



**“The right to be let alone is indeed the beginning of all freedom.”**

**- William O. Douglas 1952**

## **MOOT PROBLEM**

### **Facts:-**

‘The Great River University’, a State Private University was established in the year 2000. The university boasts of high quality infrastructure. It also provides, to its students, uninterrupted, broadband internet connection over the campus wide Wi-Fi, free of charge. Every year, the university admits students to various undergraduate and post graduate programs from the diverse sections of the society. During the time of admission, the university gathers student’s data for administrative purposes and stores them in digital form. The data includes personal details, past academic performance, income of parents, demographic information, student’s registration / fee details, semester wise course marks / grades details, extracurricular activities etc.

The university periodically updates various examination schedules, seating arrangements, results including entrance and semester end marks / grades, admission lists, unfair means / punitive actions etc on its website. The information displayed on the website is accessible to all the students across the university.

**1st ANAND SWAROOP GUPTA MEMORIAL' NATIONAL MOOT COURT  
COMPETITION, 2016 (07-09 APRIL 2016)**

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On 15<sup>th</sup> January 2015, the university published a stream wise comparative analysis of performance of its engineering undergraduate students on its website. The analysis showed the comparison of marks / grades obtained by students with demographic and gender indicators along with their economic and social data. It showed certain minority communities of students doing poorly in passing the undergraduate engineering degree with those of majority community students.

In a separate analysis of internet usage in the campus, charts, graphs and statistical data showed students belonging to certain minority communities and students from rural background not utilizing free-on-campus-Wi-Fi-internet for the intended purposes. It depicted them veering out to popular social media web sites and other illicit sites most of the time and visiting and downloading less relevant educational contents.

One of the students named Roop Singh Hajela's father Mr. D.C. Hajela lodged a complaint via email to the university authorities alleging violation of privacy of his son by depicting his educational performance in a poor light, thereby making him face ridicule amongst his class fellows and academia of the University. The email further demanded a written apology from the university and immediate removal of the comparative analytical data displayed on the university website. The university authorities replied back, stating that they had merely depicted a comparative statistical analysis in general without naming any student in particular and refused to apologize.

Another girl student named Songam Thyangmu Panchola's elder brother Mr. P.T. Panchola from Ladakh, also complained to the university authorities that his sister's identity was revealed in poor light in the above mentioned data analysis. As a consequence, she has gone into depression and is undergoing psychological counseling and medical treatment. He demanded an unqualified apology and immediate removal of the data from website. He further claimed monetary compensation against mental harassment and depression related medical treatment.

The authorities refused to entertain Mr. Panchola's complaint citing such statistical analysis to be complying with the policies of the university and stated that the display to be in harmony with administrative guidelines.

The university refused to remove the data displayed on the website. This resulted in the continuous harassment of the minority community students. The students being upset with the decision of the university sat on strike in the campus which was led by Roop Singh.

The university authorized the proctorial board to conduct an inquiry into the reason behind the strike and submit a report. The proctorial board conducted a fair and transparent enquiry based

on principles of natural justice. The proctorial board found that Roop Singh Hajela was guilty for involvement in promoting enmity between different groups on grounds of religion and recommended his expulsion from the university. Roop Singh was expelled from the university. Unable to withstand the defamation that he and his family suffered, he attempted to commit suicide.

### **First stage of Petition -**

Mr. D.C. Hajela on behalf of his son Roop Singh Hajela filed a petition to the district Court located at Sher Garh (Dinogro State Capital). The magistrate dismissed Mr. Hajela's petition against The Great River University due to lack of evidence and also held that the enquiry conducted by the university was fair and just.

### **Appeal to High Court -**

Mr. Hajela appealed to Dinogro State High Court located at Bahadur Nagar citing violation of his son Roop Singh Hajela privacy by depicting his educational performance in a negative manner along with defamation and harm to his physical health.

Mr. PT Panchola, brother of Songam Thyangmu petitioned Dinogro State High Court in a similar petition alleging that his sister was singled out in the said statistical analysis. It had revealed her identity in an indirect manner as she belonged to a backward tribal hill area minority community from a difficult demographic state. Her privacy was violated by the university website analysis and showed her in negative color by putting her in a category not interested in studies and ventures on online social media sites more as per data revealed by website analysis. She got ostracized by her peers, fellow students and academia due to unsuitable non sensitive generalized of analysis making a stereotype out of her. Being singled out due to her unique identity revealed she had to face consequence by undergoing a severe depression and medical conditions.

Both the complainants cited the Ethical Legal and Privacy violations of their wards by the university in revealing the students identities in a negative manner causing them mental agony and suffering, social ostracization and consequent depression. They further wanted the High Court to direct the university authorities to immediately remove the said statistics from their ~~website which was still being displayed, apologize and compensate for the mental and physical~~ agony their wards are undergoing.

**Acts, Statutes and Laws –**

The Constitution (Eighty Sixth) Amendment Act, 2002 added Article 21A in part III of the Constitution of INDUS, thereby making right to free and equitable distribution of broadband internet, provisioning as an extension of fundamental rights to education.

The "Privacy Acts" are data protection laws which regulate the collection, use and disclosure of personal information about individuals; they do not protect privacy of the individual in a broader sense.

A variety of other legislation contains privacy protection provisions relevant to particular types of entities.

The INDUS Technology Act is meant to be positive on the one hand, provisioning free and compulsory internet broadband and on the other hand, preventive, in ensuring persons privacy online.

**\*\*All INDUS legislations are similar to the provision of INDIAN Legislations**

**\*\*INDUS Constitution is *para materia* to Constitution of India**

**\*\* INDUS Technology Act is *para materia* to IT Act, 2000**