



SYMBIOSIS LAW SCHOOL, NAGPUR

Symbiosis International (Deemed University), Pune
(Established under Section 3 of the UGC Act, 1956)
Re-accredited by NAAC with 'A' Grade (3.58/4) Awarded Category – I by UGC



MOOT PROBLEM

SYMBIOSIS LAW SCHOOL, NAGPUR

NATIONAL MOOT COURT COMPETITION -2021

Contentopera Inc. & Ors.

v.

State of Hammerlocke and Anr.

1. The United States of Galar is a vast South Asian Country surrounded by huge mountain ranges on three sides and with an ocean on the fourth side. It is the largest country in the world both in terms of the area and the population. It became Independent from the Republic of Kanto way back in the year 1876 and subsequently after a long struggle to unite the several princely states the United State of Galar was finally formed in the year 1900 and its constitution was adopted on 18th June, 1900 which has been widely celebrated as the National Day and the Constitutional.

2. The Constitution of Galar has been as a result of debates and discussions spanning over 6 years and was adopted only upon a referendum where every citizen over the age of 18 participated and an overwhelming majority of Citizens voted in favour of its adoption. The Constitution of Galar



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had been widely regarded as one of the world's bulkiest constitution and as one easily adaptable to changing times. Several nations subsequently have adopted and borrowed several principles from the Galarian Constitution.

3. United States of Galar is a Quasi-Federal Country with a parliamentary form of government and the Constitution is considered to be the '*Grundnorm*', with the President as its figurative head and the Prime Minister as the head of the Executive. The '*Grundnorm*' though provides for a Bi-cameral legislature at the Central level, it does not mandate the same at the State level, being left optional to the States.

4. United States of Galar apart from being one of the oldest democracies has also been one of the most advanced nations along with being the fastest growing economy in the world since the Year 2000. Galar since its inception has been governed by a bi-party system in the Centre with the Government being alternatively formed by the Conservative party and the Republican Party.

5. State of Hammerlocke is the largest state in Galar and has the largest representation in the Parliament with more than 30% of the Members of Parliament being elected from this State. It has been widely regarded that the pathway to the power in Centre passes through State of Hammerlocke. As a result of the same, the party forming the government at the Centre has been the party forming the government in the State of Hammerlocke.



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6. State of Hammerlocke is one of the few states that has cameral legislature, with the members of the Legislative Assembly being elected directly and the members of the Legislative Council being elected through indirect elections.

7. It was only in year 2017 that for the first time this trend changed. Even though the Conservative Party formed government in the Centre, due to the overwhelming popularity of its local leader Mr. Leon, the Republican Party formed the government in the State of Hammerlocke by procuring a majority in the Legislative Assembly. However, the majority in the Legislative Council remained with the Conservative Party. This led to constant clashes between the Government of Hammerlocke and the Legislative Council with the Legislative Council blocking several bills placed by the Government for its consideration.

8. This apart, the United States of Galar has a culturally and religiously diverse population people of more than 17 religions being the citizen of this Secular nation. Despite its vast diversity the country is united by its two most popular form of entertainment being the Sport of Cricket and its movie industry the 'Gollywood'. Right from 1900 the greatest stars of Cricket and the Gollywood have from time to time been revered and served as inspiration to several Galarians.

9. Mr. Raihan was widely considered to be one of the greatest Cricketer that United States of Galar had produced. He grew in the slums outside



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Freezingtown (Capital of State of Hammerlocke) and developed his cricketing skills in the slum before becoming one of the greatest cricketer ever produced by Galar. He was considered to be a key contributor in the first ever world cup for Galar in 2002 and thereafter in 2006 and 2010. In-fact it was widely considered by several experts that he won the world cup in the year 2006 almost single-handedly for Galar. He had become a cricketing legend with several people considering him to be the 'Lord of Cricket'.

10. However, his illustrious career was severely damaged in its fag end (around 2017) on account of investigative report of one 'Flare' news channel claiming that Mr. Raihan was involved in match-fixing in the final match of the 2014 Cricket, which Galar lost in strange circumstances. The report sent ripples through out the country. It became the sole focus of all the media channels for several days thereafter. In-fact some of the players who had played with Mr. Raihan earlier gave statements to press claiming that they had witnessed Mr. Raihan meeting bookies on several occasions. The gravity of the report was such that the Central Minister for Youth and Sports set up a special investigation team to investigate the allegations against Mr. Raihan. The investigation was concluded and the trial against Raihan commenced in 2019, which is still underway.

11. While so a company by name Contentopera.inc (having its registered office in Freezingtown) which runs a popular OTT (Over-the-top) platform under the name 'Contentopera' approached Mr. Raihan through a



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director Mr. Goh in January 2020 seeking his consent for a making a documentary on his life including his initial struggles and thereafter the journey to becoming one of the biggest superstars. It was further represented that the said documentary would form part of a 4-part docu-series being made on 2 cricketers and 2 Gollywood stars of Galar. Pertinently Mr. Goh originally a movie director of international repute having won Oscar on 2 occasions was now wanting to venture into the world of Docu-series and OTT Platforms through the said docu-series.

12. Mr. Raihan being well aware of the reputation of Mr. Goh evinced interest in the said project and subsequently several correspondences were exchanged through email between Mr. Raihan and Mr. Goh discussing the central theme of the documentary. In-fact Mr. Raihan even agreed to do an interview for the said docu-series provided the questions were provided before-hand. Mr. Goh had repeatedly represented in the emails that the primary objective of the docu-series was to show the human side of the biggest superstars of the largest democracy and as to how they had inspired an entire generation of people. Mr. Raihan had in-turn expressed that he would not be charging any fee or accepting any remuneration since he was very happy that his life-story would serve as inspiration to many.

13. Mr. Raihan being fully satisfied with the representations made and his interactions with Mr. Goh executed an undertaking cum consent term on 15.02.2020 consenting to Contentopera.inc producing the



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documentary on Mr. Raihan and to upload the same on its OTT platform.

Since Mr. Raihan was the last of the four stars to consent the production work for the same commenced immediately after he had consented. It was broadly indicated that the same would be released sometime in the month of September, 2020.

14. Meanwhile, the OTT platforms had grown quite popular in Galar with United States of Galar being considered as one of the biggest market for the OTT platforms. However, the non-regulation of the content on the OTT platform became a serious concern with several citizens raising serious concerns about the same.

15. In the month of January 2020, Contentopera had released a short movie on its platform under the name “Religious beliefs – the ancient defrauding means” which showcased several religions in bad light and also contained obscenity and vulgarity. This caused widespread discontentment amongst the citizens, more specifically in the State of Hammerlocke where the discontentment led to violence and destruction of public property. There were several protests held urging the Governments to pass appropriate laws for regulating the content on OTT platform.

16. Several leaders of the Republican party also stood in solidarity with the protestors and urged the central government to regulate the online content. However, the Conservative Party was firmly of the opinion that any



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attempt to regulate online content would be in gross violation of the Freedom of Speech and expression of the people.

17. Mr. Leon realising that the Central Government would not introduce any law regulating the online content decided to enact appropriate laws for the State of Hammerlocke. Accordingly, in the month of February the council of ministers for the State of Hammerlocke passed a resolution for tabling 'The Online Content Regulation Bill, 2020' (hereinafter 'the Bill') before the State Legislature in its session to be held in the month of March. Accordingly, the said bill was placed before the legislative assembly on the 13th of March 2020, which bill came to be passed without any amendments on the same date mainly due to the overwhelming majority of the Republican Party in the Legislative Assembly.

18. In accordance with the Parliamentary procedure, the bill was then sent to the Legislative Council on 16th March 2020. Mr. Piers, the Law Minister of the state tabled the bill before the Council. The bill caused an uproar in the council and the majority of the council members being from Conservative Party opposed the bill. The discussions and heated debates on the bill spanned over two days and eventually the Chairman of the Council suo-moto referred the bill to a select committee of the council on 19th March, 2020.

19. Though the select committee met on several occasion no report came to be submitted by the select committee. The winter session of the



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Legislative Assembly was convened on 1st July, 2020 on which day the bill was passed for the second time by the Legislative assembly and sent to Legislative Council for its consideration for the second time. The bill came to be tabled by the law minister for the second time before the Legislative Council again on 3rd July, 2020. The majority members once again objected to the bill being placed and insisted that the consideration of the bill for the second time by the Assembly was improper since the select committee had not yet tabled its report before the Council. The discussions and debates went on for about a month before the Council was adjourned sine die on 4th August, 2020 due to ruckus in the council including physical violence between its members from Republican party and the Conservative party.

20. Subsequent to the above events, On 15th August, 2020 the Governor of the State of Hammerlocke on advice of the council of ministers of State of Hammerlocke gave his assent to the said bill and The Online Content Regulation Act, 2020 (hereinafter 'the Act') was notified to come into effect from the same day. It was specifically stated in the notification that the bill had been passed by the State Legislature on 4th August, 2020. A copy of the relevant provisions of the Online Content Regulation Act, 2020 is annexed as **Annexure – I**.

21. 21. Immediately after the notification of the act, Contentopera.inc and its Managing Director Mr. Kabu, who is also a minister in the Central Government approached the High Court for the State of



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Hammerlocke challenging the constitutional validity of the Act on the grounds of Procedural ultra-vires apart from being in violation of Part-III of the Constitution. It was further urged that the State of Hammerlocke had no further urged that the State of Hammerlocke had no legislative competence to enact the Act. It was specifically urged that the passage of bill was not in accordance with the constitutional provisions.

22. While the above petition was pending, Contentopera released the trailer of the four-part docu-series titled 'Disgraced Lords' (with one of the parts being the documentary of Mr. Raihan) on 2nd September on all the online platforms including youtube and several television channels slating to release the four-part docu-series on 1st October, 2020. The trailer indicated the four different stars of Galar whose life-story was being depicted and claimed that the docu-series was intended to show the lesser-known facts of the stars including the scams and scandals each of them were involved in. The transcript of the relevant portion of the trailer pertaining to Mr. Raihan's documentary is provided below:

1st Narrator's voice: "*Cricketing Lord, Child of the slum, inspiration to many, person who had reached sky high.....a downfall never expected*"

Mr. James's voice (Mr. Raihan's Coach): "*He was a boon to Galarian Cricket..... there was time when the opposition wished he sat out the match against them..... an enigma in*



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himself.....he was born in a slum by accident, should have been born on the pitch... born to play cricket.....”

Mr. Dede's voice (Mr. Raihan's ex-Team-mate): *“He was the inspiration to the entire team. He could inspire the team to win matches from seemingly impossible situations.....I was shattered to witness him being involved in match-fixing.....no one can be bigger than the sport....it seems he presumed the contrary.... purity of the sport stood compromised by his actions”*

2nd Narrator's voice: *“Is the greatest cricketer of all time the one who disgraced the sport the most??.....witness the life story of yet another disgraced lord.....part 4 of the Disgraced Lords”*

(Throughout the trailer's portion pertaining to Mr. Raihan various images and clippings of Mr. Raihan were displayed in the background. However, Mr. Raihan's name was not taken anywhere.)

23. Mr. Raihan was taken by surprise by the contents of the Trailer. He was under the belief all along that the documentary would be limited to his story from being born in slum to becoming a cricketing superstar. In-fact it was for the first time that he came to know about the title of the four-part docu-series which itself he felt to be defamatory. He made several attempts to contact Mr. Goh and other officials at Contentopera.Inc but he received no satisfactory response.



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24. Aggrieved by his depiction in the trailer, he approached the district court of City of Freezingtown seeking perpetual injunction restraining Contentopera.Inc & Mr. Goh from releasing Part-4 of the Docuseries 'Disgraced Lords' and also sought for injunction on any further publication/telecast of the trailer or any other video related to Part-4 of the Docuseries apart from seeking damages for defamation caused due to the trailer being released. He also filed appropriate application for seeking interim injunction restraining Contentopera.Inc & Mr. Goh from releasing Part-4 of the Docuseries 'Disgraced Lords' pending the final adjudication of the suit.

25. It was specifically submitted that Mr. Raihan's consent for the docuseries was obtained by misrepresentation and that he was always made to believe that his story would be depicted in a manner so as to inspire several individuals across the globe and the story would only be limited to the extent of his achievements in Cricket. It was further argued amongst other submissions that it was a violation of his right to privacy.

26. Contentopera Inc. & Mr. Goh opposed the grant of interim injunction on the ground that the docu-series was meant to show the real-life events as they transpired and as such truth was a valid defence against claims of defamation. It was also submitted that consent of Mr. Raihan was comprehensive and that it was obtained as a matter of abundant precaution. As such the said consent was not necessary since the docu-series was based on information available in public domain. It was also stated that



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Contentopera Inc had made huge investments in production of the docu-series and it will have to face huge losses if the docu-series was enjoined from being released.

27. The district court after hearing both the parties and having perused the record granted interim injunction on 11.11.2020 in favour of Mr. Raihan restraining Contentopera Inc. & Mr. Goh from releasing the Part-4 of the Docu-series titled “Disgraced Lords” pending the final adjudication of the suit.

28. Aggrieved by the same Contentoper Inc. & Mr. Goh approached the High Court for the State of Hammerlocke in appeal against the order of the District court dated 11.11.2020. The said appeal also came to be dismissed by the High Court by order dated 23.12.2020 confirming the order of the lower court.

29. Meanwhile, the Petition filed challenging the constitutional validity of the Act was heard at length by the High Court and after considering the elaborate submissions made by Contentopera Inc. & the State of Hammerlocke, the High Court passed a judgment on 29.12.2020 upholding the constitutional validity of the Act.

30. Aggrieved by both the orders of the High Court, two separate SLPs were filed before the Supreme Court of the United States of Galar, one by Contentopera Inc. & Mr. Kabu challenging the judgment of the High Court upholding the validity of the Act and the other by Contentopera Inc. & Mr.



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Goh challenging the order of the High Court confirming the interim injunction order of the district court.

31. The two SLPs came to be admitted by the Supreme Court of the United States of Galar, which decided to hear both the matters together and framed the following questions for consideration:

- I. Whether the Online Content Regulation Act, 2020 is unconstitutional on the ground of procedural *ultra-vires*.
- II. Whether the Legislature of the State of Hammerlocke was competent to enact the Online Content Regulation Act, 2020
- III. Whether the Online Content Regulation Act, 2020 is violative of Part - III of the Constitution.
- IV. Whether Mr. Raihan is entitled for the relief of interim injunction restraining the release of the Part-4 of the docu-series titled “Disgraced Lords” pending the final adjudication of the suit.

NOTE:

- The Participants are expected to limit their submissions only to the issues framed by the Supreme Court.
- The laws of United States of Galar are Paramateria to the Laws of India, including the judgments delivered by Supreme Court of India and various High Courts of India. However all ‘Common Law’ Precedents including the judgements of Supreme Court of India and various High Courts of India would have equal persuasive value.



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- The participants are expected to bring to the court's attention the relevant jurisprudence. It may include judgements and opinions delivered by Courts of Common Law Nations.
- The participants have to demonstrate with cogent reasons as to why a principle of law derived from precedent or otherwise is logical and the most applicable one.

ANNEXURE 1

THE ONLINE CONTENT REGULATION ACT, 2020

1. Short title, Extent and Commencement:

- a. This act may be called the 'Online Content Regulation Act, 2020.
- b. This act shall come into effective from 15th August 2020.
- c. This act shall extend to the whole of the State of Hammerlocke

2. Definitions:

- a. 'Online Curated Content Platform' shall mean are online platforms that curate a range of content and present it on a singular platform that allows viewers to download and/or stream content from the platform.
- b. 'Online Curated Content Provider (OCCP)' shall mean any person or company that develop/establish/maintain an Online Curated Content Platform and is responsible for the content on the said platform.



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For avoidance of any doubt, this Code does not apply and specifically excludes providers which makes available any User Generated Content and intermediaries that provide access to repertoire of OCCPs.

- c. 'User Generated Content' shall mean any content that is not produced or generated by an OCCP or the right to publish which has not been acquired by the OCCPs

3. Prohibited Content:

The OCCPs will not make available the following categories of content through their services to users:

- a. Content which promotes and encourages disrespect to the sovereignty and integrity of the United States of Galar;
- b. Content which represents a child engaged in real or simulated sexual activities or any representation of the sexual parts of a child for primarily sexual purposes;
- c. Content which depicts Obscenity & Nudity and appears to promote consumption of Drugs and other prohibited substances.
- d. Content that is violative of an individual's privacy without such individual's consent;
- e. Content which promotes and encourages terrorism and other forms of violence against the United States of Galar or its institutions; and
- f. Content that has been banned for exhibition or distribution by online video service under applicable laws or by any court of competent jurisdiction. For clarity and notwithstanding the generality of the foregoing, the OCCPs shall ensure that all applicable laws, rules and regulations are complied with.

14. Classification of Content:

OCCPs shall classify the content available on their Online Curated Content Platform in the following categories:

- General / Universal Viewing



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- Content which requires Parental Guidance Content which is solely meant for age-appropriate audiences (such as 12+, 15+ etc.)
- Content which is meant solely for mature audiences/Adults (18+)
- Content may be categorized on the subject matter treatment of themes such as Crime & Violence, Sex, Horror & Occult, Drugs and Language.

OCCPs shall display the classification of the content prominently in manner that the user is aware of the classification before accessing the content.

16. Content Descriptor:

OCCPs must display a content descriptor or a guidance message specific to each content/programme that indicates and informs the viewer about the nature of the content and advise on viewer discretion, if applicable.

18. Parental and/or Access Control:

The OCCPs must institute relevant technological tools and measures to ensure access to content and/or enable parental controls. Alternatively, to providing parental controls, the OCCPs shall adopt access control measures such as PIN/Password to access/restrict content solely meant for mature audiences/adult viewing.

21. Penalties:

If anyone violates any of the provisions of this act then they shall be punishable with fine which may extend to fifty lakh rupees and in the case of a continuing offence, with a further fine which may extend to one lakh rupee for each day during which the violation continues.