

IN THE SUPREME COURT OF INDIA**CIVIL ORIGINAL JURISDICTION****(Under Article 32 of the Constitution of India)****WRIT PETITION CIVIL NO.956 OF 2020**

IN THE MATTER OF:

FIROZ IQBAL KHAN

PETITIONER

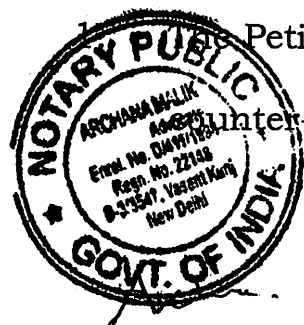
VERSUS

UNION OF INDIA &
ORS

RESPONDENTS

AFFIDAVIT**SHORT AFFIDAVIT CUM REJOINDER ON BEHALF OF THE
PETITIONER TO THE SHORT AFFIDAVIT FILED BY THE
RESPONDENT NO.5.**

I am the Petitioner in the captioned matter and am well versed with the facts of the case at hand and am competent to swear on affidavit the following:



Petitioner is filing this Short Rejoinder in response to the short
inter-affidavit dated 16.09.2020 filed by the Respondent No. 5

through its Editor-in-Chief Shri. Suresh Chavhanke. The Petitioner deponent most respectfully and solemnly affirms and declares hereunder:

2. The Respondent No. 5 has conveniently chosen to not address several key issues that have been raised by the Petitioners and Intervenor as well as this Hon'ble Court regarding the contents of the series on "UPSCJehad" broadcast on its channel on 11.09.2020, 12.09.2020, 13.09.2020 and 14.09.2020 ("the Show").

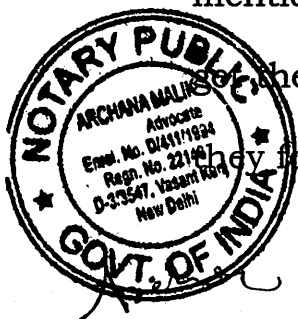
3. The Respondent No. 5 has deliberately and wilfully sought to misrepresent the Show as being an exposé on the role of the Zakat Foundation of India in training aspiring civil servants. It is respectfully submitted that the tone, tenor and contents of the Show go far beyond this, and seeks to represent Muslims as being part of a grand conspiracy to "capture" the civil services. This central theme is underscored with imagery, such as flames, blasts and a man in a skullcap and beard, meant to reinforce the message that Muslims are terrorists. This undermines the status and rights of Muslims as



equal citizens in a democracy with the right as all others to have a place at every tier of public and government life.

4. That in the offending broadcast, of which the transcript is on record there are blatant falsehoods which are being itemized below on which the said broadcast is based:

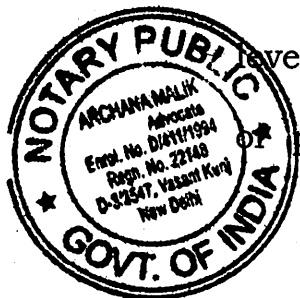
(i) The age limit for the Hindus is 32 years whereas for Muslims it is 35 years. The truth is that the age limit of 32 years is for general category candidates, while 35 years is the age limit for reserved category. These are backward classes among Muslims which get the benefit of the OBC category e.g. Hajjams, Nai (barbers), Quershi (butchers), dhobi, fakir etc. Whereas amongst the forward classes in Muslims there are Sayyeds, Mugals, Pathans, Irani, Arab, Bohra, Shia, Khoja, Khucchi Memon, Jamayat, Navayat etc. These forward classes amongst the Muslims do not get the benefit of the OBC reservation and have to compete in the general category. It is needless to mention that there are other OBC's who are Hindus etc., who



do not get the benefit of reservation in accordance with the profession they follow e.g. Barber, butcher etc. there is a further rider that

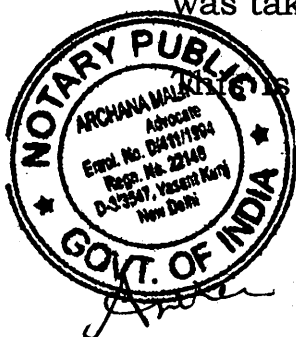
an OBC seeking reservation must have annual income of less than Rs. 8 lacs Further, there are hardly any Muslims from the OBC category who have got into the IAS / IPS. This deliberate false projection is in direct violation of the "Program Code". The Respondent No. 5, in order to suit his convenience has indulged in a half truth by deliberately suppressing the fact that out of the total number of Muslim IAS/IPS officers, are promotees from the State Cadre. Further, it is another falsehood to say that the Respondent No. 5 does not oppose the selection of any meritorious candidate in the service of the Union or the States when he links the selection of Muslim candidates when no such data is provided by the UPSC.

- (ii) Respondent No. 5, in its short reply has annexed the FCRA compliance filing of Zakat foundation sent to the ministry of Home Affairs. Zakat Foundation is a charitable organization coming under the FCRA and it has been labeled as an organization receiving terror funds. Respondent No. 5 is leveling libelous and scandalous allegation without a modicum of proof with absolute impunity under the garb of press



freedom. Further, it is shown as if all Muslims candidates are receiving funds from the Zakat foundation.

5. That, had the Respondent No. 2 performed its statutory duty, with the expected responsibility, the present situation may not have arisen. The Respondent No. 2 completely ignored the Hon'ble Delhi High Court which in its order dated 29th August 2020, had after seeing the promo clip, the veracity of which was admitted by the Respondent No. 5 had observed that *"Prima Facie, I find the same to be in violation of the Program Code"*.
6. The Respondent No. 2, while complying with the order of the Hon'ble High Court did not view the Promo Clip and relied on the assurance of the Respondent No. 5 channel that the proposed program is not in violation of the law and further that if at all the program is found to be violative, action as per law may be taken. In view of this, the Ministry gave a green light to the program. Clearly, the Respondent No. 2 failed to perform its statutory duty and failed to view any of the four broadcasts to ensure that the undertaking given by the Respondent No. 5 is being adhered to or not. No action was taken although Respondent No. 2 had sufficient power to do so.

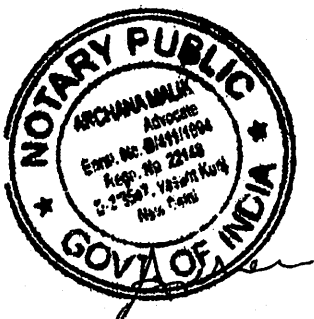


is because the Respondent No. 5 is very close to the powers

that be.

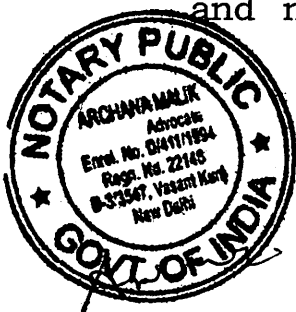
7. This Hon'ble Court was examining whether the program could be allowed to be broadcast in future, with certain riders like deletion of some graphics and this Hon'ble Court was pleased to give an opportunity to Respondent No. 5 to come out with proposals in detail as to how the Respondent No. 5 would be able to tailor how the future broadcast by removing certain offending references and graphics. It is respectfully submitted that any tailoring of future broadcasts will not and cannot condone the blatant violation of the Program Code by Respondent No. 5 and its complete disregard of the assurance and undertaking given to the Respondent No. 2.

8. The already aired 4 broadcasts of the Show are sufficient for an appropriate action to be taken under the Act by banning the complete series, titled "UPSCJehad" which by the title itself reflects the antagonistic mind set against a particular community and is nothing but a prime example of virulent Islamophobia. Moreover, the Petitioner submits that the present case relates to a



deliberate and malicious attempt at communalizing the atmosphere and stroking the fires of communalism. Therefore, this case cannot be equated with a private interest litigation where one party is seeking a pre broadcast restraint against another party for whatever reason, because the effect of the broadcast is very wide and of grave national interest, concerning the violation of constitutional morality and ethos-which can have a deleterious effect on the vibrant and unique secular fabric and cultural diversity of our country. Besides the issue is one of furthering discrimination against an already marginalized section, and not one of free speech. Article 19 lies on par with Article 14,15,16 and 21 and if the impact of deleterious speech impacts on citizens and communities status as equal citizens, makes their lives more discriminated against, then the said speech qualifies as hate speech that needs restraint.

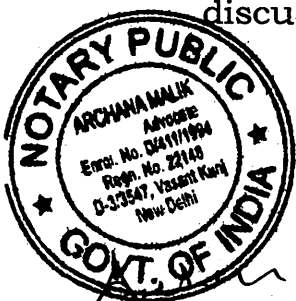
9. This Hon'ble Court was pleased to pass an appropriate interim order on 15th September 2020. This order has sent a strong message to all that, this Hon'ble Court will not allow the targeting of a particular community. Nothing has transpired between then and now to necessitate any modification of the order dated



15.09.2020. Deletion of a few graphics or deletion of a few references will not change the nature of object or motive of the broadcast which is a classic example of hate speech and spewing of venom.

10. In the 1st episode a transcript of which is on record at Page 47, where it talks about “infiltration” uses the word Chief Secretary and “Nuclear Button”, clearly by his innuendo, suggesting that by infiltration into the IAS, IPC Muslims can occupy the post of Chief Secretary to press the Nuclear button. All audiences are not discerning enough and most are ordinary people who tend to believe this nonsense and therefore this Series “UPSC Jihad” has the potential to create communal strife and discord between communities apart from vilifying and branding one particular community (Muslims) as being anti-national, recipient of terror funding and affecting the security of the nation.

11. The Respondent No. 5, in paragraphs 24 to 26 of the counter-affidavit, has sought to justify his distortion of facts as a legitimate discussion on Muslims enjoying a “double benefit” under minority



welfare schemes as well as OBC quotas. It is pertinent to note that the Respondent No.5 has, in the relevant segment of the Show, compared Muslim OBCs to general category Hindus in order to portray an impression that the benefits of reservation are accruing disproportionately to the Muslim community. Not only is this completely factually incorrect, with most Muslims entering the civil services being from the general category, but is also an attempt to foment hatred against Muslims by portraying them as 'interlopers' and 'fifth columnists'. This is further underscored by the obviously inflammatory comments that have been made by Mr. Chavhanke in this regard on the Show, which includes inter alia:

- Why should the Muslim community be classified as a minority when its share of the population was 14 percent in 2011 and *will be 18 percent in 2021?* (see timestamp 00:34:20-00:36:53 of Ep. 1 of the Show)
- Why is it that I am not favoured as a Hindu? They are being assisted to become civil servants, whereas we have to sell our mother's mangal-sutra and pawn our family's land to sit for



UPSC? *Is being born Hindu a crime?* (see 00:34:20-00:36:53 of Ep. 1 of the Show)

- Will you support Muslims taking advantage of reservation if they become OBCs *and outnumber Hindu OBCs?* (see 00:39:58-00:40:43 of Ep. 1 of the Show)
- Muslims can attempt the examination more times on account of *infiltrating into the category of my OBC brothers* (see 00:41:56-00:42:42 of Ep. 1 of the Show)

It is respectfully submitted that the above comments made on the Show clearly demonstrate that Suresh Chavhanke was not initiating a 'discussion' or 'debate' on a public affairs issue, but was openly engaging in hate speech and a misinformation campaign to vilify Muslims as a community by seeking to fear-monger that Muslims are increasing in number and are out to exclusively corner the benefits of reservation for themselves.

12. The Respondent No. 5 and Suresh Chavhanke also consistently attempt to frame the issue of entry into civil services by Muslims as



a 'civilisational' question affecting 'Hindu society' at large. To this end, it is instructive to note the exchange between Suresh Chavhanke and Ms. Madhu Kishwar, a panellist on Episode 2 aired on 12.09.2020., wherein Ms. Kishwar says there is a conspiracy afoot to capture Hindustan, convert all Hindus and break all temples and idols, by dividing the country into Mughalistan and Dravidistan. Suresh Chavhanke adds to Ms. Kishwar's comment by saying that he has "full evidence" of how India's maps and borders are going to be changed as a result of this (see 00:17:07-00:21:00 of Ep. 2 of the Show). This effectively amounts to incitement and creates conditions that are likely to result in violence and mass discrimination against Muslims, violating Articles 14 and 21 of the Constitution.

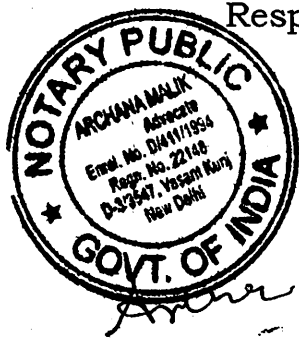
13. The Show, throughout all 4 (four) episodes, portrays Muslims as fifth columnists, whose loyalties do not fully lie with India. Suresh Chavhanke repeatedly uses highly provocative and militaristic rhetoric to describe Muslims, and openly states that they are poised to take over the country in Episode 2 (see 2:02-2:35 of Ep. 2 of the Show). He calls them "aastin mein naag" or serpents being nestled



in the bosom of the country in Episode 3 (see 1:12-1:40 of Ep. 3 of the Show). It is respectfully submitted that this clearly belies Suresh Chavhanke's assertion in the counter-affidavit that the Show is not intended to target any particular community. Indeed, the comments made on the Show are clearly intended to incite viewers against the Muslim community. This incitement is not just subliminal but also direct, such as when Suresh Chavhanke says it is better to die than not do something to counter the conspiracy (see 1:04-1:13 of Ep. 2 of the Show), and that if the Show had not been aired, the nation's independence could have been compromised (see 2:02-2:35 of Ep. 2 of the Show).

14. It is respectfully submitted that even after the order dated 15.08.2020 of this Hon'ble Court, the Respondent No. 5 and Suresh Chavhanke have continued to air programs that are replete with hate speech and innuendoes, as well as comments that are caustically critical of this Hon'ble Court.

15. On 15th September 2020, at 8 p.m. a program was broadcast by Respondent no. 5 which was anchored by Suresh Chavanke which



had two other panellists namely Ms. Madhu Kishwar and Shantanu Gupta. The intention behind the entire program was to deride this Hon'ble Court for passing an interim order. It was in bad taste and exhibits the mind-set of the anchor who just cannot be relied upon or trusted to adhere to any future constraints. The translated transcript of the concerned video clip of the broadcast dated 15th September at 8 p.m. is being extracted below:

<https://youtu.be/6VbUI7xfWE8?t=1784>

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TRANSCRIPTION/TRANSLATION:

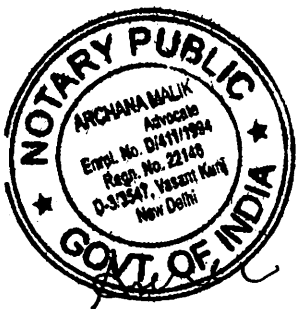
Suresh Chauhanke: *Ek hafte mein do bar stay lagne ka aaj sudarshan ke saath ye gunah hua hai / Granting stay twice in two days is a sin against Sudarshan Channel. The link annexure is below :*

<https://youtu.be/6VbUI7xfWE8?t=915>

<https://youtu.be/6VbUI7xfWE8?t=1049>

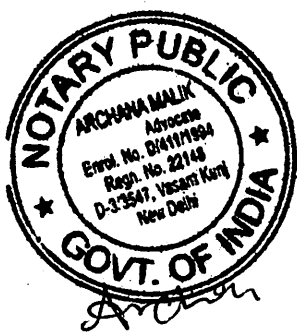
<https://youtu.be/6VbUI7xfWE8?t=1784>

Madhu Kiswar: *Court ke upar bhi ye sawaliya nishan aaj unhone*



khud lagaya. Unka haq hai Gazwaehind mission complete karna wo isko apna haq samajhte hain ki saar desh ko convert kiya jaaye ye apna gazwaehind mission poora karna chahte hain sarkari ohdo par baith kar poora kabza pehle din se education ministry se inhone kiya **(English Translation: The Court has put a question mark on itself. They think it is their right to complete the mission of gazwaehind. They consider it their right. They understand that the whole nation be converted. They want to occupy public offices by infiltrating it. They have infiltrated the education ministry from the 1st day.)**

Shantanu Gupta: Supreme Court ki jo tendency jo maine kai bar dekhi hai overstepping hai aur agar apko rajneeti mein ruchi hai to aaiye bahar naukri chodiye, chunav ladiye overstepping jo apko judgment hai usme dijiye. UPSC jehad Ya to koi dhandhli horahi hai unko entry karane ke liye. UPSC artificial roop se unko aise course dalwa rahi hai smartly ki isme 'urdu' ho jiske check karne wale bhi inke hi hon. **(English Translation: I have seen many times the tendency of the Supreme Court of overstepping. If you want to enjoy politics come out leave your jobs, contest elections. Overstep in your judgments. UPSC Jihad: There is**



somescamtointfiltratethe UPSC.UPSCissmartly creating courses in which there is Urdu and the evaluators also belong to them)

<https://youtu.be/6VbUI7xfWE8?t=1574>

Madhu Kishwar: Sirf mujhe lagta hai ki Supreme Court inko judges ko pata nahikaunse aiyne me apni shakal dekhni padegi ki wo apko sunne taiyyar nahi aur usme kis tarah ki partiality horahi hai jaise interviews mein ghaplabazi horahi hai kya moonh dikhayenge hamaare judges. Wo unko char liney chahiye thi jo Supreme Court ne unhe tashtari mein paros dee. Khoon kharaba karna desh ko todna is desh mein poorntah dharmantaran karna har mandir ko todna unko apna haq lagta hai aaj haalat ye hai ki hindu maang raha hai "please mere desh mein kam se kam barabari ka haq to dedo". Actually we are living as second class citizens. Aur aaj Supreme Court ne bhi ye sidh kar diya ki as a Hindu we have to accept second class citizenship. Itna hostile judgment kabhi nahi dete. *(English Translation: Only I feel that Supreme Court doesn't know in which mirror they should see their reflection and arenotreadytolisten to you, or to see the partiality which is going on and the wrong doing being done during the interviews. What face will our judges show? They had wanted*



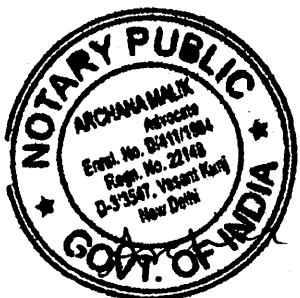
an order of 4 lines which the Supreme Court has served on a platter. To instigate a blood bath, disintegrate the country, do conversions, to desecrate the temples they feel it is their right. Today the Hindus are begging, please let us be given equal rights in our country as we are living like second class citizens, and today the Supreme Court has proved that as a Hindu we have to accept we have to accept second class citizenship. Such a hostile judgment is never given.

<https://youtu.be/6VbUl7xfWE8?t=1784>

Shantanu Gupta: Supreme Court se kahoomga overstepping chod den aap ke pas waisehi lakho case pade hain aplog garmi ki chutti mein bhi chale jaate hain kahin ghoomne usko un cason ko solve.

(English Translation: I would say to the Supreme Court leave overstepping you already have lakhs of cases pending. You go to foreign vacations during summer vacations, solve those cases).

16. Due to paucity of time, the Petitioner has filed this short rejoinder to highlight that the counter-affidavit of the Respondent No. 5 has



side-stepped the extremely important issue of the contents of the Show being replete with hate speech and messages inciting viewers against the Muslim community, and has not addressed any of the comments made on air by Suresh Chavhanke in this regard. The Petitioner shall bring on record further materials highlighting specific instances of hate speech and/or incitement to violence by Suresh Chavhanke during the course of the Show if required.

DEPONENT

VERIFICATION:

Verified on this 20 SEP 2020 that the contents of this affidavit are true and correct to the best of my knowledge and nothing

~~UB~~ material has been concealed therefrom.

DEPONENT

✓ Sr Advocate Mr Anoop George Chaudhary

Drawn by

V. Elanchezhiyan, Advocate on Record

Rashid N. Azam, Advocate

Muhammad Faizan, Advocate