



MOOT PROPOSITION

The 2023 NHRC-RGNUL
Human Rights National
Moot Court Competition

MOOT PROPOSITION

IN THE HIGH COURT OF BHANU PRADESH

In the matter between

Centre for Therapeutic Legal Healing

v.

State of Bhanu Pradesh and Others

ORGANIZED BY:

Rajiv Gandhi National University of Law, Punjab

in collaboration with

National Human Rights Commission of India

24th – 26th February 2023

IN THE HIGH COURT OF BHANU PRADESH

Centre for Therapeutic Legal Healing

v.

State of Bhanu Pradesh and Others

1. The Republic of Shalvak is the third largest democratic country in the world with 27 Provinces and 3 Centrally Administered Units. The Constitution of the country indicates that the country has adopted Federalism. The Constitution of the Republic of Shalvak provides six Fundamental Rights including Right to Life under Article 21 of the Constitution and several other Human Rights and Statutory Rights which are at par with the International Documents including Universal Declaration of Human Rights etc. The Constitution also offers remedial measures for human right violations.

2. The country has a rich tradition of ancient medical system which includes holistic healing of mind and body. Accordingly, the country also boasts of a strong Health Act which was enacted in 1956 and it was amended only in 1996 to include a provision related legalizing sex change operations for trans gender people. The significant chapters of this Act includes-

(I) Right to holistic health as part of right to life,

(II) Right against negligent behavior of the health service providers including the doctors, para medics, nurses, hospitals, and hospital managements,

(III) Right against illegal abortions, against illegal organ trafficking,

(IV) Right to access free medical aid provided by the government.

3. The country has also enacted Information Technology Act and other procedural laws which are similar as it is with Indian Information Technology Act, Indian Penal Code, Criminal procedure Code, Civil Procedure Code, Evidence Act etc.

4. The country has a beautiful and strong system of Separation of Power and has strong institutions to look after human right violation issues.

5. On 6th December 2022, the police in Chandrikapur district of Bhanu Pradesh, a province of the Republic of Shalvak received a complaint of unnatural death of 6 members in a family. The investigation results suggested that the head of the family Mr. Nandvan was suffering from heavy depression due to continuous harassment, pressure at workplace. He used to take 'Calioregamantle' tablet as anti-depressant. This was not a prescribed medicine. Nandvan searched on internet about best anti-depressant medicines that are available in the market without prescription, and he purchased the same online. He was always afraid that if he loses the job due to office politics his two minor children, his wife and his aged parents have to undergo tremendous hardship as he is the sole earner of his family.

6. On 4th December 2022 he had some altercations with his supervisor at office. He started shouting at the supervisor and threw his bag to him. The supervisor informed him that disciplinary action will be taken against him. Nandvan came back, had dinner with his family and within 2 hours all the family members died due to heavy dose of Calioregamantle medicine.

7. A suicide note was recovered from the body of Nandvan where he stated that due to extreme pressure, he is taking this step, and no one is responsible for his death. As there were no suicide notes found from other family members, police assumed that Nandvan had secretly mixed the Calioregamantle medicine in the dinner food that was consumed by the rest of the family members.

8. Police registered the case of unnatural death. But the chargesheet included the names of the supervisor and some colleagues with whom the altercation happened and who came to stop Nandvan from physically assaulting the supervisor. The chargesheet also mentioned about the pharmaceutical company '**Moon Pharmaceutical Pvt. Ltd.**' and the e-commerce platform '**Flipdeal**' that was selling the Calioregamantle medicine.

9. The significant points are as follows:

a. Nandvan was subjected to mental harassment and workplace torture. There were no policies in the workplace regarding organisational behaviour related training and no counsellor was available to assess the psychological status of the employees.

b. Calioregamantle medicine is a restricted medicine in other jurisdictions as unprescribed doses could cause heart attack. But pharmaceutical company named 'Moon Pharmaceutical Pvt. Ltd.' that was manufacturing this medicine in the Republic of Shalvak did not carry out the necessary tests and hence it was made easily available for the market.

c. The e-commerce platform 'Flipdeal' that facilitated the sale of the medicine is hosted in the United States of America. The platform can be accessed from the Republic of Shalvak. The medicine is listed as 'available' when the investigation was being done . The information about the medicine on the web portal stated that this is the best antidepressant medicine. It will not have much side effects except that it may cause slight giddiness. It will not cause heavy effect on nerves. It also mentioned that the medicine can be taken after food twice in a day and will cause a calming and relaxing effect on the body.

d. But the e-commerce platform 'Flipdeal' does not have any nodal officer or grievance redressal officer/office situated in the said country. The availability of the medicine on the platform and the review of the medicine on the open platform may encourage people to buy it in large quantity without knowing any side effects of the same. The said company has to be made liable for selling unprescribed medicines.

10. While the case got listed in the court, the media started airing about the peculiar nature of the death. This attracted the attention of an NGO named 'Centre for Therapeutic Legal Healing'. They filed a writ application in the High Court referring to the death of Nandvan and his family and wanted the High Court to consider directing (i) for a policy guideline for workplace mental health regulation and (ii) for making the e-commerce platform liable for misleading general consumers about the availability of the "dangerous" drug.

11. The High Court of Bhanu Pradesh has to decide on these 4 issues:

(i) Whether the present case is maintainable in the High Court of Bhanu Pradesh or not?

(ii) Whether the High Court of Bhanu Pradesh can direct for formulation of Mental Health Regulation related laws and policy guidelines?

(iii) Whether the US based E-commerce platform '**Flipdeal**' is liable for facilitating the sale of unprescribed medicine?

(iv) Whether the pharmaceutical company '**Moon Pharmaceutical Pvt. Ltd.**' is liable for manufacturing the drug which is contended to be dangerous for health?

Note: -

- a. All the laws of the Republic of Shalvak are **Pari-Materia** to that of the Republic of India.
- b. The parties are not allowed to frame/add any further issues.
- c. The parties are allowed to frame sub-issues as per their own discretion.
- d. This is a work of fiction. Names, characters, business, events and incidents are the products of the drafter's imagination. Any resemblance to actual persons, living or dead, or actual events is purely coincidental.
- e. The Proposition has been drafted by Prof. Dr. Debarati Halder, Professor of Law, Parul University, Gujarat. Any attempt to contact the aforementioned person in relation to this Competition directly or indirectly will qualify as scouting and the Organisers reserve the right to take any appropriate action, including disqualification and/or blacklisting the participating institution and/or the members found engaging in such conduct.