



SRI DAMODARAM SANJIVAYYA CENTENARY INTERNATIONAL MOOT COURT COMPETITION



MOOT PROBLEM

The country of Kelashin is surrounded by beautiful snowcapped mountain and luscious green valley.

The population of Kelashin is 180,000 and the people are mostly engaged with tourism industry as it is the major source of their income. In the country of Kelashin, exists a region by name of Ninievh, known far and wide not only for its mineral wealth but also for its 'magical mud', which is believed to have magical properties of healing. The Ninievh region is also considered as stronghold of Kelashin National Party. In the election of 2014, Kelashin National Party came to power by defeating Quarqar National Party. Since then, the reign of the government is in iron hand as observed by Quarqar National Party. Kelashin National Party is known for its strong decisive steps. So far things were going normally but in the year 2016 there was a spread of an epidemic which had flu like symptoms. The same disrupted the life of the people of Kelashin and many people succumbed to that epidemic.

In the midst of this hue and cry, Government suggested that the application of 'magical mud' from Ninievh may relieve the people from their pain. The statement from the government was not well received by a section of people. Few activists filed applications before authorities viz., Prime Minister' Office, Ministry of Information and Broadcasting, Ministry of Science, seeking the scientific basis of the said suggestion. The requests for information were rejected on the ground of public policy, public health and safety. A newspaper 'Urar Times' criticized the government for such benighted mentality. Mr. Arbilaya a senior journalist working in Urar Times posted on his 'your eyes only' account, "Presently magical mud for epidemic treatment and next roots and stones for malignant treatment. Government is not leading but misleading the country and taking it rearward. Such incapacitated Government should be overthrown so that the nation can be cleaned of its evil effect".

Soon this 'your eyes only' post created an uproar and members of Kelashin National Party felt violated and insulted. The Vice President of the ruling party Mr. Bartulme and General Secretary Mr. Caifas made a complaint to the police stating that such posts are an insult not only to the office of Prime Minister and the Government but also are against the national unity and integrity. Mr. Arbilaya was arrested on 06/07/2016 on the grounds of Kelashin Security Act and Sedition.



SRI DAMODARAM SANJIVAYYA CENTENARY INTERNATIONAL MOOT COURT COMPETITION



His friend and Colleague Ms. Brula another journalist working at Urar Times stated that this is not the first time that Mr. Arbilaya is arrested. He has been arrested previously for criticizing the government.

Meanwhile, few concerns were raised on the ownership structure and composition of the newspaper. A foreign company holds minor stake in the paper and occasionally had its representatives on the board. The funding of the newspaper is also questionable according to the local officials. The government has recently streamlined the norms of domestic entities receiving foreign funds. In search of domestic funds, the Urar Times roped in 'Tersni' a prominent business house, which is an open supporter of the present government. Tersni insisted that it should get a controlling stake or should always have their member on the board. This led the change in the method and mode of operations of the newspaper and the Chief editor had issued a public statement that the paper does not endorse the views of Mr. Arbilaya, and a show cause notice has been issued to him. Many senior journalists expressed a shock about the marked change in the working culture of the newspaper.

On the part of the government, Mr. Bartulme and Mr. Caifas alleged that Mr. Arbilaya is a great friend to one Mr. Garsa who is a founder of 'Adamen Activist Party' known for its aggressive political views and is under the radar of suspicion for its surreptitious activities. One fine morning police raided the house of Mr. Arbilaya and confiscated the hard drive of his computer and pen drive as well. It seems, from the pen drive police got the information pertaining to huge repository of illegal arms and ammunition. Mr. Arbilaya stated in his interrogation that the pen drive was borrowed by Mr. Garsa and he returned the same, a day before the raid.

Further, Police discovered some old Video Cassettes of 2015 from his place of residence, where in a private party, Mr. Arbilaya, while addressing a small gathering stated, "Mothers and sisters were obliged to sell their honour in order to support themselves. Labourers were obliged to beg. Thousands of cultivators and labourers were famishing for want of food. School fees and railway fares were increased two-times and four-times so that cultivators may not remain happy, in this regime thousands of women were being abducted and women were turning into prostitutes for the sake of food and clothing. Taxes were being imposed on deaths and births. Cultivators' and labourer's blood was being sucked through foreign capitalists. Labourers have now organized



SRI DAMODARAM SANJIVAYYA CENTENARY INTERNATIONAL MOOT COURT COMPETITION



themselves. Now they will not beg for pity but will take up cudgels and surround the ministry and warn it that if it did not concede to their demands they have to go”.

At the height of police intensified investigation, Mr. Garsa’s office of Adamen Activist Party was also searched. Police confiscated documents/pamphlets which stated/suggested “advocates revolution and taking up of arms and ammunition whenever needed to fight the reign of injustice”. The documents also included Cartoons defaming and degenerating Parliament, Constitution and National Emblem of the State of Kelashin. Interestingly, the pamphlets aforesaid were also found in the village of Kanesh and Harran, which were considered as stronghold of Adamen Activist Party. The language used in the said pamphlets had striking similarity to the language used by Mr. Arbilaya in the videos of the private party.

The lower courts have denied bail to Mr. Arbilaya. Voice for All, an NGO working for the protection of journalists filed a writ petition before the apex court of the country seeking fair treatment of journalists, in general, and release of Mr. Arbilaya, in particular. When the matter was heard for the first time in the apex court, Voice for All raised concerns on the increasing control of the government on the press. It cited the change in the working culture of ‘Urar Times’ after the new rules on funding as an example.

Note: The Laws of Kelashin is *pari materia* to the Laws of India.

The court has decided to have final hearing on the following issues:

1. Whether the arrest and subsequent denial of bail to Mr. Arbilaya on the ground of sedition and national security is valid?
2. Whether the denial of scientific information on the suggestion to use magical mud amount to violation of the citizens’ right to Information?
3. Whether the change in funding rules impede freedom of press in the country?