Union of India liable to pay compensation to the victim of the offence on the ground of vicarious liability?
- Whether the accused Sunil Sharma (age 16 years boy) can be treated as an adult for the offence of gang Rape?

Prepare arguments on behalf of both the parties.

MOOT PROBLEM No. 3

ALERT INDIVA

Vs.

STATE OF BRAMHA AND OTHER

The State of BRAHMA is one of the States in Indiva. Due to wrath of nature the state is facing an acute scarcity of water and the condition in major part of the state is near to drought.

To meet this situation, the state of BRAMHA has taken a policy decision to construct the number of dams in the State so that the rainy water could be accumulated in the dams which would help in meeting the growing needs of water for the purpose of drinking, agriculture and also for the Industries. The Government is also of the opinion that the accumulation water in the dams would help in recouping the underground water level in the state.

One of such dams is to be constructed in a district which is more severely affected. The construction of the dam would affect ten villages which are adjoining to the location of the dam. The villagers have agriculture as their main occupation and as a consequence of the water stored in the dam, their agricultural fields would either be submerged or get water logged which would deprive them of their right to livelihood.

The state of BAMHA for the purpose of the construction of dam had floated global tenders and one of the companies, Reliable Industries limited has been given a contract to construct a dam.

The reliable industries limited for the purpose of construction of the dam had applied for environment clearance to the Ministry of Environment and Forest for the purpose.

Environment clearance has been given to the company on the ground that the Government has an authority to do so in larger public interest.

The agriculturist in the village are also not in favour of the construction of the dam since they would be displaced from the land where the dam is to be constructed and would be deprived of their livelihood.

“Alert Indiva” is NGO which for the protection of environment in Indiva. “Alert Indiva” which is fighting for the cause of environment has appealed to the Government not to proceed with the construction of the dam since it would lead to an environmental imbalance in the State.

However the state of BRAMHA is determined to proceed with the construction of dam in public interest.

“Alert Indiva” has therefore filed a petition under Art.226 and Art.227 of the Constitution of Indiva on the ground that the Environment Clearance Certificate granted is bad in letter and spirit of the constitution and against the national interest.

“Alert Indiva” has also taken the cause of the agriculture who are likely to be displaced and has submitted that the construction of the said dam is in violation of Art.21 of the constitution of Indiva as regards right to life and Personal liberty of the agriculturists in the area.

The High Court of Judicature of Bramha has admitted the petition for hearing and has framed the following issues for the purpose of adjudication.

Issue No.01

Whether the present petition has been filed in public interest and therefore maintainable as a Public Interest Litigation?

Issue No. 02

Whether the Writ Petition filed under Art.226 and Art.227 of the Constitution of Indiva is Maintainable?

Issue No. 03

Whether the High Court of BRAMHA can interfere in any policy decision taken by the State of BRAMHA?

Issue No. 04

Whether the displacement of the agriculturists from the area where the proposed dam is to be constructed amounts to violation of Art. 21 of the Constitution of Indiva?

Issue No. 05

Whether the Environment Clearance Certificate granted by the State is contrary to the provisions of Constitution of Indiva?

Issue No. 06

Whether the decision taken by the State of BRAHMA to construct the dam deserves to be maintained or should be quashed and set aside?

Note: Laws of Indiva are the same as laws of India.

MOOT PROBLEM No. 4

SOCIETY FOR EQUITY V. UNION OF FONDA

1. The Union of Fonda is a multicultural society, where the inhabitants, belonging to different ethnic backgrounds, speak different languages and practice different religious faiths. The national motto has always been 'unity in diversity'.
2. Soon after the elections, the Central Government took initiative to fulfill the election promise which included a legislative protection to the private choice of the individuals.
3. The Parliament, accordingly, enacted the "Protection of Private Choice Act, 2016", inter alia, permitting the owners of the residential premises in urban areas, to freely choose the tenants and lessees. However, the Act prohibited discrimination against Scheduled Castes and Scheduled Tribes.
4. Taking advantage of the law, the owners of the residential premises in urban area immediately started openly advertising in the dailies, inviting tenants and lessees. The advertisements typically stated-"only married couples", "only vegetarians", etc. Some in their advertisement, even openly added- "no minorities", "no single women". The women working in the film industry, in fashion designing, hospitality, etc, became the main target of the hostile discriminations.
5. When a cine actress, who was a unwed mother, wanted an apartment near the school where her child was admitted, she failed in getting a lease for the apartment; the owner declined to lease the apartment at the insistence of the Resident's Welfare Association that no lease should be given to single unwed mother and cine actress or actor.
6. The "Society for Equality", an NGO, led by an actress, Ms. Ramya Singh, filed a Writ Petition in the supreme court of fonda challenging the constitutional validity of the Act of 2016, inter alia, contending that it is a legislative disguise for reinventing and promoting the historical

discriminations embedded in the society. She alleged that the Act of 2016 is the antithesis of private equality as reflected in the Equality as reflected in the Equality Act of 2010 enacted by the British parliament. She further emphasized that the provisions of the impugned Act of 2016 are wholly contrary to the constitutional philosophy of equality. However, the union of fonda (UFO) filed its reply defending the act of 2016 on the ground that the Art 14 does not apply to the individuals. The UFO further contended that the provisions of impugned Act of 2016 execute the constitutionally guaranteed freedom to make private choices.

7. At the admission Stage, the attorney general appeared for the UFO and sought reference of the Writ petition to the constitution bench of five judges on the grounds that a substantial question of law as the interpretation of the constitution arises - in as much as ,the freedom trumps over equality in case of conflict between the two .However , the division bench of two judges declined to refer the matter to five judges, but referred it to a bench of three judges.
8. The matter is listed before the bench of three judges on 'X' 4th March, 2017, for final disposal.

8.The Mooters shall prepare a brief for the Petitioner/Society for Equality an the Respondent/Union of Fonda.

Note: Fonda means India for the purpose of this moot problem.