

2nd RBUSL National Moot Court Competition, 2016

MOOT PROPOSITION

India is one of the developing countries located in South Asia. It is a rich country with vast biological and regional diversity. It bears a population of 1.21 billion and among them 10.42 crore population comprises of tribal class as per the Census of India, 2011. With overall biological richness on one hand the northeastern part of India is affected by naxalism. There exists lot of tension between northeastern states, the Government of India and the tribal community.

India is a welfare state, so with a view to develop the economy and to provide for the defence of the country from the Naxalites, the Government of India entered into an Agreement with the GC Mining Corporation India Ltd. in January, 2010. The Company was registered under the provisions of the Companies Act with the Registrar, Meghalaya. As per this Agreement, the Government of India leased out the one hundred fifty hectares of land of the South Garo Hills for the purpose of quarrying the lime stone mines which is considered useful in making defence weapons and in the manufacturing of steel. Under such agreement, the government gave the mining rights to GC Mining Corporation India Ltd. subject to the condition that the company will provide the alternate residence for the survival of the tribal people who will be displaced from Gasuapara in order to conduct the mining operation. To fulfill such condition, the company had to make arrangements for the residence of the people of the Garo Hills, which is inhabited mainly by tribal dwellers, the majority of whom are from the Garo Tribe, in the Baghmara region.

This large mining project is providing employment opportunities to thousands of people and also helped in development of that area on one hand. However, on the other hand, the mining operations has adversely affected the

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natural vegetation, rich wild life, loss to the biodiversity along with the displacement of the tribes residing in the Gasuapara area of South Garo Hills.

The Tribal Welfare Society, 'Oorjaa', which is a private organization made complaints to the Ministry of Tribal Affairs, India in March, 2012 about the mining operations carried on in the Gasuapara area and its adverse impact on the lives of the tribal population. Neither the company turned up to the grievances of the Society nor the Ministry of Tribal Affairs took any action to resolve the matter. Eventually environmentalists along with the media showed active interest for protecting the rights of the tribal people. It was then found out that even the tribal people of that region were not in favor of leaving their native land adherent to their ancient animistic religious beliefs and practices. It was also found that the Minister of Tribal Affairs was the relative of the one of the Directors of the GC Mining Corporation of India Ltd. Due to the interest shown by the Welfare Society, environmentalists and the media, the issue of environment imbalances due to mining operations came into limelight in April, 2013. As a result, the Government of India had to appoint a committee for reviewing the conditions prevailing in the Gasuapara area. The Committee submitted its report in the month of January, 2014 and stated that:

“There is no doubt that mining operations render devastation to the environment, loss of natural vegetation, displacement of tribal people and endangered their health. However, in the larger interest of the country such as for the defence, for the employment of the people of the adjoining locality and for the development of the economy, such industrial activities need to be encouraged.”

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The Committee also found that before starting of the mining operations, the company complied with the mining regulations and also conducted the Environment Impact Assessment exercise. The Government of India did not give any direction to the Company after considering the report of the committee and mining operations continued.

In February, 2015, an NGO named “Eco Friends” became active and carried on few operations with regard to the ongoing mining activities in the area of Gasuapara. This NGO stepped in as a protector to address the interconnected issues of the environment. “Eco Friends” being a non-governmental organization is concerned with the issue of environment, protection of natural resources and the environmental rights of the people. After working in the area of Gasuapara for few months, the NGO noticed the ill effects of mining operations on natural environment, the life of tribal population who had to be displaced from that very area and adverse impact on their health due to the environmental imbalance. It also noticed adverse effect on the Eco system due to large scale deforestation. Further it had considerably reduced the oxygen level much below the normal required quantity. It was observed by the NGO that along with the depletion of natural vegetation, such condition was badly affecting the health of tribes showing the symptoms of Bronchitis and Asthma.

In September, 2015, death of around 15 persons was reported from the Garo tribal community. The NGO ‘Eco Friends’ made arrangements for the medical examination of deceased. In the medical examination, it was revealed that the death had occurred due to lung diseases such as Obstructive Pulmonary disorder, emphysema, showing a possible outcome of ongoing mining operations in the area of Gasuapara region.

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Keeping the interest of the Biodiversity and the health of the tribal people, the NGO 'Eco Friends' along with the 'Welfare Society' filed the Public Interest Litigation under Article 32 of the Constitution of India before the Hon'ble Supreme Court of India in January, 2016. The Hon'ble Supreme Court had sent notices to the Government of India, Ministry of Tribal Affairs and GC Mining Corporation India Ltd. for showing cause and action taken. The PIL is fixed for hearing in March, 2016.

Argue the case for and against.

