

**IN THE HON'BLE HIGH COURT OF UTTAR PRADESH
SITTING AT LUCKNOW**

Writ Petition No.

(MB) of 2020 (PIL/CIVIL)

SM Singh Royekwar, Advocate

..... Petitioner-in -person

Versus

Hon'ble High Court of Judicature at

Allahabad and Anr.

.....Opposite Parties

INDEX

Sl. No.	Particulars	Page (s)
1.	Date wise Events/Synopsis	3 - 8
2.	Memo of the Writ Petition	9 - 29
3.	Annexure No. 1 (colly) True copies of the enrolment certificate, certificate of practice issued by the UP Bar Council and the Membership Certificate issued by the Awadh Bar Association	30 - 33
4.	Annexure No. 2 A true copy of the letter dated 05.05.2020	34 - 40
5.	Annexure No. 3 A true copy of the letter dated 20.05.2020	41 - 50
6.	Annexure No. 4 A true copy of the letter dated 03.06.2020	51 - 55
7.	Annexure No. 5 A true copy of the letter dated 30.05.2020	56 - 58
8.	Annexure No. 6 True copies of data available on the site of National Judicial Grid	59 - 62
9.	Annexure No. 7 A true copy of the High Court of Delhi Rules for Video Conferencing for Courts 2020	63 - 80
10.	Annexure No.8 A true copy of the Rules for Video Conferencing	81 - 95

	for Courts	
11.	Annexure No.9 A true copy of the Madras High Court Video Conferencing Rules, 2018	96-105
12.	Annexure No.10 A true copy of The Tripura Video Conferencing (Conduct of Proceedings and including Recording of Evidence and Remand of Accused in the trial/remand courts) Rules, 2018	106-117
13.	Annexure No.11 A true copy of the Rules published by Hon'ble High Court of Himachal Pradesh	118-143
14.	Annexure No.12 A true copy of order dated 06.04.2020 passed by the Hon'ble Supreme Court the case of Suo Moto Writ (Civil) No. 5/ 2020	144-151
15.	Annexure No.13 A true copy of the representation dated 15.07.2020 along with speed post receipt	152-155
16.	Affidavit alongwith Identity Proof	156-158

Lucknow
Dated: 22/07/2020

SM Singh Royekwar, Advocate
Petitioner-in-person

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LIST OF DATES AND EVENTS/SYNOPSIS

..... By means of present writ petition, petitioner prays for a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to take immediate steps towards framing of comprehensive Rules for full functioning of the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode and complete the said exercise within a stipulated time frame, as may be deemed fit by this Hon'ble Court.

Further this Hon'ble Court may be pleased to direct the opposite party no. 2 by issuing an appropriate writ, order or direction in the nature of mandamus to render all necessary support/assistance, logistical and otherwise, as may be required, towards ensuring the full functioning of the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode in furtherance of the said Rules.

Brief facts leading to the filing of the present writ petition are narrated as follows:

	The petitioner is a regularly practicing Advocate before this Hon'ble High Court since 2003. The petitioner is Advocate-on-Role of this Hon'ble Court vide A-o-R No. His Enrolment No. with the Bar Council of Uttar Pradesh is Petitioner is a life member of the Awadh Bar Association, High Court, Lucknow.
18.03.2020	Owing to the gradually developing unprecedented situation of pandemic (Covid-19), on the eve of 18 th March, 2020 a notification was issued by the Hon'ble Chief justice of this Hon'ble Court vide which 19 th , 20 th and 21 st March, 2020 were declared as holidays for the High Court for State of Uttar Pradesh, as a preventive measure for combating the threat of Corona Virus (Covid-19).
	Keeping in view of ever increasing threat of pandemic, the holidays were further extended upto 25 th March, 2020.
24.03.2020	In meantime the nationwide lockdown was announced by our Hon'ble Prime Minister on 24 th , March 2020 for a period of 21 days and Ministry of Home Affairs, Government of India issued a consequential order dated 24.03.2020 in this regard.
25.03.2020	In view of the above-sated background, the Hon'ble Chief Justice of this Hon'ble Court issued an order dated 25.03.2020 vide which the High Court and all the subordinate courts to the High Court including tribunals and other authorities, were ordered to remain closed until further orders. The said order was passed with a caveat that the imminently emergent and urgent cases will be heard after the approval from the designated authority.
	From time to time the Registrar General, Hon'ble High Court of Judicature at Allahabad, in view of the extension of Lockdown and prevailing extraordinary situation,

	issued circulars with regard to the closure of the subordinate courts.
06.04.2020	The Hon'ble Supreme Court vide its order dated 06.04.2020 in the case of <i>Suo Moto Writ (Civil) No. 5/2020</i> titled as 'IN RE: GUIDELINES FOR COURT FUNCTIONING THROUGH VIDEO CONFERENCING DURING COVID-19 PANDEMIC', had suo moto took the cognizance for the use of modern technologies for the delivery of the justice during the Covid-19 crisis. The Hon'ble Supreme Court in order to fulfil the constitutional commitment even during the present crisis has, in exercise of its power enshrined under Article 142 of the Constitution of India, issued slew of directions.
11.04.2020 & 12.04.2020	Detailed instructions dated 11.04.2020 for the Allahabad Seat and instructions dated 12.04.2020 for Lucknow Seat were issued for taking up the urgent matters at both seats of the Hon'ble High Court. The striking point in the instructions was that hearing of the matters was to take place through video conferencing, which was a change in the decades old conventional practice of physical hearing in congregations.
05.05.2020	On 05.05.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 1091/ IV-CPC/ e-courts/ Allahabad/ Dated: 05.05.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for functioning of District Courts covered under different zones viz. red, orange and green zones during the period of the lockdown and thereafter.
20.05.2020	Again on 20.05.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 1108/LXXXVII-CPC/ e-

	courts/ Allahabad/ Dated: 20.05.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for functioning of District Courts covered under different zones viz. red, orange and green zones during the period of the lockdown and thereafter.
30.05.2020	The Ministry of Home Affair issued a notification dated 30.05.2020 which carried out the Guidelines for Phased Re-opening (Unlock 1)
03.06.2020	After coming into the effect of notification of Unlock 1, subsequently on 03.06.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 117/ LXXXVII-CPC/ e-courts/ Allahabad/ Dated: 03.06.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for opening of Courts subordinate to High Court of Judicature at Allahabad. The said guidelines have been brought into effect from 08.06.2020 till further orders.
	It is submitted that the afore-stated letters dated 05.05.2020, 20.05.2020 and 03.06.2020, do mention that the use of mechanism of video conference for conduct of proceedings but they do not provide for the procedure relating to use of video conferencing to be followed by the District Courts, Tribunals and other forums, which are subordinate to High Court of judicature at Allahabad.
	No gain said, that from past four months all the trials (Civil and Criminal), pending before the District Courts and Tribunals are stuck and in near future also there are less chances of normal functioning of courts due to ever worsening of pandemic situation. In the circumstances, it is safely inferred that virtual hearings of the cases is

	going to be prevalent norm for a sufficiently long time.
	In the afore-stated background and taking into consideration the present situation, it is submitted before this Hon'ble Court that, the rules enumerating an all comprehensive uniform procedure for taking evidences, judicial remands, framing of charges etc by the District Court, Tribunal and other Forums, is a need of the hour.
	It will be also worth bringing to the knowledge of this Hon'ble Court that various High Courts in the country, viz. Delhi High Court, Madras High Court, Tripura High Court, High Court of Himachal Pradesh, Karanataka High Court in exercise of powers enshrined under Article 225 and 227 of the Constitution of India, have framed the 'Rules' for the use of video conferencing, which are made applicable not only to the High Court but also to District Courts, Tribunals, Authorities etc
	The direction no.(vii) of the order dated 06.04.2020 says that until the appropriate rules are framed by the Hon'ble High Court, use of video conferencing will be made mainly for the hearing of arguments for the trial stage of at appellate stage. Further it states that the evidence shall not be recorded by means of video conferencing, in absence of mutual consent of parties. Meaning thereby that until the Hon'ble High Court frames the rules regard to taking of evidences, framing of charges etc., no trial can proceed further in District Courts, Tribunal and other forums subordinate to High Court of Judicature at Allahabad.
	In the absence of appropriate all comprehensive Rules, the litigants, who cases are on the evidence stage, stand deprived of their fundamental right of speedy justice in comparison to those, whose cases are listed for final hearings/ arguments. As the cases on the stage of final hearing/ arguments are being given preference to.

15.07.2020	The petitioner on 15.07.2020 has made a representation to the Hon'ble Chief Justice through Registrar General, Hon'ble High Court of Judicature at Allahabad, requesting for formulation of rules streamlining the procedure for the use of Video Conferencing in Courts. The representation is pending as on date.
	Hence this writ petition.

Lucknow
Dated: 22/07/2020..

SM Singh Royekwar, *Advocate*
Petitioner-in-person

- 9 -

**IN THE HON'BLE HIGH COURT OF UTTAR PRADESH
SITTING AT LUCKNOW**

Writ Petition No. (MB) of 2020 (PIL/CIVIL)

SM Singh Royekwar, *Advocate*,

..... Petitioner-in-person

Versus

1. Hon'ble High Court of Judicature at Allahabad through its Registrar General
2. State of UP through Principal Secretary (Law) & Legal Remembrancer, Government of UP, Civil Secretariat, Lucknow

..... Opposite Parties

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION

To,

The Hon'ble Chief Justice and other

Companion Judges of this Hon'ble High Court

The humble petitioner named above begs to state as under:-

1. That this is the first writ petition being filed by the petitioner before this Hon'ble Court on the present cause of action and for the

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reliefs prayed for herein; no other writ petition has earlier been filed by the petitioner with respect to the same cause of action or for the same reliefs in this Hon'ble Court either at Allahabad or at Lucknow.

The petitioner further states that petitioner has not received any caveat application with regard to subject matter of this writ petition from any of the opposite parties or anyone else by any mode of service till date.

2. That by means of the present petition which is in the nature of Public Interest Litigation ('PIL', for short), the petitioner prays for a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to take immediate steps towards framing of comprehensive Rules for full functioning of the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode and complete the said exercise within a stipulated time frame, as may be deemed fit by this Hon'ble Court.

Further this Hon'ble Court may be pleased to direct the opposite party no. 2 by issuing an appropriate writ, order or direction in the nature of mandamus to render all necessary support/assistance, logistical and otherwise, as may be required, towards ensuring the full functioning of the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode in furtherance of the said Rules.

3. That the petitioner is a regularly practicing Advocate before this Hon'ble High Court since 2003. The petitioner is Advocate-on-Role of this Hon'ble Court vide His Enrolment No. with the Bar Council of Uttar Pradesh is

.Petitioner is life member of the Awadh Bar Association, High Court, Lucknow. True copies of the enrolment certificate as also certificate of practice issued by the UP Bar Council and the Membership Certificate issued by the Awadh Bar Association are collectively marked and annexed herewith as **ANNEXURE No.1**

4. That the petitioner is a public spirited citizen and from time to time has been raising issues of public importance at different levels for inviting attention of the concerned authorities and making his modest contribution towards progressive development of law/legal institutions and overall betterment of society in various ways. A brief of his past activities in public interest are as follows:

(i) Petitioner is one of the founder Trustees of the Babu Umesh Chandra Memorial Trust. The Trust has been formed in the memory of Late Babu Umesh Chandra, Senior Advocate, formerly Advocate General of UP. He was the first practicing Advocate of this Hon'ble Court, in independent Bharat, who adorned the post of Advocate General of the State. The Trust has been regularly organising many activities in High Court, Lucknow e.g. free health camps for lawyers, awarding the young meritorious Advocates and seminars on legal issues.

(ii) Petitioner has founded a Trust viz. Mahamana Madan Mohan Malviya Memorial Trust. This Trust is running a library in the

Law Faculty of the Lucknow University for catering to the needs of meritorious students by providing study material. The library is being run with due approval of the Vice Chancellor of the University.

(iii) Petitioner is founder President of Mahamana Foundation, Lucknow, a society registered under the Societies Registration Act. The Foundation has been regularly organising various functions e.g. annual seminars in collaboration with Awadh Bar Association in High Court, Lucknow in High Court, Lucknow, tree plantation drive, and activities towards encouragement of young lawyers etc.

(iv) Petitioner, as part of the five members team deputed by the Awadh Bar Association, played active role in organising a photo exhibition showcasing the journey of the Awadh bar Association, as part of the sesquicentenary functions of this Hon'ble Court in April, 2016 which was inaugurated by the then Hon'ble Chief Justice of this Hon'ble Court. The then Hon'ble Chief Justice had, on record, appreciated the exhibition.

(v) A couple of times in the past, the petitioner has been allowed by this Hon'ble Court to intervene and render his assistance in a few writ petitions in which issues of public importance, mainly concerning the field of law, were raised.

(a) Writ petition no. 4330 (MB) of 2017 (Debts Recovery Tribunal Bar association Vs Union of India and Ors.).

This writ petition raised the issue of curtailment of

- 13 -

territorial jurisdiction of Debts Recovery Tribunal, Lucknow at the hands of the Finance Ministry of the Central Government to the detriment of the litigants of a number of adjoining districts.

(b) Writ petition no. 7726 (MB) of 2013 (Dr Nutan Thakur Vs Union of India and Ors.). This writ petition raised the issue of lopsided distribution of territorial jurisdiction between two seats of the High Court of the Uttar Pradesh, Allahabad and Lucknow.

(vi) Petitioner has moved the intervention application in writ petition (PIL) No. 665/ 2020, which is pending before this Hon'ble Court at Allahabad in which issue of curtailing the use of papers in the proceedings in the Court by suggesting various modes have been raised. Petitioner had already raised this issue with appropriate request by way of representation dated 19.02.2020 before the Hon'ble Chief Justice through Registrar General of this Hon'ble Court.

(vii) Petitioner has also raised the issue of compulsory requirement of mentioning of religion of the deponent, as mandated under the Rules of the Court, in the Affidavit being filed in this Hon'ble Court, by means of the representation dated 12.05.2020 addressed to the Hon'ble Chief Justice through the Registrar General of the Hon'ble Court and has requested for doing away of such requirement as it militates against the concept of secularism.

5. That towards requirement of Rule 3-A of the Chapter XXII of the Rules of the Court, it is submitted that the petitioner is a public spirited citizen. He has no personal or private interest in the dispute in question. The result of the litigation will not lead to any undue gain to the petitioner or anyone associated with him nor would cause any undue loss to any person, body of persons or the State. There is no authoritative pronouncement by the Hon'ble Supreme Court or the High Court on the question raised in this writ petition.
6. That the brief facts leading to the filing of the present writ petition are narrated as follows: Owing to the gradually developing unprecedented situation of pandemic (Covid-19), on the eve of 18th March, 2020 a notification was issued by the Hon'ble Chief justice of this Hon'ble Court vide which 19th, 20th and 21st March, 2020 were declared as holidays for the High Court for State of Uttar Pradesh, as a preventive measure for combating the threat of Corona Virus (Covid-19).
7. That keeping in view of ever increasing threat of pandemic, the holidays were further extended upto 25th March, 2020. In meantime the nationwide lockdown was announced by our Hon'ble Prime Minister on 24th, March 2020 for a period of 21 days and Ministry of Home Affairs, Government of India issued a consequential order dated 24.03.2020 in this regard.
8. That in view of the above-sated background, the Hon'ble Chief Justice of this Hon'ble Court issued an order dated 25.03.2020 vide which the High Court and all the subordinate courts to the High

- Court including tribunals and other authorities, were ordered to remain closed until further orders. The said order was passed with a caveat that the imminently emergent and urgent cases will be heard after the approval from the designated authority.
9. That from time to time the Registrar General, Hon'ble High Court of Judicature at Allahabad, in view of the extension of Lockdown and prevailing extraordinary situation, issued circulars with regard to the closure of the subordinate courts.
 10. That in meantime a detailed instructions dated 11.04.2020 for the Allahabad Seat and instructions dated 12.04.2020 for Lucknow Seat were issued for taking up the urgent matters at both seats of the Hon'ble High Court. The striking point in the instructions was that hearing of the matters was to take place through video conferencing, which was a change in the decades old conventional practice of physical hearing in congregations. Even during the ongoing pandemic when everything was locked, the doors of the courts were never closed, keeping in view that the citizens of this State are not deprived of their fundamental right to approach the Courts.
 11. That it goes without saying that the hearing through video conferencing is totally a new way for delivering the justice and its smooth adaptation requires collective effort of the Bench and the Bar. Time and again instructions/ orders have been issued/ passed by the Hon'ble Chief Justice of this Hon'ble Court to smoothen the process of e-filing and virtual hearing and endeavour has been made to make such process hassle free and smooth.

12. That on 05.05.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 1091/ IV-CPC/ e-courts/ Allahabad/ Dated: 05.05.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for functioning of District Courts covered under different zones viz. red, orange and green zones during the period of the lockdown and thereafter. A true copy of the letter dated 05.05.2020 is marked and annexed herewith as **ANNEXURE No.2**
13. That again on 20.05.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 1108/LXXXVII-CPC/ e-courts/ Allahabad/ Dated: 20.05.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for functioning of District Courts covered under different zones viz. red, orange and green zones during the period of the lockdown and thereafter. A true copy of the letter dated 20.05.2020 is marked and annexed herewith as **ANNEXURE No.3**
14. That the above-stated guidelines mention different zones viz. red, orange and green zones. It is apt to mention that the distribution of areas in these three zones (Red, Orange and Green) was brought in place by the notification dated 01.05.2020. However vide the notification dated 30.05.2020 issued by the Ministry of Home Affairs, Government of India, which comes into effect from

01.5.2020 and named as 'Guidelines for Phased Re-opening (Unlock 1)', has done away with the classification of zones into Red, Orange and Green Zones. Instead it only mentions about the containment zone and buffer zone.

15. That after coming into the effect of notification of Unlock 1, subsequently on 03.06.2020 the Registrar General, High Court of judicature at Allahabad under the directions of this Hon'ble Court issued a letter no. 117/ LXXXVII-CPC/ e-courts/ Allahabad/ Dated: 03.06.2020, addressed to all the District Judges/ OSD, Subordinate to High Court of judicature at Allahabad, communicating the guidelines in respect of mechanism/ modalities for opening of Courts subordinate to High Court of Judicature at Allahabad. The said guidelines have been brought into effect from 08.06.2020 till further orders. A true copy of the letter dated 03.06.2020 is marked and annexed herewith as **ANNEXURE No.4**

16. That to the best knowledge of the petitioner and availability of notifications in public domain, the letter dated 03.06.2020 is till date is operation in effect, as no other letter could be traced out.

17. That the letter date 03.06.2020 states that the guidelines communicated vide letter dated 30.05.2020, regarding the preference of cases shall be strictly adhered to. A true copy of the letter dated 30.05.2020 is marked and annexed herewith as **ANNEXURE No.5**

18. That it is submitted that the afore-stated letters dated 05.05.2020, 20.05.2020 and 03.06.2020, do mention that the use of mechanism of video conference for conduct of proceedings but they do not

provide for the procedure relating to use of video conferencing to be followed by the District Courts, Tribunals and other forums, which are subordinate to High Court of judicature at Allahabad. It is humbly submitted that there are no instructions, orders, rules, regulations etc. which formulates the procedure for conducting trials through video conferencing.

19. That, no gain said, from past four months all the trials (Civil and Criminal), pending before the District Courts and Tribunals are stuck and in near future also there are less chances of normal functioning of courts due to ever worsening pandemic situation.
20. That for the record it is stated, that according to the data available on the website of National Judicial Grid as on 21.07.2020, total number of cases shown as pending in state of Uttar Pradesh is 7,97,4070 (Seven Crore Ninety Seven Lakhs Four Thousand Seventy).
21. That the stage wise pendency of cases, as is stated herein under:

	Civil	Criminal	Total
Appearance/Service Related	142404	2793357	2935761
Compliance/Steps/stay	144729	108804	253533
Evidence/Argument/Judgement	1081939 (144593 cases are pending on evidence stage)	2726228 (1158320 cases are pending on evidence stage, 34115 on 313 examination stage)	3808167
Pleadings/Issues/Charge	371384	282616	654000

True copies of data available on the site of National Judicial Grid are marked and annexed herewith as **ANNEXURE No.6**

22. That the state of Uttar Pradesh being one of the most populous State, the number of litigants approaching the courts for legal remedies of their grievances is also correspondingly much larger in number. In comparison to other States.
23. That with much disheartening it is submitted that the spread of the Coronavirus (Covid-19) is spreading at much faster rate than the earlier before. Bharat has climbed to third position and recorded more than 1 million cases. Looking upon the present spread rate of the virus (Covid-19) and its rapid increasing growth, there are very dim chances of resumption of normal functioning of courts in foreseeable future, meaning thereby that the virtual hearings of the cases is going to be prevalent norm for a sufficiently long time.
24. That as per the medical advices and government notifications the physical distancing norms have to be strictly followed and assembling of crowd is strictly prohibited, as it will increase the chances of spread of virus. In the present prevailing situation the resumption of Courts to its normal functioning is next to impossible as it will jeopardise the health of the Hon'ble Judges, Advocates, other staff members of the Courts.
25. That at the same juncture the full functioning of court and carrying out its constitutional mandate is also to be taken note of. In the absence of all comprehensive mechanism of Virtual Conduct of case/on line mode, the litigants, whose cases are on the evidence stage, stand deprived of their legal right of trial/hearing in

comparison to those, whose cases are listed for final hearings/ arguments. As the cases on the stage of final hearing/ arguments are being given preference to.

26. That the nature of the virus (Covid-19) is such that the experts from all over the world with profound knowledge and technologies at their disposal are unable to follow the virus and give its precise growth predictions. Many of them predict that it is going to stay for sufficiently longer period. Different experts and organisation releases varied data. Some experts have also warned of second wave of the coronavirus. Dr. Randeep Guleria, AIIMS Director, has also in one of its interview has said that India is also vulnerable to second wave of the virus. We are witnessing that the states have now again started imposing lockdown in small pockets to curtail the spread of virus.
27. That in the afore-stated background and taking into consideration the present situation, it is submitted before this Hon'ble Court that, the rules enumerating a comprehensive uniform procedure for taking evidences, judicial remands, framing of charges etc by the District Court, Tribunal and other Forums, is the need of the hour.
28. That it will be also worth bringing to the knowledge of this Hon'ble Court that various High Courts in the country, in exercise of powers enshrined under Article 225 and 227 of the Constitution of India, have framed the 'Rules' for the use of video conferencing, which are made applicable not only to the High Court but also to District Courts, Tribunals, Authorities etc. The list of such High Courts are:-

- i) **Hon'ble High Court of Delhi**- The Rules are called as -“High Court of Delhi Rules for Video Conferencing for Courts 2020.” The said rules has been notified vide notification dated 01.06.2020. A true copy of the High Court of Delhi Rules for Video Conferencing for Courts 2020 is marked and annexed herewith as **ANNEXURE No.7**
- ii) **Hon'ble High Court of Karnataka**- The Rules are called as- “Rules for Video Conferencing for Courts.” The said rules has been notified vide notification dated 09.06.2020. A true copy of the Rules for Video Conferencing for Courts is marked and annexed herewith as **ANNEXURE No.8**
- iii) **Hon'ble High Court of Judicature at Madras**- The Rules are called as- “Madras High Court Video Conferencing Rules, 2018.” The said rules has been notified vide notification dated 02.01.2019. A true copy of the Madras High Court Video Conferencing Rules, 2018 is marked and annexed herewith as **ANNEXURE No.9**
- iv) **Hon'ble High Court of Tripura**- The Rules are called as- “The Tripura Video Conferencing (Conduct of Proceedings and including Recording of Evidence and Remand of Accused in the trial/ remand courts) Rules, 2018.” The said rules has been notified vide notification dated 21.08.2018. A true copy of The Tripura Video Conferencing (Conduct of Proceedings and including Recording of Evidence and Remand of Accused in the trial/ remand courts) Rules, 2018 is marked and annexed herewith as **ANNEXURE No.10**

v) The Hon'ble High Court of Himachal Pradesh has also published the video conferencing rules on its website for information on 08.07.2020. A true copy of the Rules published by Hon'ble High Court of Himachal Pradesh is marked and annexed herewith as

ANNEXURE No.11

29. That the virus (Covid-19) has brought drastic changes in every sector and each and every person's life. Similarly, the judiciary, too, did not lag behind in adopting the new technologies; however for the State of Uttar Pradesh, a comprehensive statutory mechanism is absent.
30. That the Hon'ble Supreme Court vide its order dated 06.04.2020 in the case of *Suo Moto Writ (Civil) No. 5/ 2020* titled as '*IN RE: GUIDELINES FOR COURT FUNCTIONING THROUGH VIDEO CONFERENCING DURING COVID-19 PANDEMIC*', had suo moto took the cognizance for the use of modern technologies for the delivery of the justice during the Covid-19 crisis. The Hon'ble Supreme Court advocated for the balance by remarking, in its order, that access to justice is fundamental to preserve the rule of law in the democracy envisaged by the Constitution of India and at the same time it is also necessary to prevent the spread of the virus by ensuring the compliance of social distancing guidelines issued by the authorities.
31. That the Hon'ble Supreme Court in order to fulfil the constitutional commitment even during the present crisis has, in exercise of its power enshrined under Article 142 of the Constitution of India,

issued slew of directions. The relevant portion of the order is quoted herein below:

6. Therefore, in exercise of the powers conferred on the Supreme Court of India by Article 142 of the Constitution of India to make such orders as are necessary for doing complete justice, we direct that:

- i. All measures that have been and shall be taken by this Court and by the High Courts, to reduce the need for the physical presence of all stakeholders within court premises and to secure the functioning of courts in consonance with social distancing guidelines and best public health practices shall be deemed to be lawful;*
- ii. The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies; and*
- iii. Consistent with the peculiarities of the judicial system in every state and the dynamically developing public health situation, every High Court is authorised to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies*
- 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.*
- v. The District Courts in each State shall adopt the mode of Video Conferencing prescribed by the concerned High Court.*
- vi. The Court shall duly notify and make available the facilities for video conferencing for such litigants who do not have the means or access to video conferencing facilities. If necessary, in appropriate cases courts may appoint an amicus-curiae and make video conferencing facilities available to such an advocate.*
- vii. Until appropriate rules are framed by the High Courts, video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the parties by video conferencing. If it is necessary to record evidence in a Court room the presiding officer shall ensure that appropriate distance is maintained between any two individuals in the Court.*

viii. *The presiding officer shall have the power to restrict entry of persons into the court room or the points from which the arguments are addressed by the advocates. No presiding officer shall prevent the entry of a party to the case unless such party is suffering from any infectious illness. However, where the number of litigants are many the presiding officer shall have the power to restrict the numbers. The presiding officer shall in his discretion adjourn the proceedings where it is not possible to restrict the number."*

A true copy of order dated 06.04.2020 passed by the Hon'ble Supreme Court is marked and annexed herewith as **ANNEXURE No.12**

32. That if the direction no.(vii) of the above-stated order is looked upon it says that until the appropriate rules are framed by the Hon'ble High Court, use of video conferencing will be made mainly for the hearing of arguments for the trial stage of at appellate stage. Further it states that the evidence shall not be recorded by means of video conferencing, in absence of mutual consent of parties. Meaning thereby that until the Hon'ble High Court frames the rules regard to taking of evidences, framing of charges etc., no trial can proceed further in District Courts, Tribunal and other forums subordinate to High Court of Judicature at Allahabad.
33. That taking into consideration the afore-mentioned direction of the Hon'ble Apex Court, now it has become all the more imperative upon the opposite parties to frame the guidelines for the use of video conferencing for the Courts, Tribunals, Authorities etc., subordinate to it, otherwise the trials will be held up for the infinite period or till the time the physical functioning of the courts in a normal manner commences.

34. That the Hon'ble High Court does possess the power, flowing from Article 225 and 227 of the Constitution of India as also Section 122 of Civil Procedure Code, for introducing the procedural mechanisms for the use of video conferencing by the Courts, Tribunals, Authorities etc., subordinate to it. Further, Article 227 (2) (b) of the Constitution of India, in clear terms empowers the Hon'ble High Court to make and issue general rules and prescribe forms for regulating the practice and proceedings of courts, over which it exercises its superintendence.
35. That to the further extent the Hon'ble Supreme Court in its direction no. (i) of the afore-mentioned order, has categorically stated that any measure taken by the Hon'ble High Court to reduce the need for the physical presence of all stakeholders within court premises and to secure the functioning of courts in consonance with social distancing guidelines and best public health practices shall be deemed to be lawful.
36. That after going through the text of the Article 225 and 227 of the Constitution of India and the directions of the Hon'ble Supreme Court, in exercise of power enshrined under Article 142 of the Constitution, for doing complete justice, it could be safely concluded that the Hon'ble High Court is vested with the power to frame the rules for use of video conferencing envisaging the procedures for conduct of trials (Framing of Charges, Recording of Evidences etc.) by the District Courts, Tribunals and Authorities, subordinate to it.

37. That the petitioner on 15.07.2020 has made a representation to the Hon'ble Chief Justice through Registrar General, Hon'ble High Court of Judicature at Allahabad, requesting for formulation of rules streamlining the procedure for the use of Video Conferencing in Courts. A true copy of the representation dated 15.07.2020 along with speed post receipt is marked and annexed herewith as **ANNEXURE No.13**
38. That the petitioner is very much aware the manner in which the Judiciary as a system is working tirelessly in the present days to overcome the unprecedented difficulties faced by the litigants and to make the system function properly in its normal mode, as far as practicable. The petitioner is fortunate enough to be a part of the system and expresses its sincere gratitude.
39. That when the entire world is moving forward and adopting the new norms of working, the judiciary may also, in a phased manner, let go its conventional way of functioning and embrace new technology with open hands, in its functioning, at least till pandemic lasts.
40. That at the cost of repetition, it is submitted that petitioner has no personal gain, private motive or oblique reasons in filing this writ petition. This prerogative writ petition is totally bona-fide and purely in larger public interest and for the effective and speedy administration of justice.
41. That having no other alternative and efficacious, remedy, the petitioners beg to approach this Hon'ble Court under Article 226 of the Constitution on the following, amongst other, grounds :-

GROUND

- A. Because framing of the rules enumerating a comprehensive uniform procedure for taking evidences, judicial remands, framing of charges etc by the District Court, Tribunal and other Forums, is the need of the hour, for fulfilling constitutional commitment of unhindered administration of justice .
- B. Because from past four months all the trials (Civil and Criminal), pending before the District Courts and Tribunals are stuck and in near future also there are less chances of normal functioning of courts due to ever worsening pandemic situation.
- C. Because access to justice is fundamental to preserve the rule of law in the democracy envisaged by the Constitution of India.
- D. Because the delivery of effective justice system is a constitutional mandate, which has to be fulfilled in any circumstances.
- E. Because the adoption of new methodology of delivering justice is now not been left as a matter of discretion.
- F. Because taking into consideration the direction of the Hon'ble Apex Court vide its order dated 06.04.2020, now it has become all the more imperative upon the opposite parties to frame the guidelines for the use of video conferencing for the Courts, Tribunals, Authorities etc., subordinate to it, otherwise the trials will be held up for the infinite period or till the time the physical functioning of the courts in a normal manner commences.
- G. Because the Hon'ble High Court is vested with the power to frame the rules for use of video conferencing envisaging the procedures for conduct of trials (Framing of Charges, Recording of Evidences

etc.) by the District Courts, Tribunals and Authorities, subordinate to it.

- H. Because when the entire world is moving forward and adopting the new norms of working, the judiciary may also, in a phased manner, let go its conventional way of functioning and embrace new technology with open hands, in its functioning, at least till pandemic lasts.
- I. Because various High Courts in the country, in exercise of powers enshrined under Article 225 and 227 of the Constitution of India, has framed the 'Rules' for the use of video conferencing, which are made applicable not only to the High Court but also to District Courts, Tribunals, Authorities etc.
- J. Because in the absence of all comprehensive mechanism of Virtual Conduct of case/on line mode, the litigants, who cases are on the evidence stage, stand deprived of their legal right of trial/hearing in comparison to those, whose cases are listed for final hearings/arguments.
- K. Because the opposite parties, particularly, opp. party no. 2 is duty bound under the Constitution vide Article 39-A to remove all fetters in dispensation of justice to the litigants in general.

PRAYER

Wherefore it is most respectfully prayed that this Hon'ble Court may very kindly be pleased to –

- i) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to take immediate steps towards framing of comprehensive Rules for full functioning of

the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode and complete the said exercise within a stipulated time frame, as may be deemed fit by this Hon'ble Court; and

- ii) Issue an appropriate writ, order or direction in the nature of mandamus commanding the opposite party no. 2 to render all necessary support/assistance, logistical and otherwise, as may be required, towards ensuring the full functioning of the Courts/Tribunals/Authorities subordinate to this Hon'ble Court through Video Conference/On-line Mode in furtherance of the said Rules; and
- iii) Issue any other writ, order or direction which this Hon'ble Court may deem just and proper in the circumstances of the case as also in the interest of justice.

Lucknow
Dated: 22/07/2020

SM Singh Royekwár, Advocate
Petitioner-in-person