



8TH JAMIA MILLIA ISLAMIA
NATIONAL MOOT COURT COMPETITION 2020
[ONLINE]
25TH – 27TH JUNE 2020

Organised by

FACULTY OF LAW
JAMIA MILLIA ISLAMIA, NEW DELHI-25

In Sponsorship With



MOOT PROPOSITION

IN THE SUPREME COURT OF WESTEROS

[PETITIONS UNDER ARTICLE 139-A OF THE CONSTITUTION OF WESTEROS]

TO BE HEARD THROUGH THE SUPREME COURT'S VIRTUAL PLATFORM

ORGANISATION FOR COMMON CAUSE FOR POOR V. UNION OF WESTEROS

[Writ Petition (Civil) No. 123 of 2020]

Along-With

CATHERINE PEARSON V. UNION OF WESTEROS AND OTHERS

[Writ Petition (Civil) No. 234 of 2020]

Along-With

MICHAEL OLIVER V. UNION OF WESTEROS AND OTHERS

[Writ Petition (Criminal) No. 540 of 2020]

1. In the year 2020, a worldwide pandemic broke out due to the contagious SARS-CoV-2 (Severe Acute Respiratory Syndrome Coronavirus-2) and the disease caused by contracting this virus is called as COVID-19 (Corona Virus Disease). On 11.03.2020, World Health Organisation (WHO) officially declared the outbreak of Covid-19 as a global pandemic. It has spread across 170 countries while affecting millions, is still increasing at a staggering rate. Amongst these countries, Union of Westeros also witnessed its first case on 30.01.2020.
2. “Union of Westeros” (hereinafter referred to as Westeros), a democratic and republic country in South Asia, with 1.3 billion people is world’s second most populous state. It is famous worldwide for its diversity in culture, language, religion, whereby a robust Constitution has been meticulously safeguarding the interest of each community as it aims to treat everyone at parity and promote fraternity among all. “New Castle Town” (NCT) is the capital and “Santa Cruz Town” (SCT) is the commercial capital of Union of Westeros. Both are one of the highly populated districts in the country with highest labour work force.
3. The Centre for Monitoring Westeros’ Economy (CMWE), a government approved agency which monitors Westeros’ economy, states that the unemployment rate is at 23.9% in the country. Approximately 55% of them were employed either in small scale industries or in unorganized sectors, while 360 million persons are destitute.
4. As Westeros had started witnessing few positive cases of COVID-19 in several parts of the country, until mid-March 2020 the Central Government was yet to take any substantive decision to control and contain transmission of the disease. An official statement, however, came on 15.03.2020 from the Prime Minister of Westeros declaring that the outbreak has acquired the form of an epidemic in the country, and that there exists a dire need to take effective and precautionary measures. Schools, colleges, universities, were directed to be closed with immediate effect. All other public places of recreation including restaurants, hotels, bars, clubs, gyms, movie theatres, shopping malls, and all places of luxury and entertainment were directed to

be shut until further orders of the Government. Until 15.03.2020, out of the 15,234 tests conducted across the country, 289 were tested as COVID-19 positive.¹

5. In view of the prevailing circumstances, the economists expressed their concerns about the further downfall of economy if the economic and industrial activities were also shut. They also highlighted the potential threat to livelihood of the indigenous and migrant working class if further lockdown is not planned with a proper Public Distribution Scheme (PDS) and effective restructuring in expenditure profile. Quite unexpectedly, a “Public Curfew” for the next two days was announced suddenly by the Prime Minister on 23.03.2020 at 8:00 PM.
6. Further, the “Ministry of Home Affairs” (MHA) vide its order dated 25.03.2020, declared a stringent lockdown in the entire territory of Westeros for the period of next 28 days with effect from 26.03.2020. In order to prevent the transmission of SARS-CoV-2 from one human to another, trains, flights, public transport, universities, schools, offices, factories, and manufacturing units were shut. However, in its order dated 25.03.2020, the MHA did not include restrictions on the movement on roads and highways. Subsequently, on 27.03.2020 an explicit order (**Annexure A-1**) came from the Central Government which imposed restrictions on public movements on roads and highways in order to ensure social distancing and control the rate of transmission of COVID-19.
7. Within two days of imposition of the stringent lockdown, the indigenous and migrant working class were abruptly hit with loss of means of livelihood and sustenance, compelling them to come out on roads to travel to their hometown. The authorities requested everyone to stay wherever they were and assured they would be provided with necessary reliefs. However, no immediate relief was provided to these people. Consequently, these migrant workers got agitated and gathered in large numbers at Inter-state bus terminals to board transportation for their respective towns. Anguished by uncertainty and anxiety, in few places they started pelting stones at the police personnel. 429 poor migrants were detained in NCT due to such act of violence. Similar incidence happened in SCT where 313 migrants were detained for causing violence. They demanded that either they should be sent back to their hometown or provided with such adequate livelihood so as to live a dignified life and not be left at

¹ Displayed on the website of Ministry of Health and Family Welfare, Union of Westeros.

the mercy of their destiny. They were also demanding id that they had no means of transport and communication. All such detainees were tested for COVID-19 and further their corresponding medical data were collected. 2,398 persons were found positive until 29.03.2020.²

8. Amidst such a situation, the government also directed all laboratories, private and government both, to maintain proper medical records including blood samples and DNA, which shall be stored with a US-based company “Dunder Mifflin Laboratory Pvt. Ltd” (DMPL). DMPL has been receiving medical data of COVID-19 patients from 18 countries including Union of Westeros. Such data was collected for the development of vaccine and other research purposes pertaining to COVID-19.
9. A very small section of the media and the journalists who were committed to the cause of reporting the plight of these workers covered these incidences. One such report highlighted that the migrant workers who were battling hunger had resorted to covering these exceptionally long distances by walking, some even barefoot, to reach their hometowns and villages. These migrants, as reported, said that the prevailing condition of uncertainty and lack of adequate means left them with no other alternative but to cover the long distances ranging between 400 km to 1500 km to protect themselves from this epidemic. Mr. Michael Oliver is a committed senior journalist who works for the newspaper “The First News Point” (FNP). Along with a few other journalists, he tried to dive deeper with the objective of doing a fact check and report the true affairs of the state. FNP has a nation-wide circulation with over 40 million readers.
10. On reading about such a devastating state of affairs, few locals and several non-governmental organisations (NGOs) decided to intensify their efforts in helping these people with food and cash as per their capabilities. Post two weeks of the lockdown, Westeros Government announced Rupees Two Lakh Eighty-Five Thousand Crore as a relief package in order to alleviate the hardships faced by the country’s poor due to nationwide lockdown. The government also endeavoured to extend extra benefits through Prime Ministers’ Relief Plan (PMRP), Westeros Public Distribution Scheme (WPDS) and Westeros National Rural Employment Guarantee Scheme (WNREGS) by distributing extra five kilograms of rice, one kilogram of pulses, three free gas

² Displayed on the website of Ministry of Health and Family Welfare, Union of Westeros.

cylinders and increase in the WNREGS wages by 15% with a view to make such people self-sufficient and self-reliant. Along with these reliefs, on 20.04.2020 the government also decided to run 25 “Special Labour Trains” for sending back the stranded migrant workers which shall connect major cities of each state. The government had also set-up 15 to 20 shelter homes in several states for such people and the same has been advertised through various media portals. Until 10.04.2020, COVID-19 positive cases in Westeros had risen to 11,987.³

11. However, despite all the reliefs provided by the Government, instances of deaths of migrant workers became part of daily reporting. Most of these deaths were caused due to covering on foot long distances in summer causing heat stroke, starvation, dehydration, lack of medical facilities during transit etc. Few were also found stealing water bottles and edible items from the stalls of railway stations. Mr. Oliver in his article entitled “*The Ground Report: Prime Minister of Westeros fails the country’s poor*” published in the FNP on 18.04.2020 writes that only a handful of indigenous and migrant workers could benefit from the PMRP, WPDS, and WNREGS as most were not registered under these schemes, and others experienced problems with distribution system. As FNP conducted a national survey on this issue. He warned every one of the government-sponsored fake data as they were under-reported.
12. The government spokesperson assured that all measures are being taken to avoid pilferage and any malpractices in this regard, if found, must be reported to the nearest police station for curbing the menace at hand. In response to this statement, Mr. Oliver accused the police officials and the government for being apathetic towards the poor migrants.
13. Mr. Oliver received a huge criticism for spreading enmity and disaffection against the government, and further creating an atmosphere of panic through the spread of misinformation. As a result, 14 FIRs were filed against him under section 124A of Westeros’ Penal Code⁴ and Section 54 of Disaster Management Act⁵. Thereafter, he also received an overwhelming support from the lawyers, academicians, artists, and his fraternity claiming such FIR as a vindictive act of the Government.

³ Displayed on the website of Ministry of Health and Family Welfare, Union of Westeros.

⁴ Refer to Indian Penal Code, 1860, *mutatis mutandis*.

⁵ Refer to Disaster Management Act, 2005, *mutatis mutandis*.

14. Mr. Oliver, however, moved a petition [Writ Petition (Criminal) No. 540 of 2020] to the Supreme Court for quashing these FIRs filed against him on the ground that the government cannot gag the freedom of journalists through such vindictive measures. A journalist, being a part of the fourth pillar of democracy, i.e., press must be free to present ground reporting without any restrictions. His article merely endeavoured to highlight the plight of migrant workers and true affairs of the state, and thus, all such FIRs are liable to be quashed. The respondents stated that in this situation of pandemic, Mr. Oliver has acted irresponsibly by reporting wrong statistics which were in fact based on unreliable sources. The respondents further submitted that freedom of speech and expression is not absolute, and that it must be balanced out with reasonable restrictions, and thus, the FIRs must not be quashed. The case has been adjourned till 10.05.2020 and as an interim relief the Court granted protection to Mr. Oliver from being arrested.
15. “Organisation for Common Cause of Poor” (OCCP), is one of such NGOs which have been committed to the cause of protecting indigenous persons in terms of food and medical facilities. On 22.04.2020, OCCP rose to the cause of these people and moved a Public Interest Litigation [Writ Petition (Civil) No. 123 of 2020] before the Supreme Court on behalf of indigenous and migrant workers who were detained in SCT and NCT.
16. The petitioner first challenged the order dated 27.03.2020 of MHA as arbitrary on the ground that movement was unreasonably restricted without providing any immediate alternative rehabilitation to the worst affected section of the society, i.e., the indigenous people. Secondly, the detention of such migrants in pursuance of such order violates their fundamental rights and in fact evacuation must be done under the supervision of this Hon’ble Court. The petitioner also relied on Mr. Oliver’s article dated 18.04.2020 to substantiate its averments. The PIL has been admitted and the government has been directed to file its reply within 12 days.
17. The Centre for Monitoring Westeros’ Economy (CMWE) in its research paper dated 25.04.2020 stated, “...*this stringent lockdown has caused more human suffering than that by COVID-19 itself. However, on the other side, Westeros is experiencing its biggest downfall in the industrial production in the past 52 years. There exists a dire*

need to incentivize the economic and industrial production, or else we shall soon witness a situation of financial emergency and the economy.”

18. On 26.04.2020, three state governments in the Union of Westeros suspended a few significant labour laws pursuant to an Ordinance passed by the Governors of the respective states under Article 213 of the Constitution of Westeros.⁶ The Governments stated that such laws have been reformed and suspended with a view to incentivize economic activities in their respective states. The laws are suspended for 735 days and include-

- a. The Factories Act⁷, 1945 except Section 5;
- b. The Industrial Disputes Act⁸, 1947;
- c. The Payment of Wages Act⁹, 1936 except Section 5;
- d. The Minimum Wages Act¹⁰, 1948;
- e. The Bonus Act¹¹, 1965;
- f. The Employees’ State Insurance Act¹², 1948

19. Owing to the plight to the labour class and migrant workers, on 30.04.2020, Ms. Catherine Pearson, an activist litigant moved a Public Interest Litigation [Writ Petition (Civil) No. 234 of 2020] before the Supreme Court challenging the validity of the Ordinance dated 26.04.2020 of all three states severally in the same petition. She stated that the fundamental right to livelihood, dignity, living wages, protection from exploitation, along with other rights have been abrogated. She further challenged the sharing of data to a foreign-private company (DMPL) on the ground that it violates right to privacy of such persons.

20. The State was required to file its reply within one week. The Respondents stated that reforms and suspension in labour laws have been in order to incentivize economic and industrial activities. The workers are still entitled to fair wages as Section 5 of the Payment of Wages Act has not been suspended. The respondents further submitted

⁶ Refer to Constitution of India, 1950, *mutatis mutandi*

⁷ Refer to The Factories Act, 1945 of India, *mutatis mutandi*

⁸ Refer to The Industrial Disputes Act, 1947 of India, *mutatis mutandi*

⁹ Refer to The Payment of Wages Act, 1936, *mutatis mutandi*

¹⁰ Refer to The Minimum Wages Act, 1948 of India, *mutatis mutandi*

¹¹ Refer to The Bonus Act, 1965 of India, *mutatis mutandi*

¹² Refer to The Employees’ State Insurance Act, 1948, *mutatis mutandi*

that such medical data is being shared in lieu of the public exigency created by COVID-19 and it is only meant for the purpose of creating vaccine and conducting other medical research incidental thereto. The court decided to hear further arguments on the next date, and no interim order was passed.

21. The Chief Justice of Supreme Court of Westeros took note of various petitions concerning the plight of migrant workers. He decided to hear all the matters on 10.05.2020 and clubbed these petitions, *inter alia*, Writ Petition (Criminal) No. 540 of 2020, Writ Petition (Civil) No. 123 of 2020 and Writ Petition (Civil) No. 234 of 2020. As the cases also involved an issue of constitutional validity, the Chief Justice decided to constitute a 5-judges bench which shall hear the matters through its virtual platform.
22. While the petitions have already been admitted the bench decided not to hear arguments on maintainability and admissibility. The Court formulated the following issues-
 - a. Whether the MHA Order dated 27.03.2020 is arbitrary, and the detention of such migrant workers in pursuance of such order amounts to a violation of their fundamental rights?
 - b. Whether the suspension of several labour laws by all three states in the garb of incentivizing economic activities vide Order dated 26.04.2020 violates Fundamental Rights of workers, and subsequently the International Labour Organisation Conventions ratified by the Union of Westeros?
 - c. Whether the sharing of medical data of COVID-19 tested patients with a foreign-private company, DMPL violates their right to privacy?
 - d. Whether all the 14 FIRs filed against Mr. Oliver is liable to be quashed and his article entitled “The Ground Report” falls within the ambit of freedom of speech and expression of the press?

Annexure A-1

**Office Order No. NDMA/27/2020
Union of Westeros
Ministry of Home Affairs**

Dated 27th March 2020

ORDER

Whereas, the National Disaster Management Authority (NDMA), is satisfied that there has been an unprecedented outbreak of COVID-19 epidemic, and which has also been declared as a pandemic by the World Health Organisation (WHO), and considers it necessary and expedient to take effective and precautionary measures for the containment and transmission of COVID-19 across the country while ensuring maintenance of essential supplies and health services.

Whereas, in exercise of the powers conferred to National Disaster Management Authority (NDMA) under Section 6(2)(i) of the Disaster Management Act, it has issued an Order No. NDMA/25/2020 dated 25.03.2020 directing all the concerned Ministries and Departments of Union of Westeros, and the Government of States and Union Territories of this country to take effective measures so as to prevent the spread of COVID-19 in the country.

Whereas, in exercise of powers under Section 10(2)(l) of the Disaster Management Act, the National Executive Committee hereby directs the concerned Ministries and Departments of Union of Westeros, and the Governments of States and Union Territories of this country, to ensure restriction on public movements on roads and highways, congregations, and any form of public gathering on such roads and highways, and whereas any such movement without reasonable cause may lead to arrest and detention in accordance with the law in force. This subsequent order shall remain in force in all parts of the country for a period of 40 days with effect from 28.03.2020.

Home Secretary

To

- 1. The Secretaries of Ministries/Departments of Union of Westeros**
- 2. The Chief Secretaries/Administrators of States/Union Territories**

Nota Bene-

- a. Only the laws of Union of Westeros are *pari materia* to the laws of India and no such fact is *pari materia* to any country. This Moot Proposition is purely a work of fiction and resemblance to any such incidence shall be purely co-incidental.
- b. Union of Westeros is also a member of United Nations and has also signed and ratified a few International Treaties such as International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights. Union of Westeros has also ratified six out of eight Fundamental Conventions on labour rights and their standards. The conventions ratified by Westeros include Forced Labour Convention, 1930; Abolition of Forced Labour Convention, 1957; Equal Remuneration Convention, 1951; Discrimination (Employment and Occupation) Convention, 1958; Minimum Age Convention, 1973; Worst Forms of Child Labour Convention, 1999.
- c. This Moot Problem is purely intended for the Moot Court Competition and educational purpose amongst law students.
- d. All biological and other medical details on SARS-CoV-2 and COVID-19 shall be applicable in this case as per the details available on the WHO website.
- e. No Scheme(s) or relief(s) granted by India shall be applicable in any manner whatsoever. Those mentioned only in the Moot Proposition shall be applicable in the case.
- f. Any such scheme(s) or relief(s) as mentioned in the Moot Proposition are not *pari materia* to any country.
- g. The participants are required to prepare their submissions from each side of the case. They are not allowed to add a new issue, however, participants are free to add sub-issues pertaining to the issues mentioned under paragraph 22.