



2nd National Virtual Moot Court Competition

29th-31st October 2021

MOOT PROBLEM



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ONLINE



W.P. No. 234 of 2021

Mr. Jon Snow & Ors. vs. Republic of Azeroth

With

M.A. No. 34814 of 2021

Mr. Jon Snow & Ors. vs. Republic of Azeroth

With

I.A. No. 34815 of 2021

Desh Ki Mitti vs. Mr. Jon Snow & Ors.
Republic of Azeroth

With

O.S. No. 1 of 2021

Republic of Azeroth vs. State of Riverdale

1. The Country of Azeroth is a Sovereign, Democratic, Secular, Republic and Socialist country in the South-Asian Region and has been hailed as one of the fastest- growing economies across the globe. Azeroth was a colony of the British and has a history of long battles for freedom. Consequently, Azeroth laws were influence by the then existing pre-independence laws. The constitution framers of the country ensured a set of fundamental rights. The right to freedom of speech and expression is also guaranteed as a fundamental right under the Constitution of Azeroth. The judiciary, especially the Supreme Court of Azeroth is known for being the fiercely

independent and mighty defender of rights guaranteed by the constitution.

2. Azeroth is a multi-religious country with a dominant Hindu population. There are two political parties in the Nation, one is the 'Nationalist Party of Azeroth'(NPA) and the second is the 'Socialist Party of Azeroth'(SPA). The formation of the government was highly influenced by the minority population of the country since the Independence of Azeroth in 1947. In the year 2014, by popular opinion, a government by the name of 'Nationalist Party of Azeroth' came into power by defeating the 'Socialist Party of Azeroth' which was in power for the past several years. The members of NPA are mostly Hindu. This party is influenced by the idea of 'Nationalism' and as such any dissent or critique was not always welcomed. Often such critics and dissenters were labelled as 'Neo-Liberals' and sympathizers of the Socialist Party of Azeroth. The Nationalist Party of Azeroth took pride in its core values and traditions.
3. The Republic of Azeroth is surrounded by 5 enemy states and as such is subject to Guerilla warfare, insurgency and terrorist attacks quite frequently. The SPA was considered a liberal government and a government that is not able to provide protection and security for the citizens of the country. This was the main reason for the election of NPA in the year 2014. There was a total of 5 insurgency attacks and 1 terrorist attack during 2014-2019 which was in sharp decline to earlier attacks. The NPA delivered on its promises and any act of insurgency or terrorism on the Country's Land and its citizens was met with equal and stern action. In the year 2019, NPA won the election with an even bigger majority and continued on its path to National Security.

4. In the year 2019, a PIL was filed on behalf of a disgruntled member of NPA in the Hon'ble Supreme Court of Azeroth stating that the Government is using *Kimetsu* (a spyware software developed by NSO, a Japan Company) and is invading the privacy of the citizens of the country. It was also contended that the government is also violating the Fundamental Right to Privacy as enshrined under Article 21 of the Azeroth Constitution. The petitioner prayed that an Investigation is conducted in the matter by a Special Investigation Team (SIT) amongst other reliefs. The same was however withdrawn to pursue alternative remedies.
5. On June 18, 2021, 'The Rope' (A online news agency) reported that the phone numbers of over 40 journalists of Azeroth were on a hacking list of an unidentified agency using Japan's spyware *Kimetsu*. The report said forensic tests have confirmed the presence of military-grade spyware on some devices.
6. The Rope's analysis of the data showed that most of the journalists were targeted between 2018 and 2019, in the run-up to the 2019 Lok Sabha elections. "The company refuses to make its list of customers public but the presence of *Kimetsu* infections in Azeroth, and the range of persons that may have been selected for targeting, strongly indicate that the agency operating the spyware on numbers in Azeroth," the report said.
7. The report was published by The Rope in collaboration with 16 other international publications including the world-known media agencies to an investigation conducted by Paris-based media non-profit organization Prohibited Stories and rights group People Rights International.

8. The Government responded to these allegations stating that they have no concrete basis. It added that there have been no unauthorized interceptions. It called the report a fishing expedition and said that there has been no invasion of privacy of the citizens of the nation.
9. Japan's firm NSO group while denying all the allegations has stated that it gives the software only to vetted governments.
10. It was later revealed that phones of more than 300 citizens of Azeroth have been hacked including members of the opposition and some Union Ministers amongst others.
11. The Socialist Party demanded that all the ministers should give their resignation and the entire matter should be investigated by an independent body and the role of several high-ranking officials should be ascertained.
12. According to this, a group of journalists led by Mr. Jon Snow, who is the editor of The Azeroth Times, a leading newspaper in the country, approached the Hon'ble Supreme Court of Azeroth to redress this invasion of privacy by their government, seeking the following reliefs:
 - a) To appoint a Supreme Court monitored Special Investigation Team (SIT) to investigate the current situation in respect of Kimetsu.
 - b) To declare that surveillance by the state is an invasion of privacy of the citizens of the country under Article 21 of the Constitution and also deters free speech and expression which is a fundamental right enshrined under Article 19(1)(a) of the Constitution.
 - c) Any other relief or direction that the Hon'ble Court may pass.

13. The Republic of Azeroth has filed a reply, without admitting or denying the use of Kimetsu software, stating as follows:
- a) The present PIL is not maintainable as the petitioners do not have any locus standi in the matter as it pertains to National Security.
 - b) There has been no unauthorized surveillance on any person within or outside India and whatever has been done, is within the contours of the Indian Telegraph Act, Official Secrets Act and Information Technology Act or any other law for the time being in force.
 - c) The fundamental right under Article 21 is subject to the procedure established by law and under Article 19(1)(a) is subject to reasonable restrictions under Article 19(2) of the Constitution which amongst others also includes restrictions on the ground of security of the State.
14. A Miscellaneous Application has also been filed by the petitioner, in this case, seeking the relief that the respondent is directed to furnish an affidavit stating the use/non-use of the Kimetsu Software. The Republic of Azeroth has filed a reply stating therein that such an affidavit cannot be filed in order to maintain confidentiality as the matter pertains to National Security.
- Let Your Defense Rest In Justice's Hands*
15. Another Miscellaneous Application was filed on behalf of 'Desh ki Mitti' NGO, seeking the relief of intervention and impleading of the NGO in the present matter, while stating that the present petition is nothing but an attempt to overthrow the present government. The NGO further stated that the NPA government is instilling a feeling of Nationalism in the citizens who were long lost and is working tirelessly towards national

security. They have therefore prayed that 'Nationalism' be declared as a part of the Basic Structure of the Constitution of Azeroth.

16. The NGO has further stated that this country has entered its 75th year of Independence. They have thus prayed that the Fundamental Duties be made enforceable as the terms Patriotism and Nationalism have lost all meaning.
17. The petitioner has filed a reply in this Miscellaneous Application stating that the application should be dismissed being devoid of any merits and being politically motivated. They have further stated that the head of the NGO, i.e., Mr. Malcolm David, has been a former Union Minister of Culture and Tourism during 2014-2019. It has further been stated that the government is violating the privacy of its citizens under the garb of Nationalism and National Security. The Petitioner has opposed the prayer of the applicant that Nationalism should not be declared a part of the basic structure of the Indian Constitution. The Petitioner has further opposed the prayer of the applicant that fundamental duties should be made enforceable on several grounds.
18. The Republic of Azeroth has not opposed the Intervention Application and has supported the relief sought by the party.
19. The Hon'ble Supreme Court allowed the Intervention Application and has impleaded Desh Ki Mitti (NGO) as a party in the present case. It has been further directed by the Hon'ble Court that the Solicitor General shall advance arguments in regard to the relief sought by the NGO on behalf of both the Government and the NGO.

20. The State Government always has a disagreement with the Central Government stating that the Central Government always uses its investigation agencies to target its ministers, due to this and the new allegations levelled, the State of Riverdale within the Country appointed a Commission of Inquiry (Kimetsu Inquiry Commission) with a former Judge of the Hon'ble Supreme Court and a former Chief Justice of the State High Court to look into the alleged invasion of privacy by the Republic of Azeroth of several individuals, journalists, activists, business persons, police officials, politicians, both in the government and the opposition. The mandate of the Commission is as follows:

“Enquire into and report on inter alia the reported Interception and the possession, storage and use of such information collected through such Interception, in the hands of State actors and non-State actors.”

21. While appointing the commission, the State Government has stated that “the State Government could not sit as a silent spectator particularly when the Union Government was not only non-committal and evasive on the subject but had also at the very threshold dismissed the allegations under the rubric of sensationalism.” It further commented that the reports that are part of a global investigation by 17 media organisations drawing on data accessed by Paris-based Prohibited Stories are a “definite matter of public importance”.

22. Pursuant to this, the Union Government moved the Hon'ble Supreme Court against the State of Riverdale thereby seeking that the State has no right to appoint a Commission of Inquiry when the matter is one of National Importance involving two or more states amongst other grounds.

23. The Hon'ble Supreme Court has graciously agreed to allow this petition and hear it with the pending PIL and has referred the matter to a larger bench of 11 judges as the matter involves questions of Constitutional Importance.

Note:

- A. The Constitution and all other laws of Azeroth should be interpreted in pari materia with the Constitution and other laws of India and no such fact is pari materia to any country.
- B. Participants are at liberty to take additional arguments/ grounds in support of the issues raised herein.
- C. Any reference to India in news reports/incident reports / other reports in so much as it pertains to Kimetsu and/or any other spyware software shall be construed as a reference to Azeroth.
- D. The events and the characters depicted in the moot court problem are purely a work of fiction and hypothetical. Any similarity to actual persons living or dead is purely coincidental.
- E. This Moot Problem is purely intended for the Moot Court Competition and educational purposes amongst law students.