



Before
THE HON'BLE SUPREME COURT OF INDIANA

Civil Misc. Petition No. ___ of 2019

Utter Pardesh Government Petitioner

Versus

Union of Indiana Respondent

With

Civil Appeal No, _____ of 2019

Chief Minister of Utter Pardesh Appellant

Versus

Union of Indiana Respondent

Public Interest Litigation No. ___ of 2019, In the matter of

Arya Bolton Petitioner

Versus

Election Commission, Indiana Respondent

Writ Petition (Civil) No. ___ of 2018

Johan and Dany Petitioner

Versus

Unions of Indiana Respondent

[DETAILS]



SCHEDULE

04:20	Orientation Session	
	Explanation of Moot Terminology and Moot Procedure	
	Explaining the Art of Mooting	
	Question Answer Session with Mooters	
05:15	Welcoming of the Guests	
05:20	Moot Court Begins	
	Oral Pleading by Petitioners on Issue 1 and 2: (Student Advocate 1)	10 Min
	Oral Pleading by Petitioners on Issue 3 and 4: (Student Advocate 2)	10 Min
	Oral Pleading by Respondents on Issue 1 and 2: (Student Advocate 1)	10 Min
	Oral Pleading by Respondents on Issue 3 and 4: (Student Advocate 2)	10 Min
	Rebuttal by Petitioners	05 Min
	Sur-butal by Respondents	05 Min
	Remarks from Judges	
06:30	Question Answer Session with Judges	



PROPOSITION

In Indiana there has been a rise of the dynasty politics (majority of the political parties are controlled by particular families: Like Everything Family Party [EFP]) and communal politics (parties unapologetically using religion as a tool of politics where most prominent is Everything Ban Party [EBP]). At present, EBP is in power in Union and majority of states. Arya Bolton a leading legal Activist filed a Public Interest Litigation in the Supreme Court of Indiana arguing that such non-democratic practices are essentially against the spirit of our Constitution and asked for issuing directions to election commission for derecognizing such parties.

Some people took up arms and organized themselves into a group called “White Walkers” having Ideology that Indiana is a sham democracy, sham republic and sham secular state. Believing dynasts to be despotic monarchs masqueraded as politicians and communal parties a serious threat to society, political system and Constitution being designed to serve the rich only they advocate for a resolution with slogan SARDIYAN IS COMING to save the country. The started violence where clashes between ‘White Walkers’ and security agencies resulted into death of innocent civilians, causing collateral damage to the state.

Some members of the ‘White Walkers’ got dissatisfied with violence and give up arms. In 2012, they joined the politics forming a political group called Everything Free Party (EFP) to further their agenda. In January 2017 EFP won elections in State of Uttar Pradesh by significantly beating all the opponent parties. Also leading surveys shows that EFP is in pole position for General Elections 2019.

All other parties decided to keep their age old rivalries aside and join hands therefore; launched a massive campaign all over Indiana against EFP propagating that EFP nothing but ‘Urban white Walkers’ pretending to be politicians with a sole objective of sabotaging the system from inside and EFP never criticizes the killings of armed personnel by walkers during encounters.

In December 2017, Union Government sanctioned the ‘Operation Winterfell’ to wipe out the whites from all White Pockets in the country and central forces slowly started gaining ground. News of civilian casualties, excessive use of force, and extra judicial killings by central forces surfaced from many parts. Subsequently many human rights activists including Mr. Johan and Ms Dany from EFP got arrested by Delhi Police on the ground of sedition and working with White walkers and discreetly encouraging young men and women to join White Walkers. These activists approached the Supreme Court to constitute Special Investigation Team to look into the arrest of the Activists.

Following its Operation Winterfell, central forces alleged that Uttar Pradesh Government has failed to cooperate in wiping off white pockets existing in its territory. In fact one intelligence report showed that many senior leaders of White Walkers have taken refuge in the state of Uttar Pradesh. To make things worse two leaders from the EBP were shot dead in the broad daylight allegedly by Whites, although the State Government assured that guilty will be punished, Central Government significantly increased the number of central forces and virtually took over the whole law and order in Uttar Pradesh.

Invoking the original jurisdiction of the Supreme Court, State of Uttar Pradesh argued that Union, using its power to deploy its armed forces, has in way been encroaching in the State fields of ‘Public Order’



and 'Police', so raised the issue that Whether provisions of 42nd Amendment, 1976 which added entry 2A in Union List and also amended entries 1 and 2 of State List violates the basic structure of the Constitution. Also whether these provisions in their present form allow the central forces to completely take over law and order in the State? Whether the situation prevailing in Uttar Pradesh warranted such extreme measures.

Further, in September 2018, the Union Government invoked Article-356 and imposed President's Rule on the charge that State Government is constantly interfering in operation against white walkers. Also in last 17 months, State Govt. has turned Uttar Pradesh into a breeding ground for anarchists and the White Walkers. It has become a Safe haven for many White Walkers. However Uttar Pradesh State Govt. challenged its actions as the murder of democracy and constitutional federal structure before the High Court of Uttar Pradesh. However High Court upheld the Presidents Proclamation. The state of Uttar Pradesh challenged the same in Supreme Court.

The Supreme Court of India has clubbed all the issues of Arya Bolton's PIL, Johan and Dany's case for appointment of SIT, Taking over of Law and order of state and finally imposition of emergency.



STATEMENT OF ISSUES

1. Whether provisions of 42nd Amendment, 1976 which added entry 2A in Union List and also amended entries 1 and 2 of State List violates the basic structure of the Constitution. Also whether these provisions in their present form allows the central forces to completely take over law and order in the State? Whether the situation prevailing in Uttar Pradesh warranted such extreme measures.
2. Whether the proclamation of President Rule in Uttar Pradesh is constitutionally valid or not?
3. Whether dynastic and communal political parties violate the democratic and secular principle of constitution. Whether the Supreme Court should lay down guidelines regarding it.
4. Whether SIT should be constituted for investigation into arrest of activists.



CONCISE WRITTEN STATEMENT OF PETITIONERS/ APPELANTS

Speaker 1 Issue 1

It is not disputed that provisions of 42nd Amendment, 1976 which added entry 2A in Union List and also amended entries 1 and 2 of State List does not violate the basic structure of the Constitution. But, however, these provisions in their present form do not allow the central forces to completely take over law and order in a State, because this power can be used only in the aid of civil power of the State Government. Moreover, situation prevailing in the state of Uttar Pradesh was not such which warranted such extreme measures as adopted by the Central Government, not following the principle of aiding. Also, all the facts of the case show the malafide intention and political vendetta of the respondents with which they decided to deploy the central forces in the state.

Speaker 1 Issue 2

The act of central government amounts to undermining the foundation of federalism and breeding cynicism in the hearts of citizens who participate in a democratic system, the Government's move to impose President's Rule and its arguments supporting it is blatant murder of democracy and constitutional federal structure, because the two conditions required to be fulfilled before imposing the emergency were not fulfilled by the respondent. Hence, declaration of President's rule is constitutionally not valid. Moreover, the manner in which it was imposed show the malafide intention and political vendetta, which the respondents have against the State Government.

Speaker 2 Issue 3

India was established as a secular democratic republic, but the practices of dynastic and communal politics are a threat to it. Research shows that provinces ruled under dynastic politics are less likely to perform well. Dynastic politics works on the principle of patronage, where the loyalty and money earned by the forefathers of a politician is used to gain advantage. It is against the principle of equality under our constitution. And the anti-defection law is adding to this dynastic politics by giving power to a dynastically appointed but not democratically elected person to control all the democratically elected members of the parliament, thus leading to a murder of the democratic spirit, so there needs to be more transparency in this regards so need to issue directions to EC to derecognize parties that are indulging in this. As far as communal politics is involved despite the fact that we have laws, and judgments prohibiting the demanding of votes in the name of religion, still various politicians openly use religion as a toll of winning elections, so the EC needs to be directed to take stringent actions and to derecognize parties or politicians who violate the secular nature of this country's electoral process. As law is to protect the little man, walking into the little booth, with a little pencil, making a little cross on a little bit



of paper. This court has power to issue such kind of directions as has been previously done in various cases like in case regarding NOTA.

Speaker 2 Issue 4

The criminal procedure code prescribes the procedure for a free and fair investigation of a crime as well as its trial, so when there is a treat to this principle of free and fair investigation, a Special Investigation Team (SIT) can be formed to look into the matters of allegations. SIT is required to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications. And based upon this principle the courts have at various instances formed SITs. In the present case as there a tug of war between the EFP and EBP there are chances of free investigation not taking place, so a need of SIT.



CONCISE WRITTEN STATEMENT OF RESPONDENTS

Speaker 1 Issue 1

The provisions of the 42nd Amendment, 1976 does not violate the basic structure of the constitution. In the present case central forces had been deployed in aid of civil power because conditions prevailing in the state of Utter Pradesh were so deteriorating that deployment of forces are fully justified and moreover Entry 2A empowers the Union to make laws in the matter related to deployment of any armed forces in aid of civil power . Report of Sarkaria Commissions also recommends that prior consultation with state govt is not obligatory on Union. Therefore the deployment of central forces in the State of Utter Pradesh is justifiable.

Speaker 1 Issue 2

The proclamation of the President rule in the state is constitutionally valid under the provisions of Article 356, according to which the President has to be satisfied that the Government of the State cannot function in a constitutional manner. The governor is not mandatory for invoking the state emergency. The power of President under Article 356 is subjective in nature and the satisfaction of the President can be based on other objective material also.

Speaker 2 Issue 3

In Indian democratic electoral system everyone has an equality of opportunity to contest elections and it is up to the voters to select their representative, and no restriction can be imposed on the a citizen of India from contesting election only on the ground that his or her forefathers were also politicians. This restriction is against the spirit of the constitution and the principle of equality, as this type of classification cannot fulfill the test of reasonable classification. As far as the petition regarding communal politics is concerned, there are already numerous laws dealing with this aspect and various judgments of this court explaining and clarifying those laws. So when we already were effective laws to deal with the issue there is no need of issuing further direction. This petition is nothing but just a publicity stunt aimed at defaming the government and wasting the precious time of the court. Furthermore it is a matter of policy and legislation so within the domain of parliament.

Speaker 2 Issue 4

There is no need of creating a SIT, as first of all the accused have no right with reference to the manner of investigation or mode of prosecution. Secondly the SIT is created only in rare circumstances where there are justifiable grounds, but asking for SIT only on the ground that politicians of EFP has been arrested by the state police where the state is being ruled by EBP, will set a precedent that in every such kind of cases SIT can be formed on regular basis. For such frivolous complains a general procedure could have been followed as mentioned under the Criminal Procedure Code.