

PUBLIC INTEREST LITIGATION
IN THE HON'BLE SUPREME COURT OF INDIA
WRIT PETITION (CIVIL) NO. _____ OF 2019
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

1. National Federation of Societies for Fast Justice
Thru it's President Dr. Raj Kachroo
Address: ...Petitioner No. 1

2. Society for Fast Justice, Sarjugah, Chhattisgarh
Thru it's President: Adv. Dineshwar Prasad Soni
Navapara, Ambikapur,
Sarjuga, Chhattisgarh - 497001 ...Petitioner No. 2

VERSUS

1. Union of India
Through Cabinet Secretary,
New Delhi - 110003 ...Respondent No.1

2. Government of Andhra Pradesh
Through Chief Secretary
1st Block, 1st Floor A.P Secretariat Office,
Velagapudi - 522503 ...Respondent No.2

3. Government of Arunachal Pradesh
Through Chief Secretary
Civil Secretariat
Itanagar - 791111 ...Respondent No.3

4. Government of Assam
Through Chief Secretary
Block- C, 3rd Floor,
Assam Sachivalaya
Dispur - 781006, Guwahati ...Respondent No.4

5. Government of Bihar
Through Chief Secretary
Main Secretariat,
Patna - 800015 ...Respondent No.5

6. Government of Chhattisgarh
Through Chief Secretary
Mahanadi Bhawan,
Mantralaya Naya
Raipur - 492002 ...Respondent No.6

7. Government of Goa
Through Chief Secretary
Secretariat,
Porvrim, Bardez, Goa – 403521
...Respondent No.7
8. Government of Gujarat
Through Chief Secretary
1st Block, 5th Floor Sachivalaya,
Gandhinagar – 382010
...Respondent No.8
9. Government of Haryana
Through Chief Secretary
4th Floor, Haryana Civil Secretariat
Sector-1,
Chandigarh - 160019
...Respondent No.9
10. Government of Himachal Pradesh
Through Chief Secretary
H P Secretariat,
Shimla –171002
...Respondent No.10
11. Government of Jammu & Kashmir
Through Chief Secretary
R. No. 2/7, 2nd, Floor Main Building
Civil Secretariat, Jammu - 180001
R. No. 307, 3rd Floor
Civil Secretariat, Srinagar - 190001
...Respondent No.11
12. Government of Jharkhand
Through Chief Secretary
1st Floor, Project Building,
Dhurwa,
Ranchi- 834004
...Respondent No.12
13. Government of Karnataka
Through Chief Secretary
Room No. 320,
3rd Floor Vidhana Soudha,
Bengaluru - 560 001
...Respondent No.13
14. Government of Kerala
Through Chief Secretary
Secretariat,
Thiruvananthapuram - 695001
...Respondent No.14
15. Government of Madhya Pradesh
Through Chief Secretary
MP Mantralaya, Vallabh Bhavan
Bhopal - 462004
... Respondent No.15

16. Government of Maharashtra
Through Chief Secretary
CS Office Main Building, Mantralaya
6th Floor, Madame Cama Road,
Mumbai – 400032 ...Respondent No.16
17. Government of Manipur
Through Chief Secretary
South Block, Old Secretariat
Imphal-795001 ...Respondent No.17
18. Government of Meghalaya
Through Chief Secretary
Main Secretariat Building Rilang Building,
Meghalaya Secretariat,
Shillong - 793001 ...Respondent No.18
19. Government of Mizoram
Through Chief Secretary
New Secretariat Complex,
Aizawl - 796001 ...Respondent No.19
20. Government of Nagaland
Through Chief Secretary
Civil Secretariat,
Kohima- 797004 ... Respondent No.20
21. Government of Odisha
Through Chief Secretary
General Administration Department
Odisha Secretariat
Bhubaneswar - 751001 ...Respondent No.21
22. Government of Punjab
Through Chief Secretary
Chandigarh - 160001 ...Respondent No.22
23. Government of Rajasthan
Through Chief Secretary
Secretariat,
Jaipur – 302005 ...Respondent No.23
24. Government of Sikkim
Through Chief Secretary
New Secretariat,
Gangtok - 737101 ...Respondent No.24
25. Government of Tamil Nadu
Through Chief Secretary

Secretariat,
Chennai –600009

...Respondent No.25

26. Government of Telangana
Through Chief Secretary
Block C, 3rd Floor,
Telangana Secretariat
Khairatabad, Hyderabad,
Telangana - 500022

...Respondent No.26

27. Government of Tripura
Through Chief Secretary
New Secretariat Complex
Secretariat-799010,
Agartala West Tripura

...Respondent No.27

28. Government of Uttar Pradesh
Through Chief Secretary
Lalbahadur Sastri Bhawan
Uttar Pradesh Secretariat,
Lucknow - 226 001

...Respondent No.28

29. Government of Uttarakhand
Through Chief Secretary
4 Subhash Road,
Uttarakhand Secretariat
Dehradun - 248001

...Respondent No.29

30. Government of West Bengal
Through Chief Secretary
Nabanna, 13th Floor, 325,
Sarat Chatterjee Road, Mandirtala
Shibpur, Howrah - 711102

...Respondent No.30

PUBLIC INTEREST LITIGATION
IN THE HON'BLE SUPREME COURT OF INDIA
WRIT PETITION (CIVIL) NO. _____ OF 2019
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Federation for Fast Justice & Anr.

....PETITIONERS

VERSUS

Union of India & Ors.

....RESPONDENTS

To,

**The Hon'ble Chief Justice Of India,
and His Companion Justices,
Of The Hon'ble Supreme Court Of India**

PUBLIC INTEREST PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR VIOLATION OF RIGHTS GUARANTEED
UNDER ARTICLE 14 & 21 *INTER ALIA* SEEKING ISSUANCE OF WRIT OF
MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER, OR
DIRECTION TO THE RESPONDENT STATES FOR THE CONSTITUTION
OF GRAM NYAYALAYAS AS PROVIDED FOR UNDER SECTION 3 OF THE
GRAM NYAYALAYA ACT, 2008

The Humble Petition of the Petitioner's above named

Most Respectfully Showeth:

1. That the instant writ petition has been filed in Public Interest under Article 32 of the Constitution of India seeking *inter alia* a Writ of Mandamus or any other appropriate Writ, Order, or Direction to the Respondent States to notify and establish *Gram Nyayalayas* as statutorily provided for under the *Gram Nyayalays Act* of 2008 (hereinafter the 'Act').

Identifying the, "*rural poor as the victims of the present judicial system*", in light of Article 39-A of the Constitution, the 114th Report of the Law Commission (1986) recommended setting up of Gram Nyayalayas at the

grass root levels to provide: access to justice to the most marginalised sections of the society specifically to reduce barriers to access in terms of distance, time, & associated costs; reduce dependence of rural citizens on extrajudicial alternative systems of justice; reduce delay by providing for summary procedures; and reduce workload on higher tiers of judiciary.

After a long delay, in 2008 the *Gram Nyayalayas Act* was enacted with the stated object being,

“to provide for the establishment of Gram Nyayalayas at the grass roots level for the purpose of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities.”

Non-establishment of *Gram Nyayalayas* by the Respondent States frustrates; (a) Statutory Rights provided to citizens under the Act and (b) Constitutional Right of rural citizens to ‘Access to Justice’ under Article 14 and Article 21 of the Constitution of India as declared by this Hon’ble Court in *Anita Kushwaha v. Pushap Sadan* (2016) 8 SCC 509. Having pursued the present matter with various authorities for over a decade, petitioners herein have been constrained to approach this Hon’ble Court to seek redress on behalf of the rural poor and give effect to the object of the Act.

2. About the Petitioners

The Federation for Fast Justice is an umbrella body of more than 115 registered societies across the country that campaign for Judicial Reform & work to provide access to justice for the poor, marginalised & economically weak citizens of India. The federation creates mass awareness all over the country by educating people about their rights, organising seminars, workshops, conferences and conventions and files Public Interest Litigations in larger public interest. It’s current president, Dr. Rajendra Kachroo, was Professor of Water & Environmental Engineering at the National University of Ireland. He has worked with several International Agencies like WMO, Unesco, World Bank, Irish Aid, DFID & published in prestigious international Journals besides supervising many M.Sc & Ph.D. students across the world. Pursuant to directions issued in *University of Kerala v. Council, Principals’ Colleges, Kerala, & Others* (2009) 7 SCC 726, Dr. Kachroo was tasked with assisting the *Raghavan Committee* in making recommendations to

Universities Grants Commission and Ministry of Human Resources & Development to curb the menace of Ragging in universities. He has further designed CALL 181 - Integrated system of Women Helpline & One Stop Centres (WHL/OSC) to provide women in distress (i) Access to Justice, (ii) Access to social welfare & (iii) Access to government administration. He works with the governments of Chhattisgarh, J&K, Assam & Meghalaya to implement WHL/OSC.

The Society for Fast Justice, Sarjuga, Chattisgarh, is one of the registered societies associated with Federation for Fast Justice working on issues of accessibility to justice. It's President, Mr. Dinesh Kumar Soni, Advocate, has been taking up the issue of non-constitution of Gram Nyayalayas for almost 10 years now with multiple authorities at multiple levels across Chhattisgarh and nationally by making representations, filing RTI's, letter writing campaigns, etc. The Sarjuga, Chattisgarh, chapter's societies registration number is The Society has authorized Mr. Dineshwar Prasad Soni to file the instant writ petition.

. A copy of the Societies Registration Certificate is attached. Authorization letter is also attached. The society does not have a PAN card. It's Annual Income is nil.

None of the petitioners have any personal/oblique motive in filing the present petition except as concerned citizens. No civil/criminal/revenue litigation is pending against Petitioners that could have any bearing on the present matter. Petitioners have means to pay costs, if any.

That no other petition has been filed by the petitioner pertaining to this matter before any other court or authority.

3. 1986: That with a view to provide access to justice to rural poor in terms of distance, time, & cost; curbing rural poor's dependence on extra-constitutional forums of justice; tackling mounting arrears in legal system by providing for a fourth tier of judiciary with summary procedures; & provide for formal participatory justice in rural areas, the 114th Report of the Law Commission of India in 1986 recommended establishment of Gram Nyayalayas at the grass roots levels.

4. 2008: That pursuant to the recommendations of the 114th Report of the Law Commission on Gram Nyayalayas (1986), parliament enacted the Gram

Nyayalayas Act of 2008 to provide meaningful 'Access to Justice' to the rural populations as a Statutory Right. It's stated objective is,

“to provide for the establishment of Gram Nyayalayas at the grass roots level for the purpose of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities.”

5. That Section 3 of the Act provides for the 'Establishment of Gram Nyayalayas' & states,

(1) For the purpose of exercising the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits.

(3) The Gram Nyayalayas established under sub-section (1) shall be in addition to the courts established under any other law for the time being in force.

Sections 5 & 6 provide that the State Government in consultation with the High Court will appoint a *Nyayadhikari* for each Gram Nyayalaya who will be a person eligible to be appointed as a Judicial Magistrate of the First Class.

To provide ready access to justice, Section 9 provides for mobile courts to reach the doorsteps of citizens.

Sections 11, 12, & 13 confer civil and criminal jurisdiction on the Gram Nyayalayas.

Importantly, with a view to reduce the workload of the District Courts, Section 16 provides that High Court concerned may transfer eligible cases from District Courts to the Gram Nyayalayas for adjudication.

To ensure speedier justice, Section 19 provides for summary trial in eligible cases in criminal matters. Section 20 provides for plea bargaining. Similarly, to ensure speedier justice in civil cases, Section 24 provides for Special Procedure that is summary in nature. Section 26 casts a duty on the Gram Nyayalaya to make efforts for conciliation and settlement of civil disputes.

The Act also provides that the State Government concerned may confer jurisdiction on the Gram Nyayalayas to adjudicate on matters pertaining specifically to the rural citizens which are generally not litigated upon due to difficulty in access to justice such as issues related to payment of wages under MNREGA, issues pertaining to anganwadi workers etc.

6. Financial Assistance from Centre: For the establishment of Gram Nyayalayas, Vide Notification No. J-12021/5/2009-JR dated 16.12.2009, the Central Government,

“Committed to fund the initial costs in terms of the non-recurring expenses for setting up these Courts with an assistance limited to Rs. 18.00 lacks per Gram Nyayalaya as a one time measure and to bear recurring expenses of these courts subject to a ceiling of Rs. 3.2 lacks per annum during the first three years”

70% of the monies towards fixed costs are released upon notification by State Government for establishment for Gram Nyayalayas and the rest of 30% upon the State furnishing documentary evidence of establishment. Funds up to a maximum of 3.2 lacks for recurring expenditure are released on submission of Utilization Certificate for years 2 & 3.

Scheme specified in Notification No. J-12021/5/2009-JR has been continued from time to time. The latest notification as regards the same bearing No. J-12021/01/2017-JR/610 dated 27.10.2017 is annexed as **Annexure P1** at **Pages** _____

7. *Evaluation Study of the Scheme of Establishing and Operationalizing Gram Nyayalayas, January, 2018*, sponsored by the Ministry of Law & Justice and conducted by the National Productivity Council, shows that for the period 2009-10 to 2017-18, a mere 320 Gram Nyayalayas have been notified by various State Governments and of that only 204 are operational.

Only 11 states have thus far taken steps to even notify Gram Nyayalayas. The position in these states is as follows:

No. of Gram Nyayalayas notified and Functioning in States

Sl. No	State	Notified	Functioning
1	MP	89	83
2	Rajasthan	45	15
3	Karnataka	2	0
4	Orissa	16	13
5	Maharashtra	23	23
6	Jharkhand	6	0
7	Goa	2	0
8	Punjab	2	0
9	Haryana	2	2
10	Uttar Pradesh	104	2
11	Kerala	29	29
Total		320	204

Source: Evaluation Study of the Scheme of Establishing and Operationalizing Gram Nyayalayas, January, 2018

As can be ascertained, only 11 states have taken steps to even notify Gram Nyayalayas as against 2500 estimated by the Report of the Working Group of the 12th Five Year Plan (2012-2017) as recorded in the Evaluation Study. Leave is sought to produce and rely on the 134 page Evaluation Study as and when directed by the Hon'ble Court.

8. As per the field surveys conducted in the aforementioned study in states that have notified Gram Nyayalayas the primary reasons for non-operationalization of Gram Nyayalayas are *inter alia*:

- Lack of availability of Infrastructure (Buildings, Racks, Files etc.)
- Miniscule financial Central Assistance
- Lack of Manpower
- Lack of interest amongst lawyers due to the aforementioned reasons
- Non-cooperation of Enforcement Agencies, Public Prosecutors etc.

9. That despite these problems the field surveys show that the Gram Nyayalayas that have been functioning are showing positive results in:

- providing Access to Justice
- reducing arrears in the District Judiciary
- delivering speedier justice
- reducing dependency of citizens on alternative/extra-constitutional forums of justice
- allowing rural citizens to agitate on their legal rights that previously went unlitigated due to difficulties in Accessing Justice

10. That despite poor infrastructure at the functioning Gram Nyayalayas and other problems, the field survey reports that litigants were still very satisfied with being able to access justice at the Gram Nyayalayas. However, the Respondents have failed to provide for the same. A copy of reply dated 22.03.2018 from Government of Odisha to RTI application filed by Petitioner No. 2 is annexed hereto as **Annexure P2 at Pages _____**. A copy of reply dated 09.04.2018 from Government of India to RTI application filed by Petitioner No. 2 is annexed hereto as **Annexure P3 at Pages _____**. A copy of reply dated 08.04.2018 from Government of India to RTI application filed by Petitioner No. 2 is annexed hereto as **Annexure P4 at Pages _____**.

11. That Article 39A provides for 'Equal justice and free legal aid' to all and states,

"The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

12. That In **Anita Kushwaha v. Pushap Sadan (2016) 8 SCC 509**, a Constitutional Bench of this Hon'ble Court declared that Access to Justice is a Fundamental Right guaranteed by Article 14 and Article 21 of the Constitution. The Hon'ble Court held that (1) accessibility to adjudicatory mechanism in terms of distance, (2) speedy justice, and (3) affordable justice, are essential facets of 'Access to Justice'. That non-constitution of required *Gram Nyayalayas* by the respondent states defeats the very object of the Act, is

without application of mind, arbitrary, and violates citizens fundamental right of access to justice with all its facets as declared by this Hon'ble Court.

13. That this Hon'ble Court has been at the forefront of ensuring that justice in all its facets is made available to ALL citizens of the country and not only those residing in urban areas. In **Dilip Kumar Basu v State of West Bengal, 2015 8 SCC 744**, the Hon'ble Court negated the contention of the States that under the Protection of Human Rights Act, 1993, setting up of State Human Rights Commission (SHRC), was optional for the State Government because Section 21 of that Act, provided that the State Government "may" constitute SHRCs. The Hon'ble Court held that such a reading would defeat the very 'object' of the Act and reading "may" as "shall" directed all states to constitute SHRCs.

That similarly, State Governments under Section 3 of the Gram Nyayalayas Act, have been defeating the object of the Act, as Section 3 provides that State Governments "may" constitute Gram Nyayalayas and thereby violating the fundamental right of citizens to 'access to justice' with all its facets by not constituting required Gram Nyayalayas. It is most humbly submitted that intervention of this Hon'ble Court is required to redress this violation of Article 14 & 21 rights of citizens at large and so that the 'object' of the act and intent of the legislature is not frustrated.

In **Mansukhlal Vithaldas Chauhan Vs. State of Gujarat (1997) 7 SCC 622** this Court held:

"Mandamus which is a discretionary remedy under Article 226 of the Constitution is requested to be issued, inter alia, to compel performance of public duties which may be administrative, ministerial or statutory in nature. Statutory duty may be either directory or mandatory. Statutory duties, if they are intended to be mandatory in character, are indicated by the use of the words "shall" or "must"...What is determinative of the nature of duty, whether it is obligatory, mandatory or directory, is the scheme of the statute in which the "duty" has been set out. Even if the "duty" is not set out clearly and specifically in the statute, it may be implied as correlative to a "right".

The Gram Nyayalaya Act casts a statutory duty on the State to provide 'access to justice' which is required to be fulfilled.

14. That in light of all the facts stated above, the petitioner's prayer is for the Hon'ble Supreme Court to direct the respondent states to take required steps to notify and constitute Gram Nyayalayas as provided for under section 3 of the Act under the monitoring of this Hon'ble Court.

GROUND

1. Because 'Access to Justice' is a fundamental right guaranteed by Article 14 & Article 21 of the Constitution of India. 'Access to Justice' means adequate (1) accessibility to adjudicatory mechanism in terms of distance, (2) speedy justice, and (3) affordable justice

2. Because the State is obligated to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities. Many rural citizens either do not litigate on their rights or face hardships as they have to travel great distances which involve great expense and the District Courts are procedurally difficult for the vast majority of rural citizens to understand. The 'gram nyayalayas' on the other hand aim to provide 'justice at doorsteps' of the rural citizens and provide for summary procedure to ensure speedier justice.

3. Because non-constitution of required Gram Nyayalayas (208 functioning as against 2500 estimated to be required by the 12th Five Year Plan) by respondent states defeats the intent of the legislature and the 'object' of the Gram Nyayalayas Act, 2008.

4. Because evaluation studies sponsored by the Ministry of Law & Justice show that there is a strong support at the grassroots for the establishment of Gram Nyayalayas and despite teething problems the rural population is largely satisfied with finally having 'access to justice'.

PRAYER

In these circumstances, it is therefore most respectfully prayed that your Lordships may graciously be pleased to:

- I. Issue writ of Mandamus or any other appropriate writ, order, or direction to respondent states to take immediate steps to constitute Gram Nyayalayas as provided for under section 3 of the

Gram Nyayalayas Act under the supervision and monitoring of this Hon'ble Court.

- II. Issue writ of Mandamus or any other appropriate writ, order, or direction to the Central Government to provide adequate financial support for this purpose over and above what has been provided for thus far under the Scheme for Central Assistance first notified in 2009 and continued thereafter.
- III. Pass such other orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present petition

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

NEW DELHI

FILED BY:

PRASHANT BHUSHAN
(ADVOCATE ON RECORD FOR PETITIONER)