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MOOT COURT SOCIETY

FRESHERS' MOOT PROPOSITION 2023

The State of Indus is the second most populous country in the world and has democratic system of governance with a structure which is federal in nature and with a unitary bias.

The State of Indus is also the largest democracy in the world and boasts of having a population which is diverse in terms of its language, religion, caste and culture and practices. The State of Indus is popular for its unity in diversity.

The State of Indus has a written Constitution which in its third part deals with the most important facet of fundamental rights. State of Indus is a developing country and has recently made rapid progress and growth in terms of technology and skill development.

The third part contains different provisions which are based or borrowed from different Constitutions of the world like the American Constitution, the Irish Constitution and many other constitutions.

The Supreme Court of India has in two judgments, *M.P. Sharma* and in the case of *Kharak Singh* held that right to privacy is not a fundamental right. However, he said question again fell for consideration before a nine judge bench which while overruling the earlier two judgments, held that privacy is a fundamental right.

In the elections held in 2014 in the State of Indus, after a long time a singular political party has come into power and now the said party has introduced the Aadhar Act which makes it mandatory for all the citizens of the country to have an Aadhar Card and to link the same to their respective bank accounts, phone numbers, income tax accounts etc.

After linking the Aadhar Card to the bank accounts, phone numbers, income tax accounts etc. the government started to have access to the personal details of the citizens. As the government had access to the personal details of the citizens, the government began to use the Aadhar Card details for various purposes, including but not limited to sharing details with organisations for the purpose of marketing. Aggrieved by this news, Mr. Gupta, a political activist filed an RTI



to inquire the exact details of the use of the Aadhar Card. The reply to the RTI stated that *“Information regarding the use of Aadhar Card details is unavailable”*

Thereafter, NFC, a community of people protesting against the said Aadhar Act and, misuse of the details filed an RTI Application regarding the details of the use of the Aadhar Card, however they received a similar response.

Dissatisfied by the reply to the RTI, Mr. Gupta along with NFC filed a Writ Petition before the Supreme Court of India on the ground that their fundamental right of freedom of speech and expression has been violated. The Government in its reply did not deny that the Aadhar details were misused, instead states that a vague reply to an RTI does not violate the right to freedom of speech and expression of NFC and Mr. Gupta.

The citizens of Indus also filed a Writ Petition before the Supreme Court challenging the validity of the said Aadhar Act itself on the ground that it violates the right to information and fundamental right to privacy. On the other hand, the government has argued that the act does not breach the right to privacy or right to information under the Constitution of India.

Both the issues have been clubbed by the Supreme Court and the matter is now listed before the Apex Court of Indus for final arguments.

Issues:

1. Whether the case is maintainable before the Supreme Court and whether the fundamental right of freedom of Speech and Expression has been violated?
2. Whether the Aadhar Act violates the fundamental right to privacy?

Note: The laws and procedure of Indus are Pari Materia with the Laws of India