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INJUNCTIONS

Related subjects: Practice; Federal Court Jurisdiction; Constitutional Law

Motion by applicants seeking interlocutory injunctive relief relating to X (formerly Twitter) account of respondent Honourable David Lametti (HDL), Minister of Justice and Attorney General of Canada from January 2019 to July 2023, pending determination of applicants' underlying application for judicial review — Applicants underscored during hearing of this motion that they simply seek order to preserve data, other records relating to X account — HDL used X account to communicate with public — In January 2024, applicants discovered that X account had been deactivated — Applicants asserted that, by deactivating his X account, HDL prevented them from viewing, replying, reposting, or using Community Notes feature on any and all posts previously made on that X account — Maintained that this hindered public access to government information, suppressed crucial voices in public debate, breached their rights under *Canadian Charter of Rights and Freedoms*, ss. 2(b), 3 — Respondent Attorney General of Canada stated, *inter alia*, applicants have not shown that, in deactivating his X account, HDL acting either as federal board, commission, or other tribunal for purposes of *Federal Courts Act*, R.S.C., 1985, c. F-7, s. 18.1 or as part of executive branch of government — Whether Court having jurisdiction to entertain underlying application — Troubling to suggest that a federal Minister of the Crown might be able to avoid jurisdiction of Federal Court, remedies available thereto, including as they relate to preservation of records under *Library and Archives of Canada Act*, S.C. 2004, c. 11, by resigning, then taking actions that may escape application of such federal legislation — However, jurisdictional issues raised by parties not sufficiently argued to warrant determination on this motion — Moreover, unnecessary to determine whether Court having jurisdiction to entertain underlying application — More appropriate for jurisdictional issues to be addressed in underlying application, after parties have had opportunity to make more fulsome submissions, to develop better factual record — Whether interlocutory injunctive relief should be granted to applicants — Decision in *RJR-MacDonald Inc. v Canada (Attorney General)*, [1994] 1 S.C.R. 311 defining three-part test applicable to requests for interlocutory injunctive relief — Second prong of test, i.e. applicant would suffer irreparable harm if request were refused, not satisfied — Applicants provided no evidence of irreparable harm — Applicants not establishing with clear, non-speculative evidence that deletion or destruction of data or other information associated with X account will occur — Evidence uncontested that HDL reactivated X account on or before January 29, 2024, has continued to remain active since reactivation — Given reactivation of X account, undertaking offered by HDL not to deactivate it until judgment on merits of underlying application, applicants have not demonstrated, with clear and non-speculative evidence, or indeed any other evidence, how they or anyone else will suffer irreparable harm if injunctive relief not granted — Risk to data eliminated with reactivation — Granting applicants requested injunctive relief out of abundance of caution, as precautionary measure not appropriate basis upon which to issue injunctive relief — Unnecessary to effectively convert HDL's undertaking into Court order — Motion dismissed.

REBEL NEWS NETWORK LTD V. LAMETTI (T-165-24, 2024 FC 270, Crampton C.J., reasons for order dated February 20, 2024, 22 pp.)