

**IN THE SUPREME COURT OF INDIA  
[EXTRA ORDINARY WRIT JURISDICTION**

**M.A. NO. \_\_\_\_\_ OF 2020**

**IN**

**WRIT PETITION (CIVIL) No. \_\_\_\_\_ OF 2020**

**(DIARY NO. 10986/2020)**

**IN THE MATTER OF:**

**NATIONAL INFORMATION TECHNOLOGY  
SENA THROUGH GENERAL SECRETARY**

**...PETITIONER**

**VERSUS**

**UNION OF INDIA & ORS.**

**...RESPONDENTS**

**APPLICATION SEEKING RECALL OF ORDER DATED 15.05.2020  
AND RESTORATION OF THE WRIT PETITION**

**ADVOCATE FOR THE APPLICANT/PETITIONER: PAI AMIT**

INDEX

| SL. NO | PARTICULARS                                                                                                                                                                                                                                                 | PAGE NO |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1.     | Application for recall of order dated 15.05.2020 with Affidavits                                                                                                                                                                                            | 1-11    |
| 2.     | <b>ANNEXURE A-1:</b><br>A true copy of the Order dated 15.05.2020 in W.P. (C) No. ____ of 2020 being D.N. 10986 of 2020                                                                                                                                     | 12      |
| 3.     | <b>ANNEXURE A/2:</b><br>True copy of the order dated 27.04.2020 passed by this Hon'ble Court in WRIT PETITION (CIVIL) .....Diary No(s). 10983/2020, WRIT PETITION (CIVIL) .....Diary No(s).10981/2020 and WRIT PETITION (CIVIL) .....Diary No(s).10993/2020 | 13-16   |
| 4.     | <b>Annexure A/3:</b><br>True copy of the Order dated 08.05.2020 in W.P. (C) No. ____ of 2020 being D.N. 10986 of 2020.                                                                                                                                      | 17      |
| 5.     | <b>Annexure A/4:</b><br>True copy of the email dated 12.05.2020 at 12.04 am                                                                                                                                                                                 | 18      |
| 6.     | <b>ANNEXURE A/5:</b><br>True copy of the case status of the case as downloaded from the website of the Supreme Court.                                                                                                                                       | 19      |
| 7.     | <b>ANNEXURE A/6</b><br>True copy of the chat history of whatsapp group created on 14.05.2020                                                                                                                                                                | 20-30   |

|    |                                                                           |       |
|----|---------------------------------------------------------------------------|-------|
|    | and the conversations in the chat raising concerns of connectivity.       |       |
| 8. | <b>ANNEXURE A/7:</b><br>True copy of the screenshot of the whatsapp chat. | 31    |
| 9. | <b>Annexure A/8</b><br>A true copy of the email dated 15.05.2020 at 2 pm  | 32-33 |

IN THE SUPREME COURT OF INDIA  
[EXTRA ORDINARY WRIT JURISDICTION]

M.A. NO. \_\_\_\_\_ OF 2020

IN

WRIT PETITION (CIVIL) No. \_\_\_\_\_ OF 2020  
(DIARY NO. 10986/2020)

**IN THE MATTER OF:**

NATIONAL INFORMATION TECHNOLOGY ...PETITIONER  
SENA THROUGH GENERAL SECRETARY

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

**APPLICATION SEEKING RECALL OF ORDER DATED 15.05.2020  
AND RESTORATION OF THE WRIT PETITION**

To,  
Hon'ble the Chief Justice of India  
and his Hon'ble Companion Justices  
of the Hon'ble Supreme Court of India;

The Humble Petition of the  
Petitioner above-named

**MOST RESPECTFULLY SHOWETH: -**

1. The present application is being filed seeking a recall of the Order dated 15.05.2020, and for restoration of the writ petition in Diary No. 10986 of 2020. This Hon'ble Court *vide* order dated 15.05.2020 dismissed the Writ Petition on completely incorrect notion that the Petitioner before this Hon'ble Court was an Advocate. A true copy of the Order dated 15.05.2020 in W.P. (C) No. \_\_\_\_ of 2020 being D.N. 10986 of 2020 is annexed herewith and marked as **Annexure A/1 [Pages 12 ]**.

2. It is submitted the Hon'ble Court passed the aforesaid order without considering the order dated 08.05.2020 passed by this Hon'ble Court *vide* which this Hon'ble Court was pleased to grant liberty to the Applicant to delete Petitioner No. 1 who is an advocate and observed that this Hon'ble Court will examine the issue raised in the Petition and was pleased to tag the matter with other similar connected matters.
3. For the purpose of brevity, the factual matrix in the writ petition and the grounds urged therein are not being repeated, and the averments in the said writ petition may be treated as part and parcel at the time of hearing of the present application.
4. The writ petition in public interest was originally filed of 20.04.2020 before this Hon'ble Court, in which the Petitioner No. 1 was an advocate, and Petitioner No. 2 [National Information Technology Sena (NITES)] was an association working for the welfare of IT/BPO/KPO employees, and seeking the implementation of the Circular dated 20.03.2020 and 29.03.2020 issued by the Union of India, and also seeking directions to the Respondents to ensure that the employees in the private sector were not terminated *en masse*, and that they were paid subsistence salary.
5. It is submitted that vide Order dated 27.04.2020 this Hon'ble Court was pleased to issue notice in Writ Petition (Civil) Diary No(s). 10983/2020, Writ Petition (Civil) Diary No(s).10981/2020 and Writ Petition (Civil) Diary

No(s).10993/2020 and directed the matter to be listed after two weeks granting liberty to the Union of India to file its response in a Petition filed by three private establishments challenging the notifications dated 20.03.2020 and 29.03.2020 issued by the Union of India directing payment of full wages to workers and employees during the period of lockdown. True copy of the order dated 27.04.2020 passed by this Hon'ble Court in WRIT PETITION (CIVIL) .....Diary No(s). 10983/2020, WRIT PETITION (CIVIL) .....Diary No(s).10981/2020 and WRIT PETITION (CIVIL) .....Diary No(s).10993/2020 is annexed hereto and marked as **ANNEXURE A/2 [page 13 to 16]**

6. It is submitted that the present writ petition was first listed on 08.05.2020. At the time of the hearing, the Hon'ble Court was pleased to permit the deletion of Petitioner No. 1 (Advocate) and substitution of Petitioner No. 2 as Petitioner No. 1. The order records as below:

“At the request of learned counsel for the petitioners, petitioner No.1 is deleted from the array of parties. List the matter on 15th May, 2020 along with D.No. 10983/2020”

A true copy of the Order dated 08.05.2020 in in W.P. (C) No. \_\_\_\_ of 2020 being D.N. 10986 of 2020 is annexed herewith and marked as **Annexure A/3 [Pages 17]**.

7. Accordingly, the Advocate on Record of the Petitioner amended the cause title of the petition, making the erstwhile Petitioner No. 2 as the sole Petitioner, and deleting Petitioner No. 1 on 11.05.2020 and uploaded the same on the e-filing webportal of

the Hon'ble Court. The same was also emailed to the PIL Section of the Registry, upon request on 12.05.2020, via email to pil.writ@sci.nic.in. A true copy of the email dated 12.05.2020 at 12.04 am is annexed herewith and marked as **Annexure A/4 [Pages 18]**.

8. Subsequent thereto the website of this Hon'ble Court was updated to reflect NITES as the sole Petitioner. True copy of the case status of the case as downloaded from the website of the Supreme Court is annexed hereto and marked as **ANNEXURE A/5 [Pages 19]**
9. It is submitted that a batch of matters were listed on 15.05.2020 before the Hon'ble Court, at Item No. 24 to 35. The present matter was listed at Item No. 26. It is submitted that the link for hearing scheduled on 15.05.2020 was sent on whatsapp group created by the Admin. It is submitted that on day of hearing the Vidyo app on which virtual hearings are conducted was facing several technical and connection issues, wherein several counsels were unable to connect and also audio/video were not functioning and were raising concerns regarding the same. The Counsel appearing for the Petitioner in the present matter also raised several concerns to the admin on whatsapp group. The true copy of the chat history of whatsapp group created on 14.05.2020 and the conversations in the chat raising concerns of connectivity is annexed hereto and marked as **ANNEXURE A/6 [page 20-30]**

10. A similar matter had been listed at Item No. 9, and the Hon'ble Court had already placed the same for the next week. Accordingly, when Item No. 24 was called out, the Ld. Solicitor General stated that Item No. 24 to 35 were also to be listed the following week, but the Hon'ble Court, being a Virtual Court had to call out each matter.
11. It is submitted that when Item no. 26 was called out, due to a technical glitch, neither the Advocate on Record, nor the Advocate on the matter (Mr. Rajesh Inamdar), who was also on the Video Conference, were audible to the Hon'ble Court. The Hon'ble Court dismissed the matter on the sole ground that it had been filed by a lawyer, and the neither the Advocate on Record nor the Advocate was able to point out to the Hon'ble Court that the Advocate was no longer the Petitioner, and the Petitioner was an Association working for the welfare of the IT/BPO/KPO employees. Unfortunately, as soon as the next matter is called out, the Video Conference link for the earlier matter is disabled, and therefore, there is no manner in which the Advocates could bring to the notice of the Hon'ble Court the Order dated 08.05.2020, by which erstwhile Petitioner No. 1 was deleted. Immediately thereafter, the Advocate on Record attempted to get in touch with various officers of the Registry/Court Masters/Residence of Hon'ble Judge, in Order to attempt to make an mention before the Hon'ble Court to apprise of the Order dated 08.05.2020, in vain. The Counsels made attempts in the whatsapp group to request other counsels apprise the Hon'ble Court regarding the correct facts

and the technical glitches in the functioning of the App, however to no avail. The admin after several efforts gave number of the Court master as to enable the Applicant to make a mention immediately. However, the number of the Court master was also switched off, the counsel for the Applicant also sent a whatsapp message to the Court Master to seek immediate mentioning. True copy of the screenshot of the whatsapp chat is annexed hereto and marked as **ANNEXURE A/7 [page 31]**

12. It is submitted that vide Order dated 06.04.2020 in Suo Motu Writ (Civil) No. 5 of 2020 being In Re: Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic, this Hon'ble Court has laid down in Para 6(iv) thus:

*“iv. The concerned courts shall maintain a helpline to ensure that any complaint in regard to the quality or audibility of feed shall be communicated during the proceeding or immediately after its conclusion failing which no grievance in regard to it shall be entertained thereafter.”*

Accordingly, the Advocate on Record for the Petitioner wrote an email to mention.sc@sc.nic.in and also marking the Ld. Secretary General of the Hon'ble Court, and Secretary, Supreme Court Advocates on Record Association raising the grievance. A true copy of the email dated 15.05.2020 at 2 pm is annexed herewith and marked as **Annexure A/8 [Pages 32 to 33]**. However, the same has not been actioned, therefore necessitating the filing of the present application.

13. It is submitted that due to the unforeseen and unprecedented pandemic situation, the Hon'ble Courts to take the extraordinary step of convening due to Video Conferencing, which is laudable. However, it is submitted that they are not substitutes for physical Court hearing. It is submitted that the Advocates and Litigants are facing some serious difficulties, especially in terms of connectivity/network/audibility. The present case is a classic example of the same. It is submitted that all the matters in the batch were placed for next week, except the present case, which was dismissed by the Hon'ble Court on the notion that it had been filed by an Advocate. It is submitted that the Advocate on Record/Advocate in the matter were unable to bring to the notice of the Hon'ble Court the Order dated 08.05.2020, due to the technical lags in the Virtual Court hearing.
14. It is submitted that if this Hon'ble Court were not to pass Orders, there would be an unprecedented economic situation created in the country, and several thousand persons falling within the bracket of "middle class" would be adversely and prejudicially affected. It is submitted that the economic and social impact of unregulated mass terminations and delayed payment of salaries or pay cuts will be extremely severe and have a very large and serious human impact, and in contravention of the fundamental rights under Articles 14, 19(1) (g) and 21, which have been held to be most essential.
15. Therefore the present application is being filed seeking recall of the Order dated 15.05.2020, and restoration of the matter. It is

submitted that grievance was raised at the earliest opportunity available.

16. The instant application is being made *bona fide* and in the interests of justice.

17. It is submitted that grave injustice will be caused to the Petitioner if the present application is not allowed.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Allow the present application and recall the Order dated 15.05.2020 in W.P. (C) No. \_\_\_\_ of 2020 being Diary No. 10986 of 2020 and restore the same to its original number; and
- b) pass any other further orders as it may deem fit and proper in the facts and circumstances of the case.

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

DRAWN BY:

Filed by:

PAI AMIT  
RAJESH INAMDAR  
ADVOCATES

**Pai Amit**  
Advocate on Record

FILED ON: 18.05.2020

New Delhi

## IN THE SUPREME COURT OF INDIA

## CIVIL ORIGINAL JURISDICTION

W.P. (C) No. \_\_\_\_\_ OF 2018

(DIARY NO. 10986/2020)

## IN THE MATTER OF:

NATIONAL INFORMATION TECHNOLOGY  
SENA THROUGH GENERAL SECRETARY... PETITIONER/  
APPLICANT

VERSUS

UNION OF INDIA &amp; ORS.

...RESPONDENTS

AFFIDAVIT

I,

, do hereby solemnly affirm

and declare as under:-

1. That I am the Advocate on Record for the Petitioners in the aforesaid matter and thus am well conversant with the facts and circumstances of the case and as such am competent to swear this affidavit.
2. I state that the accompanying applications have been drafted by me, and I state that the same is true and correct to my knowledge.
3. I also state that the Annexures annexed to the Application are true copies of their respective originals.

---

DEPONENTVERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

Verified at Noida on this the 18<sup>th</sup> day of May, 2020.

---

DEPONENT

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

**W.P. (C) No. \_\_\_\_\_ OF 2018**

**(DIARY NO. 10986/2020)**

**IN THE MATTER OF:**

NATIONAL INFORMATION TECHNOLOGY ...PETITIONER/  
SENA APPLICANT

THROUGH GENERAL SECRETARY

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

**AFFIDAVIT**

I,

do hereby solemnly declare

as under: -

1. That I am the General Secretary of Petitioner in the instant petition and have been duly authorized to depose this affidavit. I am fully competent and authorized to swear and depose this affidavit and fully aware of the facts and circumstances of the present case.
2. I state that the accompanying applications have been drafted by me, and I state that the same is true and correct to my knowledge.
3. That the Annexure A-1 to A-8 filed along with the Application are true copies of their respective originals.
4. That the Petitioner/Applicant (s) are/is seeking exemption from attestation of the instant affidavit, since the country is under a lockdown due to COVID-19 since 24<sup>th</sup> March 2020 and undertakes to furnish an attested affidavit at a later stage.

**DEPONENT**

**VERIFICATION:**

Verified at Pune on this 18th May 2020 that the contents of this affidavit are based on the information derived from the records and also on the basis of the information received and believed to be correct. No part of it is false and nothing material has been concealed or suppressed there from.

**DEPONENT**

ITEM NO.26

Virtual Court 1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) Diary No(s). 10986/2020

NATIONAL INFORMATION TECHNOLOGY EMPLOYEES SENATE  
(NITES), THROUGH GENERAL SECRETARY  
SHRI. HARPREET SALUJA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(APPLICATION FOR PERMISSION TO BRING ON RECORD ADDITIONAL DOCUMENT  
AND APPLICATION SEEKING AD-INTERIM DIRECTION)

Date : 15-05-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Pai Amit, AOR

For Respondent(s) Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following  
O R D E RWe are not inclined to entertain this petition under  
Article 32 of the Constitution of India.

The writ petition is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed  
of.(GEETA AHUJA)  
COURT MASTER (SH)(ANAND PRAKASH)  
BRANCH OFFICER

WP@...D.No.10983/20 etc.

- 1 -

Revised

ITEM NO.17+20+21

Virtual Court 1

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) .....Diary No(s). 10983/2020

FICUS PAX PRIVATE LIMITED

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

With

WRIT PETITION (CIVIL) .....Diary No(s).10981/2020WRIT PETITION (CIVIL) .....Diary No(s).10993/2020

Date : 27-04-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Ms. Indira Jaising, Sr.Adv.  
Mr. Anand Grover, Sr.Adv.  
Mr. Sunil Fernandes, AOR  
Ms. Nupur Kumar, Adv.  
Mr. Zeeshan Diwan, Adv.  
Mr. Prastut Dalvi, Adv.

Mr. C.U. Singh, Sr.Adv.

Mr. Jamshed Cama, Sr.Adv.

Mr. Jeetender Gupta, AOR

Petitioner-in-person

Ms. Aparna Jha, Adv.

Mr. Rajeev Maheshwarnanad Roy, adv.

For Respondent(s) Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following  
O R D E R

The Court is convened through Video Conferencing.

Heard learned counsel for the parties as also learned

Solicitor General appearing on behalf of the respondent-Union of

WPC...D.No.10983/20 etc.

- 2 -

**India.**

Learned Solicitor General submits that he wants to file a response to these writ petitions.

List after two weeks.

All the applications are also to be listed along with these petitions.

The applicants are directed to supply copies of the applications to the learned Solicitor General through E-mail.

(SATISH KUMAR YADAV)  
AR-CUM-PS

(RAJ RANI NEGI)  
ASSISTANT REGISTRAR

WP@...D.No.10983/20 etc.

- 1 -

ITEM NO.17+20+21

Virtual Court 1

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) .....Diary No(s). 10983/2020

FICUS PAX PRIVATE LIMITED

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

With

WRIT PETITION (CIVIL) .....Diary No(s).10981/2020WRIT PETITION (CIVIL) .....Diary No(s).10993/2020

Date : 27-04-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Ms. Indira Jaising, Sr.Adv.

Mr. C.U. Singh, Sr.Adv.

Mr. Jamshed Cama, Sr.Adv.

Mr. Jeetender Gupta, AOR

Petitioner-in-person

Ms. Aparna Jha, Adv.

Mr. Rajeev Maheshwarnanad Roy, adv.

For Respondent(s) Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following  
O R D E R

The Court is convened through Video Conferencing.

Heard learned counsel for the parties as also learned  
Solicitor General appearing on behalf of the respondent-Union of  
India.

Learned Solicitor General submits that he wants to file a

response to these writ petitions.

List after two weeks.

All the applications are also to be listed along with these petitions.

The applicants are directed to supply copies of the applications to the learned Solicitor General through E-mail.

(SATISH KUMAR YADAV)  
AR-CUM-PS

(RAJ RANI NEGI)  
ASSISTANT REGISTRAR

ITEM NO.4

Virtual Court 2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) Diary No(s). 10986/2020

RAJESH INAMDAR & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(APPLICATION FOR PERMISSION TO BRING ON RECORD ADDITIONAL DOCUMENT  
AND APPLICATION SEEKING AD-INTERIM DIRECTION )

Date : 08-05-2020 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ASHOK BHUSHAN  
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Devadatt Kamat, Sr. Adv.  
Ms. Aishwarya, Adv.  
Mr. Pai Amit, AOR

For Respondent(s) Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following

O R D E R

The Court is convened through video conferencing.

At the request of learned counsel for the petitioners,  
petitioner No.1 is deleted from the array of parties.

List the matter on 15<sup>th</sup> May, 2020 along with D.No. 10983/2020.

(MEENAKSHI KOHLI)  
AR-CUM-PS

(VIRENDER SINGH)  
COURT MASTER