

Symbiosis Law School NOIDA | Moot Court Society**Moot Problem of the Month (MPM) Initiative
September 2019****Moot Proposition**

1. The Free Republic of Westeros is a Union of States structured similarly to the Union of India. It is the second largest populated country in the world and the biggest democracy in the world. The government of Union of Westeros (hereinafter referred as Westeros) is based and run on the lines of Federal Parliamentary Constitutional Democratic Republic model. Westeros was a colony under the British until 1950 and was politically, economically and socially deprived by the British. After Independence, Westeros started developing infrastructure, and has made significant strides in economic, scientific and technological advancements.
2. In Westeros from 1950 onwards 60% of the population was staying below poverty wherein professions like bonded labour, immoral trafficking and prostitution were rampant. Violent Crimes against women such as rape, molestation in public and in private etc. had become common in the country. While economic development had caught pace in the country, socio-cultural growth largely remained concentrated among a few powerful cohorts. Recent surveys by various domestic and international organisations highlighted that the Westeros was still poor, with the economic power being controlled by a handful of people.
3. Since 1970s, reservation has been an important albeit controversial subject matter of government policy in the country. The logic of reservation in Westeros – and this dates back to pre-Independence times – has, consequently, always been that while the right to equality is an individual right, the only method of achieving substantive equality at an individual level is to take into account the disadvantages and barriers that exist on account of groups (and specifically, caste groups) and undertake positive discrimination/affirmative action to provide a level playing field.
4. Westeros is governed by the government set up by Whitewalkers (a Nationally Recognised Party), which procured absolute majority in the Parliament during the year 2019. Whitewalkers was known for their free spirit and free thinking, after taking into consideration reports of the Economic Survey, Census etc., they tabled a bill before the Lok Sabha of Westeros. Since Whitewalkers Party had an absolute majority in Parliament, the bill was passed despite feeble resistance from a toothless minority, without what experts believe to be due deliberation/discussions. (start to finish, it took 48 hours) and culminated in an Act titled as The Constitution (One Hundred And Twenth Amendment) Bill, 2019 (hereinafter referred as “Act/the Act” to avoid circumlocution and for the sake of brevity). It was notified and came into effect on 1st February, 2019, just months before Elections to the central legislature.
5. The said “Act”/ “Amendment” subjectively and objectively proposed to permit the government to:
 - a) make special provisions for any economically weaker sections of citizens
 - b) make special provisions, including reservations in admissions to educational institutions, in addition to the existing reservations to the extent of 10%, and
 - c) make provision for reservations in appointments or posts, in addition to the existing reservations to the extent of 10% for the advancement of “any economically weaker sections of citizens” other than the classes mentioned in Articles 15(4) and (5) and Article 16(4).

6. The media houses within Westeros applauded the Act by running editorials, reports, discussions, etc. that the Amendment gave real meaning to Equality Code of the Constitution of the Westeros, since the Amendment made way for the government to provide reservation on the basis of economic condition of people in the country. Post the successful amendment to the Constitution, the government announced that those who earn less than Rs. 8 lakhs per annum, have less than 5 acres of land and their house area is less than 1,000 square feet, qualify for reservation.
7. However various economic and constitutional pundits criticised the amendment and held that the criteria for economic reservation is so liberal that almost 90% of Westeros families are covered under this. Additionally, reservation of 10% being given to the masses that constitute 90% of the population is patently farcical. The constitutional pundits also opined that with 'family income' as the primary determinant of economic disadvantage, the Amendment advances a philosophy of reservation that focuses on remedying individual disadvantage (by taking the family as the unit for determining who is disadvantaged), instead of remedying disadvantaged group. At a very fundamental level, this departs from the kind of equality that the Equality Code (Articles 14, 15, and 16) envisages. The scheme of Articles 14, 15 and 16 is one that acknowledges the historical fact that in Westeros, group membership has been the primary basis of institutional and structural disadvantage. One's access to opportunity and chances of social and economic mobility have been mediated by one's group identity – and primarily, that identity has been structured around caste.
8. While the government of Westeros had sensed a lot of criticism and scrutiny coming their way, this move of amending the equality code was followed by another constitutional amendment which puts this reservation in the Ninth Schedule of the Constitution to protect it from judicial scrutiny.
9. The Amendment created hysteria among different castes of the Westeros including Greyjoys, Arryns and the Tullies as most of them demanded reservation in central government jobs. The citizens of Union of Westeros made unprecedented endeavour to take maximum advantage of the said amendment of 2019. Financial crimes and malpractices were on a rise in the country as every citizen wanted to cover themselves in the criteria formulated by the government.
10. Winterfell, a registered NGO, having its head/main office in the State of Kings Landing, in the Union of Westeros, claims itself as a champion of economic empowerment and an organisation which keeps a strong check on the government policies. It gave a representation to Shri Jon Modi, the Prime Minister of Westeros, to use his good offices to repeal the amendment as there was widespread chaos in the Union of Westeros as a consequence of the amendment. Winterfell, feeling aggrieved by the inaction in relation of its representation, approached the Supreme Court of Westeros, and challenged the constitutional validity as well as legality of the Amendment of 2019 citing violation of basic structure of the Constitution of Westeros.
11. The Chief Justice of State of Westeros seeing this as an opportunity to settle the law on the questions raised, constituted a special bench consisting of five judges to hear the Writ Petition, they said matters are posted for final hearing before the Supreme Court on 20th February 2019.

Disclaimer: The above mock legal problem has no connection with any person living or dead, and any similarities are merely co-incidental. This problem is purely for academic purposes.

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