

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2019

(Under Article 32 of the Constitution of India)

IN THE MATTER OF:

1. DR. VANI XAXA,
 ... PETITIONER NO.1

2. SYED MUJTABA ATHAR

 ... PETITIONER NO. 2

3. M. MOBASHSHIR SARWAR
 ... PETITIONER NO. 3

VERSUS

1. UNION OF INDIA (UOI)
 MINISTRY OF HOME AFFAIRS
 THROUGH ITS SECRETARY
 ROOM NO. 113 NORTH BLOCK
 NEW DELHI – 110 001 (INDIA) ...RESPONDENT NO.1

2. JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH ITS REGISTRAR
MMAJ MARG, JAMIA NAGAR
NEW DELHI – 110 025 (INDIA) ...RESPONDENT NO.2

DRAWN BY AND SETTLED BY:

M. MOBASHSHIR SARWAR, ADVOCATE
PETITIONER NO. 3 –IN- PERSON

**A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA, 1950 TO SAVE AND PROTECT
THE 'LIFE AND LIBERTY' OF THE THOUSAND OF
STUDENTS OF THE RESPONDENT UNIVERSITY AS WELL
AS THE 'PROPERTY' OF THE RESPONDENT UNIVERSITY,
AS VIOLATIVE OF ARTICLES 14, 19 AND 21 OF THE
FUNDAMENTAL RIGHTS GUARANTEED IN PART – III OF
THE CONSTITUTION OF INDIA, 1950.**

To,

The Hon'ble Chief Justice of India and
His Lordship's Companion Justices of the
Supreme Court of India at New Delhi

"A University stands for humanism, for reasons, for the adventure of ideas and for the search of truth. It stands for the onward march of the human race towards even higher objectives. If the universities discharge their duty adequately, then it is well with the nation and people."

- Sh. Pt. Jawaharlal Nehru, the first Prime Minister of India

The humble petition on behalf of the Petitioners above
named.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners are filing the present Writ Petition under Article 32 of the Indian Constitution in Public Interest before this Hon'ble Court seeking recourse against the ongoing brutal attack on the students which include substantial number of female students, in every manner, within the precincts of the Respondent University and

causing mass destruction of the Respondent University Property i.e. 'Public Property', by the Delhi Police and allied forces under the direct control of Ministry of Home Affairs, Union of India; which is in flagrant violation of their Fundamental Rights guaranteed in Part – III under Articles 14, 19 and 21 of the Constitution of India, 1950. The Petitioners under Article 32 of the Constitution of India seek the following relief:

a) An appropriate writ, order or direction in the nature of Mandamus appointing an independent judicial inquiry by a retired Supreme Court and/or High Court Judge into the entire episode perpetrated within the precincts of the Respondent University as on 15.12.2019; for fixing the responsibilities of the lapses on the part of the officials of the Respondent – Ministry of Home Affairs, Union of India and take appropriate disciplinary as well as penal actions

against the erring official(s), in accordance with the law.

b) An appropriate writ, order or direction in the nature of Mandamus directing the Secretary, Ministry of Home Affairs – Union of India, to forthwith remove the Delhi Police as well as allied forces deployed by it from the precincts of the Respondent University including the MMAJ Marg, New Delhi

c) Any appropriate writ, order or direction directing the Secretary, Ministry of Home Affairs – Union of India, to forthwith release the bona fide students of Respondent University illegally detained by the Delhi Police from the precincts of the Respondent University as on 15.12.2 19, in the midst of the ongoing peaceful and democratic protest.

d) Direct the Registrar of the Respondent University to freeze the CCTV footage recorded by the Proctor Office, Students Affairs' Section and Office of the Security Advisor – Respondent University, for the purpose of judicial inquiry.

e) Issue a writ of declaration reiterating the law laid down by this Hon'ble Court in catena of dicta to the effect that the Police Authorities are not allowed to barge into the campus of educational institutions / universities without the permission from the respective Competent Authority and / or a prior written approval from the concerned Head of the institutions / universities, to be given in writing thereof.

f) Passing such other and further orders and/or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The Petitioners are the present and former students of the Respondent University. The Petitioner No. 1 is an independent researcher & Consultant, and holds a Ph.D. in Sociology from the Respondent University. The Petitioner No. 2 is a law graduate (B.A., LL.B. Batch 2010 – 2015) from the Respondent University, Master of Law (LL.M.) from prestigious SAARC University in International Law. Currently, pursuing his Ph.D. from the Faculty of Law – Respondent University. The Petitioner No. 3 is a School

Graduate from the Respondent University; an RTI Activist whose efforts for good governance and transparency has been widely appreciated in different quarters. A qualified Law graduate (B.A., LL.B - 2017) from Dehradun, Uttarakhand currently practicing as an independent lawyer in various Courts and Tribunals of Delhi mainly in Delhi High Court at New Delhi. A true copy of the CV's of all the three petitioners are annexed herewith and marked as **Annexure: P – 1 (Colly)**.

3. The petition has been filed to save the '**life**' and '**liberty**' of thousand of helpless students which includes the substantial number of female students, coming from different socio-cultural and religious background, those innocent faces are not before this Hon'ble Court but their '**life**' and '**liberty**' being threatened and put at stake; continues to haunt to the mind and heart of the Petitioners. In fact, they are not in a position to approach this Hon'ble Court. These helpless students are incapable of accessing the court themselves on

account of being not fully/properly equipped, financially as well as legally and having the fear of internal assessment to resort to the remedy of 'Public Interest Litigation' for highlighting their grievance/ problems and necessary relief and redressal thereof through it and also being unaware of the legal procedure/technicalities involved therein.

4. The institution likely to be affected by the orders sought in the writ petition are the Secretary, Ministry of Home Affairs – Union of India and the Registrar, Jamia Millia Islamia – Respondent University (A Central University), who have been impleaded as respondents in the writ petition and to the knowledge of the petitioners, no other persons / body / institutions are likely to be affected by the orders sought in the writ petition.

5. The Petitioners have not made any representations to the authorities concerned for remedial action as the orders/relief sought in the present writ petition is not likely to be granted by them, particularly in view of the fact that they have not done so and/or have already declined to do

so, as per records and media reports. The question of receiving any reply from them therefore does not arise.

6. That the Jamia Millia Islamia (Respondent No. 6) is a Central University, established in the year 1920 at Aligarh during the national movement led by Mahatma Gandhi and later it was shifted to Delhi; this institution having glorious past was accorded the said status by an Act of Parliament (Act No. 58 of 1988). It is a teaching and Research University with nine (09) Faculty through which it offers academic and extension programs to thousands of students and one of the oldest and one of the premier Educational Institution of the country, having an International Standard and recognition and a high reputation worldwide. It is one of the largest central institutions in the country imparting education from nursery education to higher learning. The University is represented through its Registrar in terms of Statute 5 (3) of the Jamia Millia Islamia Act, 1988.

7. That the Petitioners are filing this Public Interest Litigation before this Hon'ble Court seeking justice on behalf of those

poor, helpless and vulnerable thousands of students of the Respondent University, whose '**life**' and '**liberty**' are being threatened and put at stake by the untoward happening taking place within the precincts of the Respondent University, and particularly in view of the happening that took place yesterday i.e. 15.12.2019 (Sunday), by the brutal attack on the thousands of students. They are being treated at par with the criminals. However, the fact remains, they are simply students, who had come to study from the different parts of the country and achieve something in their life and contribute in nation building.

8. On 13 December 2019 at 2 p.m. a peaceful protest was led by Jamia Teachers' Association (JTA) including other representative bodies of non-academic staff followed by the thousands of students of Jamia Millia Islamia – Respondent University against the recent Citizenship Amendment Act (CAA) passed by the Parliament of India. The protest was scheduled at Gate No 7, Jamia Millia Islamia, New Delhi and it was intended to move towards the Parliament of India, to

approach their respective Parliamentarians, if they get the opportunity to meet them in person outside the Parliament.

9. That the Faculty Members and non-academic staff followed by the thousands of students gathered at Gate No. 7 of the Respondent University at the scheduled time and started their move of peaceful march to the Parliament of India. However, they were stopped and barricades were placed by the Delhi Police in front of the Gate No. 1 i.e. Faculty of Engineering & Technology, Jamia Millia Islamia – Respondent University, which is within its precincts.

10. That the Faculty Members and non-academic staff followed by the thousands of students requested the Delhi Police officers to allow them to march peaceful towards the Parliament. However, the police arbitrarily stopped the peaceful protestors not to move forward. The protesters immediately responded to the Delhi Police in a positive manner and stopped their march to the Parliament. However, they continued to raise their voice through slogans and banners with respect to their

protest. The Delhi Police constables abruptly began to *lathi-* charge and started mercilessly beating the students. The students stayed there despite the *lathi -* charge raising slogan and protesting against the said CA Act. The police immediately started brutally attacking the thousands of helpless students, in every manner, they could do so. The Faculty Members and non-academic staff found them helpless and got disappeared in a while. Resultantly, students got serious physical injuries. The students confronted with the tear gas shot by the Delhi Police inside the campus and where the other students were studying in the classrooms, library and canteen area. The protest was called off for that day.

11. That the Annual / Semester examinations were to commence from 14th December 2019, as per the schedule already declared by the Respondent University. However, on reaching the campus, students were informed that the University controller of

examination has postponed the examination. The students protested against the arbitrary action of the university administration in not making any official statement condemning the police action in firing tear gas and *lathi* – charge by the police inside the campus and also cancelling the scheduled examination. The students soon assembled at the designated site of protest, i.e. in front of Ghalib Statue to protest. They sang songs, raised slogans and gave speeches. Everything lasted very peacefully.

12. The protest lasted since morning till the evening.

In the evening the students continued to protest inside the campus, in front of the Ghalib Statue (A designated place for the protests). The protest went on very peaceful, democratically and no vandalism or violence took place. The protest was called off for the day.

13. It all happened on 15th December 2019 i.e. yesterday (Sunday), when the thousands of students gathered at Gate No.7 to continue with the protest

within the precincts of the Respondent University. The Delhi Police in their unusual approach to deal with the students which included substantial number of female students, abruptly *lathi* charged the crowd and shot multiple rounds of tear gas shells. Running from the police, the campus was shocked by the sounds of tear gas firing and grenade shots. There has been indiscriminate use of fire arms by the police. Everyone inside the campus was terrified by the recurring tear gas shots and fire arms. JMI gates were closed by the university guards but the tear gas started to be directed towards the university campus by the Delhi Police. The police ransacked the campus, its park, canteen, library and reading room. They molested the university girls and boys and dragged them out of the campus with hands held up. The police entered into the Hall of Boys' Residence and paraded students out of their rooms. They ransacked and damaged the Central Mosque inside the campus, thrashed its Imam and

kicked people outside of the mosque. Then they marched towards the Jamia School campus and dragged innocent school children outside of their hostels and paraded them outside of the campus with hands held up. They also barged into the girls' hostel molesting and terrifying the girls and drove the students out of the library. The petrified students feared to go back towards the University and their hostels and spend their night wherever they found shelter, staying with friends or relatives who live away from the university. It is reported that there are around thirty students (including girls) detained by the Delhi Police till the filing of this petition.

14. As on 15 December 2019, the Delhi Police and the allied forces deployed by the MHA barged into the campus of the Respondent University, during the on-going peaceful protest, without any formal or informal permission from the officials of the University and the same has been confirmed by the proctor who is

responsible for maintaining the law and order situation within the Respondent University.

15. It is respectfully submitted that not even a single student had entered into any action of moral turpitude. It is reiterated that the protest was peaceful and highly democratic mannered with the permission of the chief proctor. The entire episode perpetrated by the Delhi Police and the allied forces was totally willful and motivated. The innocent students have been mercilessly beaten; shockingly the female students have been molested by the cops. Unfortunately, hundreds of students got severe physical injuries, some of them lost eye-sights, and many of them have to suffer physical disability for their whole life.

16. The CCTV footage recorded by the Respondent University would reveal the truth and the manner in which Delhi Police and the allied forces deployed by the MHA for oblique reason; will crystallize the true narrative that the students were simply on a peaceful

protest. On contrary, the vandalism is created by the cops, the buses allegedly put on fires by the students is absolutely misleading, in fact, the videos revealed by the various news agencies and the Deputy Chief Minister of the Government of NCT of Delhi claims that the cops sprayed the fuel and put it on fire. It is an open secret that the entire episode is blown by the side wind. It is submitted that neither of the student have any fire arms or any sort of arsenal. It is quite evident from the fact that no FIR has been registered by the Delhi Police to that effect. These young lads are merely students at graduate level or post-graduate level and/or research scholars. The entire exercise perpetrated by the Delhi Police at the instant of their master had been done for the sole purpose to suppress the voices of the young Indians.

17. It is submitted with profound veneration, it is reported that one student namely Mr. Shakir, a *bona fide* student from the Respondent University who hails

from Tonk, Rajasthan, has lost his life after he was brutally attacked by the cops. It is also reported that a girl student residing in the girls' hostel has also lost her life. The Respondent University has turned into a cantonment zone. The cops has caused massive destruction of the University property i.e. public property, the hygienic canteen inside the Gate No. 8, has been completely destroyed, the Central library of the University has completely been destroyed by these cops. The students were beaten and forced to vacate the library for no reason. In the respectful submission of the petitioner who all belongs to the University, have never witnessed such an ugly and shameful scenario.

18. At present, the terror caused by the Delhi Police and the allied forces resorted to a great psyche-fear in the minds of the young students and they are hiding themselves in the toilets, garbage, sewer and some of them seeking shelter inside the mosques premised in the Respondent University. Out of sheer fear of the

cops they are not coming out of the places they have taken the shelters. It is transpired to this Hon'ble Court that the Respondent University has its own security arrangements of a very unique feature that the ex-Army personnel who have rendered their services in the Indian Army to serve their nation, are hired by the Respondent University for the security purposes. These security personnel were even not spared and were verbally abused and beaten by the cops. These cops deployed by the Ministry of Home Affairs have acted like goons and resulted a peaceful protest into bloodshed.

19. The higher officials of the University including the Vice Chancellor have kept a stony silence over the issue for obvious reasons. In the hundred years history of the Respondent University the present Vice-Chancellor has completely failed in her duty to tackle the issue in a peaceful manner which could have been achieved with her benevolent intervention on time. Evidently, the

Vice- Chancellor has become a party to the ploy. So far, no official press release has been issued by the Public Relation Office (PRO) and/or Media Coordinator of the Respondent University in this regard. The incumbent Registrar of the Respondent University is a senior official of the Indian Police Services (IPS), who miserably failed to accomplish his duty in both capacities. He has proven himself a liability to the Respondent University as well as the Nation. The Chief Proctor of the University was totally underground throughout the entire picture. Thousands of innocent students have been made scapegoats who followed the call of protest initiated by the Jamia Teaches Association (JTA).

20. The students of the Respondent University are young lads between the average age group of 17-25 years at UG and PG levels. These young students come from different strata of the society having different socio-cultural and religious backgrounds. These

students obviously keep high moral values and it is believed that they have never been involved in any anti-social activity. The Respondent University has always maintained a very high academic discipline and it is known nationwide.

21. The entire episode perpetrated by the Delhi Police and allied forces deployed by the Ministry of Home Affairs, has been witnessed by the nation and the same has been widely reported in today's news. A true copy of the relevant articles published in the national newspapers and electronic media is collectively annexed herewith and marked as **ANNEXURE: P – 2 (Colly)**.

22. Under the circumstances stated hereinabove the petitioners are perturbed by the plight of their alma mater. Hence, they are constrained to approach this Hon'ble Court invoking extraordinary writ jurisdiction

under article 32 of the Constitution of India, 1950, to save the '**life**' and '**liberty**' of those innocent, poor and vulnerable students who are begging for their lives. It is submitted that these students were somehow able to approach the petitioners through their cell phones and constantly seeking help on humanitarian grounds. The Respondent University have tied their hands and waved off their responsibility for the reason well-known to the Hon'ble Vice-Chancellor of the Respondent University. The petitioners before this Hon'ble Court are espousing the legitimate and the *bona fide* cause. *De facto* and *de jure* the instant petition ought to have been moved by the Respondent University. The petitioners genuinely feel concerned about their alma mater and have profound love for the University. The petitioners firmly believe that the senior officials including the Vice-Chancellor and the Registrar have lost conscience from their heart(s) and a basic sense of morality.

23. That in the aforementioned facts and circumstances it is necessary, expedient and in public interest that this Hon'ble Court may be pleased to exercise its powers under Article 32 of the Constitution of India and grant the prayers sought for in the present petition.

24. That the petitioners have got no other equally efficacious alternative remedy for the reliefs prayed for in the petition.

25. That the petitioners have not previously filed a similar writ petition in this Hon'ble Court or in any other High Court of India.

26. That this petition is filed *bona fide* and in the larger interest of the University and its students.

PRAYER

In the premises aforesaid, it is most humbly and respectfully prayed that this Hon'ble Court may be pleased to issue:

(a) An appropriate writ, order or direction in the nature of Mandamus appointing an independent judicial inquiry by a retired Supreme Court and/or High Court Judge into the entire episode perpetrated within the precincts of the Respondent University as on 15.12.2019; for fixing the responsibilities of the lapses on the part of the officials of the Respondent – Ministry of Home Affairs, Union of India and take appropriate disciplinary as well as penal actions against the erring official(s), in accordance with the law.

b) An appropriate writ, order or direction in the nature of Mandamus directing the Secretary, Ministry of Home Affairs – Union of India, to forthwith remove the Delhi Police as well as allied forces deployed by it from the precincts of the Respondent University including the MMAJ Marg, New Delhi

c) Any appropriate writ, order or direction directing the Secretary, Ministry of Home Affairs – Union of India, to

forthwith release the bona fide students of Respondent University illegally detained by the Delhi Police from the precincts of the Respondent University as on 15.12.2019, in the midst of the ongoing peaceful and democratic protest.

d) Direct the Registrar of the Respondent University to freeze the CCTV footage recorded by the Proctor Office, Students Affairs' Section and Office of the Security Advisor – Respondent University, for the purpose of judicial inquiry.

e) Issue a writ of declaration reiterating the law laid down by this Hon'ble Court in catena of dicta to the effect that the Police Authorities are not allowed to barge into the campus of educational institutions / universities without the permission from the respective Competent Authority and / or a prior written approval from the concerned Head of the institutions / universities, to be given in writing thereof.

f) Such other and further orders and/or directions as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case.

PETIONERS-IN-PERSON

DRAWN BY AND SETTLED BY:

M. MOBASHSHIR SARWAR, ADVOCATE
