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28TH M. C. CHAGLA MEMORIAL GOVERNMENT LAW COLLEGE NATIONAL

ONLINE MOOT COURT COMPETITION, 2021

MOOT PROPOSITION

IN THE SUPREME COURT OF RASHTRA

X, Y, Z and Ors.

...Petitioner

Versus

Union of Rashtra and Ors.

...Respondent

1. Rashtra is a large nation with a population of about 135 crores. Rashtra attained independence from colonial rule in 1947. Upon obtaining independence, Rashtra constituted itself into a sovereign democratic republic, governed by the Rule of Law. In 1950, Rashtra framed and adopted a Constitution, which is supreme and governs all spheres of activity of Rashtra and its citizens. Rashtra is comprised of various States and some Union Territories, which are directly governed by the Central Government. The division of executive authority between the Central Government of Rashtra and the State Governments is enshrined in the Constitution. Rashtra has a Central Legislature and each State has its State Legislature. The relations between the Central Government and the State Governments are governed by the provisions of the Constitution.
2. The world was hit by the NOVID-19 virus, sometime around the end of 2019. Eventually, the deadly virus entered the borders of Rashtra, sometime around the end of January 2020. The World Health Organisation declared the NOVID-19 outbreak as a global pandemic on 11th March 2020.
3. Accordingly, the Union of Rashtra invoked the provisions of the Disaster Management Act, 2005 (“**the Act**”) to deal with the spread of NOVID-19 in the country and to take effective measures for its containment. By its Order dated 24th March 2020, the National Disaster Management Authority (“**NDMA**”) constituted under Section 3 of the Act issued an Order directing the Ministries/Departments of the Government of Rashtra, State/Union Territory Governments and State/Union Territory Authorities to take preventive measures to prevent the spread of NOVID-19 in Rashtra. Further, by another Order, also dated 24th March 2020, NDMA issued Guidelines on the measures to be taken

by the Ministries/Departments of the Government of Rashtra, State/Union Territory Governments and State/Union Territory Authorities for the effective containment of the NOVID-19 pandemic within Rashtra. This was the first time that the Act had been invoked since its enactment in 2005 by the Central Legislature.

4. Since the beginning of the pandemic, the Central Government held daily press briefings and issued press releases, disseminating relevant information in relation to the measures for the containment of NOVID-19. Various news organisations claimed that Rashtra consistently performed better than the rest of the world in its fatality rate i.e. the number of deaths caused due to NOVID-19, on account of the effective measures being adopted.
5. Sometime around March-April 2021, several media organisations started reporting divergent and inconsistent statistics and information on important subjects relating to NOVID-19 management like the infection rate, deaths, recovery rate, availability of hospital beds, medical oxygen, and essential drugs, etc. There was no uniformity on reporting amongst media organisations even in respect of the NOVID-19 treatment protocols across the country. The aforesaid situation was aggravated by the circulation of and prevalence of information on various social media platforms by citizens.
6. As the information in relation to the management of NOVID-19 disaster being widely circulated across the country was not consistent with the official information and data released by the Central Government, in the opinion of the Central Government, the same was leading to widespread panic amongst people including the medical fraternity and was derailing efficient management of the NOVID-19 disaster. The Central government was of the opinion that dissemination of such sensitive information relating to the management of NOVID – 19 disaster and the containment measures in respect thereof should only be based on officially verified data and sources through official channels.
7. Thereafter, the NMDA, in the exercise of its powers under the Act, by an Order dated 1st June 2021, issued directions and guidelines for the dissemination of information relating to the containment measures for NOVID-19. The said Order is annexed as **Annexure ‘A’** herewith.
8. On 15th June 2021, a group of public-spirited individuals, including prominent journalists (X), doctors (Y), authors and public policy experts (Z), came together and filed a Writ Petition styled as a Public Interest Litigation before the Supreme Court of Rashtra under Article 32 of the Constitution of Rashtra.
9. In the said Petition, the Petitioners have, *firstly*, challenged the constitutional validity of the said Order dated 1st June 2021, *inter alia*, on the grounds that –

- (i) the said Order violates Articles 19 and 21 of the Constitution of Rashtra and is therefore *ultra vires*;
 - (ii) the said Order is violative of the principle of federalism, which is part of the basic structure of the Constitution;
 - (iii) the said Order is *ultra vires* the provisions of the Act itself.
10. *Secondly*, the Petitioners have challenged the constitutional validity of Section 6 of the Act, insofar as the same purports to authorize NDMA to take steps or exercise powers in relation to issues, which are beyond the executive authority of the Central Government and the legislative competence of the Central Legislature. In the alternative, the Petitioners have prayed for a reading down of the provisions of Section 6 of the Act and declare that the same relates only to subjects, which are within the executive authority of the Central Government and the legislative competence of the Central Legislature and not otherwise.
11. The Central Government has been arrayed as the Respondent in the said Petition. It is the stand of the Respondent that the said Order dated 1st June 2021 is constitutional and does not violate any provision of the Constitution and further that the same is within the powers conferred upon the NDMA under the provisions of the Act. It is also the stand of the Respondent that the provisions of Section 6 of the Act are constitutional and that the Central Legislature has the legislative competence to enact the Act, including Section 6 thereof.
12. Considering the far-reaching importance of the issues raised in the said Petition, the Constitution Bench of the Supreme Court of Rashtra has set down the said Petition for final hearing at the stage of admission on 23rd September 2021.
13. It is further clarified that participants are permitted to raise any other additional contentions or grounds within the larger framework of the three fundamental issues set out in the moot proposition i.e.
- (i) The constitutional validity of the said Order dated 1st June 2021 with respect to article 19 and article 21 and whether the Order is violative of the principle of federalism, which is part of the basic structure of the Constitution;
 - (ii) whether the said Order is *ultra vires* with respect to the provisions of the Disaster Management Act, 2005 itself; and
 - (iii) the constitutional validity of the provisions of Section 6 of the Act.

NOTE

1. Please note that the laws of Union of Rashtra are *pari materia* to the laws of Union of India. Participants are not at liberty to assume facts beyond the scope of the proposition.
2. The Moot Proposition is purely a work of fiction and created solely for the purpose of the Moot Court Competition. The characters, institutions, organizations and events depicted in this Moot Proposition are purely fictional. Any similarity or resemblance to actual persons or actual events is purely coincidental and unintentional. The contents of the Moot Proposition do not intend to defame/ denigrate/ hurt the sentiments of any person(s), institution, communities, groups or class of persons.

ANNEXURE A

Directions and Guidelines for dissemination of information relating to containment measures for NOVID-19.

1. In exercise of its powers conferred under the provisions of the Disaster Management Act, 2005 and in particular under Sections 6(2)(a) and 6(2)(i) thereof, the National Disaster Management Authority hereby directs that dissemination of information relating to the following subjects in respect of containment measures for NOVID-19 shall be done in only accordance with the present Order and not otherwise -
 - A. Information relating to the total number of persons infected by NOVID-19, persons recovered from NOVID-19 and deaths from NOVID-19 and any other information incidental to or connected with the aforesaid;
 - B. Availability and allocation of medical oxygen and drugs which are prescribed for treatment of NOVID-19 under the treatment protocols published by concerned authorities;
 - C. Availability of health infrastructure for treatment of NOVID-19;
 - D. All matters connected with the treatment protocols for NOVID-19 prescribed and published by concerned authorities
2. Every State Government, authority and person shall disseminate information relating to the aforesaid subjects, only in accordance with the official information released/provided/published by the Ministry of Health, Government of Rashtra.
3. If any State Government or authority or person intends to disseminate any information relating to the aforesaid subjects, which is not part of the official information released/provided/published by the Ministry of Health, Government of Rashtra, then it shall be done only after prior written approval of the Designated Officer of the Ministry of Health, Government of Rashtra.
4. Within a period of one week from the date of this Order, the Ministry of Health, Government of Rashtra shall appoint and designate an Officer, not below the rank of the Joint Secretary, as the Designated Officer for the purposes of Clause 3 above. The Designated Officer shall, upon receipt of a request for prior written approval under Clause 3 given above, shall consider the same within a period of 3 days and grant its approval or reject the same for reasons to be set out in writing.
5. This Order shall be applicable in relation to the dissemination of information in relation to the aforesaid subjects through any medium or mode presently available or which may

be discovered or made available in the future. It is further clarified that all forms of media, including social media, are covered within the ambit of the present Order.

Sd/-
Chairperson,
National Executive Committee,
National Disaster Management Authority