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theslcmootcourtsociety@gmail.com

Group for Rights Protection v. State of Tassum

Indonia is a country and Tassum is a state in this country. Tassum is situated in the NorthEastern region of Indonia. It is a border state of Indonia and shares its border with another country named Gapasu. It shares its southern as well as eastern border with Gapasu. Tassum is a state endowed with natural beauty and mineral resources. It has been a very peaceful state for many years and the crime rate was very low until two years back. It is a tourist destination owing to its natural beauty. However, it has tried its best to maintain distance from those modern ways of living that cause pollution and disturb its natural peace and tranquillity. Consequently, those who wish to experience nature in its entirety generally prefer to visit it. It is a very small state and very thinly and sparsely populated. Its thin and sparse population is the predominant factor in keeping its natural beauty intact and pollution level under control.

But the situation started to change drastically in the last two years. In the year 2021, when the COVID-19 epidemic was at its height, Gapasu started witnessing very grim political disturbances. It resulted in violent conflicts along the lines of ethnicity, religion, and political affiliations. Gapasu turned into a hotbed of violence, treachery and mass killing based on the above factors. Persons of different ethnicities, religions and political affiliations started to pour into Indonia and more particularly into Tassum both from its southern and eastern borders.

Indonia is a secular country and party to various human rights conventions. When the first ingress of refugees started to occur in January 2022, the Union Government with the help of the State Government of Tassum tried to put them in temporary refugee camps with facilities to survive. Twenty refugee camps were erected on the large swathes of land to provide solace to the coming refugees. The conflicts in Gapasu subsided by the end of 2022 and relative tranquillity was maintained with internationally ascertainable de-facto controlling authority over Gapasu. The leading media houses operating in Gapasu also reported a marked improvement in the situation. However, it was refuted by Humanity International, a reputed international NGO working in the field of human rights. The Government of Indonia started to talk with the de facto authorities of Gapasu for the repatriation of the refugees.

The de-facto authorities issued a press statement stating that “whosoever wants to return may return and the previous cases of violence would be dealt with as per the rule of law by the newly established courts in Gapasu under the decree of the de-facto authority.” This statement was issued on 2nd January 2023.

When the authorities of Tassum undertook the repatriation of refugees, it was vehemently opposed by the refugees themselves because they would face imminent persecution if returned. Several writ petitions were filed in the High Court of Tusu, the High Court established under the Constitution of Indonia and having jurisdiction over Tassum. Tusu is the capital of Tassum. The High Court granted an interim injunction against the repatriation exercise undertaken by the government till the final disposal of the writ petitions. This order came on 3rd March 2023.

Meanwhile, the refugee camps kept overpopulating and the numbers in them increased day by day. From April 2022, the state of Tassum was witnessing a sudden increase in cases related to drug trafficking and other offences. Many of the refugees were found involved in such practices by the police authorities and were behind the prisons under trial. Though in some cases they had been convicted many other cases are still ongoing due to the slow judicial processes of Indonia for many reasons. The overcrowding of refugee camps also resulted in hostilities between refugees with the local population in some instances.

The entire ecosystem and natural peace and tranquillity of Tassum in the nearby areas of refugee camps were in a pathetic condition. Crime rates were high and drug addiction was rampant. It became a concern that this habit of drug may also infiltrate the local and native youth and there had already been some reports indicating the same.

In response to this, the State Government of Tassum in July 2023 came up with an extensive plan to use AI technology to curb the drug and other menace around refugee camps. Refugee Camps were extensively barricaded and only one designated entry gate and one designated exit gate were marked. There heavy scanners and cameras were installed on those gates and any person who crossed the gates had to compulsorily pass through the scanners.

Police authorities were given the power that whenever they had reasonable doubt that a person was a drug addict they could compulsorily conduct a blood test for any of such refugees coming out or going in the refugee camp. Whenever any refugee was found to be a drug addict, that individual had to compulsorily wear a hand band at all times when such an individual would remain outside the refugee camp. This band transmitted their location to the police authorities. The government also planned to compulsorily repatriate all those refugees who were found to be drug addicts. Overcrowding of refugee camps resulted in severe malnutrition in the refugee population of the camps. There was fear of significant human rights violations, including imminent starvation and the spread of contagious diseases, in the refugee camps. This was the story of twenty refugee camps situated along the border. Save the Life (SAL), a reputed international NGO published a report titled 'Tragedy Unfolding' in February 2024 on the conditions of refugee camps. The Report pointed out that 76 refugees have died since July 2023 in the refugee camps due to starvation and unhygienic conditions. However, the State Government of Tassum rejected the Report and emphasized that the death of refugees was the result of the overdose of drugs.

Meanwhile, a Human Rights NGO of Indonesia, named Group for Rights Protection filed a Public Interest Litigation in the Supreme Court of Indonesia. The Supreme Court got all the related cases pending at the High Court of Tusu transferred to it and fixed the date. for the hearing.

The Supreme Court of Indonesia framed the following issue for the arguments.

1. Whether the power of the police to compulsorily administer blood tests on the refugees coming out or going into the refugee camps arbitrary?
2. Whether the compulsory wearing of hand bands or compulsorily going through cameras and scanners are violative of the right to life and liberty?
3. Whether the compulsory repatriation of refugees would be violative of Indonesia's international obligations?
4. Whether the government's failure to provide adequate food and maintain hygiene in refugee camps amount to a breach of its obligations under the Constitution of Indonesia as well as under international law?

Disclaimer

The Shillong Law College First National Moot Court Competition presented here is entirely fictitious and serves solely as an educational exercise for the law students participating across India. Any resemblance to actual persons, events, entities or jurisdictions is purely coincidental.

Please note that the laws of Indonesia are construed in parallel with those of the Republic of India, and also the obligations of Indonesia under the international law are the same as those of India, for the purpose of stimulation. Teams are not allowed to introduce any new issue apart from the above four issues which have been framed by the organizing team.