

IN THE HIGH COURT OF THE JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P. No. of 2020

ASA. Umar Farook,

: Petitioner

.Vs.

1. Union of India,  
Through its Secretary,  
Ministry of Home Affairs, Government of India,  
ShastriBhavan, New Delhi -110011.
2. The Tamilnadu State rep. by its Chief Secretary,  
Secretariat St. George Fort,  
Chennai – 600 001.
3. The Principal Secretary,  
Family and Health Department,  
Secretariat St. George Fort,  
Chennai – 600 001.
4. The Home Secretary,  
Secretariat St. George Fort,  
Chennai – 600 001.

: Respondents

**AFFIDAVIT OF ASA. UMAR FAROOK**

I, ASA. Umar Farook, S/o. Asan Mohammed, Indian, aged about 54 years, residing at the address shown in cause title do hereby solemnly affirm and sincerely state as follows:

1. I submit that I am the petitioner herein and as such I am well acquainted with the facts and circumstances of the case and I am competent to swear this Affidavit.
2. I submit that I am filing this Writ solely with the interest of the public and the larger section of Tamilnadu Natives. I have already filed a PIL in W.P No. 7461 Of 2020 seeking for a Mandamus directing the respondents to register FIR

based on the complaints lodged by the aggrieved parties against the persons who communalised and ostracised the covid infected patients in various parts of the state of Tamilnadu and this is the second PIL. I state that to the best of my knowledge no PIL had been filed in this regard, I am filing this PIL based upon my personal knowledge, information. I state that I am filing this Writ Petition out of my own funds and my source of income is based on my business. I state that I have no personal motive or enmity with any religious or non-religious organization or/do have any personal interest. I undertake that I will have to pay costs, if any, if it is found to be intended for personal gain or oblique motive.

3. I submit that since adulthood I use to do social service to the public and raise voice against injustice occurs to any human being. I always serve the people who are in need, either when they ask me or voluntarily. I worked as a news editor and publisher for Samudaya Thondan newspaper for 16 years. I am very much attracted towards the public service and have helped many people to fulfil their needs. I have participated in many programs, protests, etc., I continued to do the social service in an individual capacity till I find that the Social Democratic Party of India (SDPI), a National party, that has its members in all over India, has been formed with the policy to eradicate the injustice that happens to the public and also to give freedom to the people from hunger and fear, so I joined the Party. Its core ideology is based on the principles of rationalism, social justice and equality. From its formation, the SDPI party has fought for the poor, downtrodden, and the marginalized sections of society. The basic policy of the party is Freedom from Hunger and Freedom from Fear and it has been working on the development of the country since its formation. I continued to do the social service under the

banner of SDPI. Currently I hold the position of State General Secretary of the SDPI Party and also the post of Administrative Manager for PudhiyaPaadhaiNewspaper.

I have not paid any income tax because my annual income is less than the taxable income.

4. I submit that it is a known fact that the outbreak of COVID-19 pandemic constrained the Government to cause nationwide shut down. The entire world is witnessing the outbreak of a Pandemic under a dreaded name "Corona Virus". The Medical Professionals, Bio-Medical Scientists, Researchers, Health workers are striving hard, day and night to treat, contain, find vaccine and find cure to control and eradicate this virus from this planet.
5. I submit that as we all know from 17.01.2020 to 20.03.2020, the Government was referring only about travelling abroad and the procedure of quarantine. The Indian Government started to alert the citizens about this pandemic disease only from 14.03.2020, but yet no ban was ordered against any gatherings, programs, religious events, meetings, etc., Schools were declared holiday only from 16.03.2020. After that on 19.03.2020 the Prime Minister had asked the people to obtain Janta Curfew for one day on 22.03.2020. Till this time no Medical Emergency was announced in India by the Central Health Department. When the Central Government realised the seriousness of this pandemic disease has announced national disaster and the State Government promulgated sec. 144 throughout the state and asked the people to maintain social distancing. The Central and State Government, all of a sudden, announced the lock down and implementation of Sec. 144, without facilitating any transit for those who have been stuck in far distance from their home town. No alternate facilities have also been arranged neither by State nor by

Central Government for the welfare of the people.

6. I submit that in such scenario, few people left with no other option, started to walk for miles to reach their hometown, in which few have died on their way back home. It is such an indigestible tragedy, misfortune of poor people and inaction on the part of the State Government. In these circumstances the State Government has started to test for Corona Disease, on those people whom they doubt. As such, the State quarantines the people and tests them for Corona. While in quarantine no proper basic facilities are been provided, like food, medicines, etc., to the people. Even after many complaints no officials took steps to take proper action.
7. I submit that to be precise, we take Delhi as example. Wherein, due to poor facilities one person named Mr. Mustafa died on 22.04.2020 due to heart attack. He was quarantined by the State Health Department last month and was tested twice as NEGATIVE. But still he was not set free and was kept in the quarantine ward along with other inmates. During testing he informed the doctors that he is a diabetic patient and has to take medicines on regular basis, but unfortunately he was not been medicated which leads to his death. The Doctors and State should wholly be responsible for the death of Mr. Mustafa (there are few others have also been died due to the sudden announcement of lockdown).
8. I submit that more than 1500 people are stranded only in the State of Delhi, in which around 600 are from the State of Tamilnadu, and apart from this there are many other people stranded in different States. Further, the Tamilnadu State Government has failed in its duty to bring back its natives from other States, like the UP Government who brought back around 4000 people, by arranging private bus, who were stranded due to lockdown.

9. I submit that not only the UP Government even the Central Government had also transported the pilgrims from Kasi (Varanasi) to Tamilnadu State. But neither the Central nor State Government had taken any steps to transit the people from Delhi, for the reasons best known to them.
- 10.I submit that when the relatives of those who are stranded in other States and tested Negative, have asked the Health Department official to send them back to their hometown, they were informed that they will be provided with medical report and they have to arrange for their own transportation and the department will not take any responsibility if they have been held captive while transit. It is the life and death situation of the people whoever is stranded in other States and the Government doesn't take it seriously and acting irresponsibly.
- 11.I submit that as such the sudden announcement of implementation of Sec. 144 by the Government without any precautionary measures, created havoc among the people, and many people have started to walk for miles, due to non-availability of transportation. We all know about the stampedes in the Bus Stands in several states which was telecasted live in all Medias. There are several people died due to the sudden implementation of Sec. 144, without taking any preventive measures. Few daily wagers have committed suicide with family due to poverty and hunger, because of lockdown.
- 12.I submit that when people can be brought from abroad, after medical testing, by arranging a separate aeroplane, then why not the people stranded in different States are been provided with transport to travel to their hometown. When one State can arrange transportation to bring their natives, then why not other States can also follow the same. Hence, now it has become mandatory that the Tamilnadu State should take immediate necessary action to bring

back the Tamil Natives, who are tested Negative, who are all stranded in different parts of India due to lock down.

13.I submit that a representation detailing the above facts has been emailed to the Respondents on 23.04.2020. But no action has been taken till now. In this critical situation it is most important that these stranded people should be transported safely to their native.

14.I humbly submit that due to nationwide lock down and in compliance to the circular issued by this Hon'ble Court in ROC.1363/2020/RG dated 24.3.2020 and Notification No. 111/2020 I am filing this writ petition communicated through the Registrar General and/or Registrar (Judicial) of this Hon'ble Court through E-mail ID and undertake to pay necessary court fee after the recall of nationwide lock down or as and when instructed.

15.I submit that I have left with no other remedy except to invoke the extraordinary jurisdiction under Article 226 of Indian Constitution by approaching this Hon'ble court to redress its grievances, hence, the present Writ Petition is being filed. No prejudice will be caused to the Respondents if this petition is allowed.

### **GROUND**

- a) That it is the basic right of every human being to be provided with basic needs like food, medicine, shelter, etc., and he has the right to live under Art.21 of the our Constitution.
- b) That the lockdown should not be the reason for the death of any individual. It should be implemented in such a way that no one is harmed due to it. The sudden announcement of lock down and implementation of Sec. 144 has created havoc among the people. There are people who travelled to other States, for official/personal reasons, have been stranded in those

places due to sudden implementation lockdown. The 1<sup>st</sup> Respondent and the Apex Court issued various guidelines with regard to migrant peoples, even though they suffered for basic needs, pleading to arrange transportation to their Native with safety measures. The 2<sup>nd</sup> to 4<sup>th</sup> Respondents did not take any action and apparently they have failed to discharge the duty of the state.

- c) That due to this unplanned lockdown many people have lost their lives because of poverty, hunger and non-transportation and few have committed suicide. Therefore, the Welfare State has the duty to protect the lives of its citizens, as per Art. 39(a) of Constitution.
- d) That when the Central Government can transport the pilgrims stranded from Kasi to Tamilnadu, then why the people stranded in Delhi and other states have not been arranged for the transportation. **“A democratic Government cannot laydown arbitrary and capricious standards for the choice of person with whom alone it will deal”** Therefore, the Respondents extent the same benefit to all Tamil Peoples without any discrimination.
- e) That on 22.04.2020 one person named Mr. Mustafa, who has been tested Negative for Corona died due to heart attack. The main reason for his death was he was not been provided with proper medication. He was a diabetic patient, which was informed to the doctors over there, but still he was kept along with other people, though he was tested Negative for Corona. This irresponsible act of the Government has claimed one life. Similarly there are thousands of people, from Tamilnadu, are stranded in different parts of the State, who have no signs of Corona, and afraid that if they are not been noticed they will also die. Most particularly only in the

state of Delhi more than 400 people from Tamilnadu, who are tested Negative for Corona, are stranded and fighting for their life. It is the responsibility of the Tamilnadu State Government to bring these people safely and with good health. Now the Respondents need to intervene to this issue and save the 400 Tamil peoples quarantined at same place.

- f) That a welfare state plays a key role in protection of its citizens. It's based on the Principles of the equality of opportunity, equitable distribution of wealth, and public responsibility for those unable to avail themselves of the minimal provisions for good life. Therefore, the state assumes primary responsibility for the welfare of its Citizens. This responsibility in theory ought to be comprehensive, because all aspects of welfare are considered and universally applied to citizens as a "right". Hence, the Respondents must take immediate action to transport and give proper guidelines to serve the basic needs like foods, medicine, etc.,
- g) That Article 21 of Constitution clearly states that no person shall be deprived of his life. The people stranded in Delhi and other parts of the state are entitled to transportation for their life security and they are also entitled to basic necessities of food and medicines for their prevailing health in the true nature and spirit of Article 21.
- h) That if no immediate action is taken to transit the people stranded in different parts of the State and there are more chances that the nation will face more casualties.
- i) That once when the people have been tested as Negative they must immediately be discharged and sent back to their home, but, here even after testing Negative they are still kept under quarantine along with other inmates. This will definitely pave way for the spread of disease, which may



lead to loss of life.

- j) That it is the responsibility of the State Government to bring back their natives. If they cannot manage to bring the people back safely, then atleast they can provide them with transit passes and ask them to arrange for their own transportation, which can save their life.
- k) That representation detailing the above facts had been emailed to the Respondents on 23.04.2020, but no action has been taken till now. It is the life and death situation and immediate action must be taken to prevent the spread of disease and more casualties. Hence, the Petitioner has approached this Hon'ble Court to invoke its extraordinary power and render justice.
- l) That, the Petitioner reserves his rights to file any additional grounds in future, if arises.

### **INTERIM PRAYER**

In the above said circumstances, it is most humbly prayed that this Hon'ble Court may be pleased to direct the Respondents to immediately transit the Tamilnadu Natives who are all stranded in Delhi due to lockdown and have tested Negative for Corona and to be provided with basic needs like food, medicine, etc, and thus render justice.

### **PRAYER**

Based on the above facts, it is most humbly prayed that this Hon'ble Court may be pleased to Issue a Writ in the nature of mandamus, or any other Writ, order or direction by directing the Respondents to take immediate action to transit the Tamilnadu Natives who are all stranded in different parts of the State due to lockdown within the time stipulated by

this Hon'ble Court and Pass any such other order or orders as this Hon'ble Court may deem fit and necessary in the circumstance of case and thus render justice.

Solemnly affirmed at Chennai on this 24<sup>th</sup> day of April, 2020, the content of above is explained in Tamil and clearly understood and signed in my presence. }

Before Me

Advocate

IN THE HIGH COURT OF JUDICATURE AT  
MADRAS  
(Special Original Jurisdiction)

W.P. No. of 2020

ASA. Umar Farook, : Petitioner

Vs.

1. Union of India & 3 others

: Respondents

AFFIDAVIT

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A. RAJA MOHAMED (501/12)  
V. SHAHIRA BANU (766/12)  
A. YOUSUFF IMRAN (1308/19)

COUNSEL FOR PETITIONER  
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