

MOOT PROBLEM -2

1. Technology has changed every walk of life, business and governance. It is undeniable that new technologies bring benefits to mankind and society at large not without its own shortcomings. The development of technology has ushered-in an era of opportunities but also challenges. The safety of personal information and data, dignity of individuals are considered to be of paramount interest and data of individual members safely is equal to that of protection of individual dignity. The need for upholding the privacy concerns was upheld by the courts including the Apex Courts in different jurisdictions.
2. Along with the development of digital infrastructure, growth of cyber space and users has also increased manifold all over the world. 'Infinity Analytics' is a French firm and well-known for its data analytics and consulting services. The company was incorporated in France in the year 2012 and its operations extended to the countries beyond the European Union. The company has a turnover of ten million Euros and has an employee force of about 1500 on their payroll.
3. Infinity Analytics in its endeavor to explore niche markets has partnered with the Research Wing of a Government University headed by Professor Walter Stefan who has great experience in academic research. Professor Walter Stefan has developed a platform known as the Brainbook for the purpose of collecting information and data for his research.
4. Prof Walter, for his research project on consumer preferences, designed a questionnaire and conducted a survey using the Brainbook platform to understand personal traits and collected information from various stakeholders across the European Union. The survey had a catch that every stakeholder who participated in the survey had to login or signup through Brainbook, and all the personal information of the stakeholders was stored in the Brainbook.
5. The researcher developed the questionnaire having the questions based on a psychometric model and collected the personality profiles of the participants of the survey and profiled every user with their personality traits. In about three months, more than three million users across the globe took part in Mr. Walter's survey and Brainbook users' profile data was

harvested which was equivalent to 70% of the Brainbook users. Prof. Walter's survey was for the purpose of academic research. Prof Walter shared the data harvested with Infinity Analytics as per the agreement with the Research Wing of the University without the knowledge and consent of the people being surveyed. The user's data harvested was strategically collected from individuals of different professions including political parties, social and philanthropic organizations, business houses, medical professionals and others in addition to the employees and students. The information collected spread over a period of 2 years.

6. Prof Walter developed an application called "your life" on the advice of the Directors of Infinity Analytics which could be used on the Brainbook. The data collected through Brainbook was analyzed according to their personality, location, taste & habits and their political affiliations. The information gathered through 'your life' app from the users of Brainbook was sold to Infinity Analytics as per the terms agreed earlier. The General Data Protection Regulation (GDPR) of Europe requires the approval of the users of the Brainbook for sharing their data.
7. The data gathered through the app and profiling of Brainbook sharing with Infinity Analytics continued for three years until Mr. Bob Bradley, a former employee of Infinity Analytics, through an unidentified source presented an Article in a famous newspaper "The Next" which was titled "The Great Robbery of Data". Mr. Bob went onto National Television and presented his grievance and objection on the procuring of data through data mining, data analysis and misuse of the same by Prof Walter for commercial purpose.
8. In response to the allegations made through media, the CEO of the Brainbook has categorically stated that there was no data breach since no passwords were stolen and used. It has used as per the agreement with Brainbook and the application 'Your Life' is developed by Prof Walter as per their request. He also assured that if required it would develop an app to force delete all Brainbook web search data by its users. He also assured to appoint an agency to investigate into the matter and submit a report.
9. A third-party auditor was hired by Infinity Analytics to investigate the wrong doings of Brainbook and Prof Walter relating to data privacy. The investigator was also directed to find

whether their ex-employee Mr. Bob was ethical and legal in going to the media with such an allegation about the company without informing the Infinity Analytics in the first instance.

10. A case was filed against Brainbook, Infinity Analytics and Mr. Walter Stefan in the European Court of Justice alleging that they had violated the data privacy of millions of users wherein Infinity Analytics declared bankruptcy and contested that they followed the standard component of online promotion in all areas and the allegations made under GDPR were unfounded. The Aggrieved parties approached the authorities in the European Union to put forth the matter and to appeal for the relief with regard to the provisions of GDPR.
11. The illegal harvesting of data by the Brainbook platform was not limited to France and the European Union, but it reached other countries like Indisthan and Desertistan. The Government of Indisthan on the floor of its Parliament said that the matters on illegal harvesting of personal data should be investigated into. The illegal harvesting of data has been handed over to the Indisthan Bureau of Investigation to probe into the matter.
12. There is a Mutual Legal Assistance Treaty (MLAT) between France and Indisthan for resolution of criminal issues between the two countries.
13. The Indisthan Bureau of Investigation has registered FIR against Infinity Analytics & Mr. Walter Stefan under the Indisthan Information Technology Act and accused both the parties of criminal conspiracy under relevant statutes including the Information Technology Law and Penal laws in Indisthan. The case which has been filed under the provisions of the Indisthan Information Technology Act 2000 after the allegations were made public in the year 2018.
14. The matter reached the Special Court of Indisthan Bureau of Investigation where both the companies and Mr. Walter Stefan stated that they were not bound by the laws of Indisthan as they are not within the jurisdiction of Indisthan. The Special Court of Indisthan Bureau of Investigation has taken cognizance and accepted the facts of the case. The special court upheld the allegations made by Indisthan Bureau of Investigation and held that the companies and Mr. Walter Stefan liable under the Indisthan Information Technology Act 2000 and Indisthan Penal Code 1860.
15. Aggrieved by the judgment, an appeal was filed before the Hon'ble Supreme Court of Indisthan by the two companies and Mr. Walter Stefan.

In view of the above statements, advance your arguments on the issues presented and the laws in force.

For the purpose of this Moot Problem –

1. The Constitution of Indisthan adopts the Constitution of India in verbatim and the provisions of the Indian Constitution are the provisions of the Indisthan Constitution.
2. The rest of the laws of Indisthan including procedural law, Indisthan Information Technology Act and other laws are in parimateria with the laws of Republic of India
3. The MLAT between Indisthan and France is in parimateria with the MLAT between India and France. Presume the fact that GDPR applies to Indisthan in the same manner as it applies to India.
4. The Powers and Jurisdiction of the Court of Indisthan are the same as the Powers and Jurisdiction of the Apex Court of India.

Disclaimer:

The facts mentioned in the present case are fictitious and have been drafted solely for the purpose of the moot court competition. The facts, names, locations and dates bear no resemblance to any person, event or happening whether dead or alive. Any resemblance, if found is purely coincidental. The problem does not intend to hurt the feelings of any section or to offend any person.