REVIEW PETITION UNDER ARTICLE 137 OF THE CONSTITUTION OF INDIA READ WITH ORDER XLVII OF S.C.R. AGAINST IMPUGNED JUDGMENT DATED 18.8.2020 ON IGNORING OR OVERLOOKING THE PROVISIONS UNDER ARTICLES 53 & 74 OF THE CONSTITUTION OF INDIA IN MATTERS OF PM CARES FUND

TO,

THE HON'BLE CHIEF JUSTICE AND
HIS HON'BLE COMPANION JUSTICES
OF THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF THE PETITIONER ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:

1. That the present Review Petition has been filed by the petitioner in response to para no. 19 of the impugned Judgment dated 18.8.2020, whereby his Intervention Application No. 63349/2020 and the concluding Written Submission eFiled on 28.7.2020 were rejected *en masse* with all other interveners without assigning any reasons thereof, and thereby, the impugned Judgment dated 18.8.2020 has overlooked or ignored the Constitutional provisions on *competence of creating "PM Cares Fund" or any Trust* by ignoring parliamentary procedure mandated under the Constitution of India. In Indian democracy, Parliament is held as supreme, which is completely bypassed

or ignored by creating such private Trusts, considering reliance in ***Prime Minister's National Relief Fund (PMNRF) v. Aseem Takyar*** [LPA 231/2016 D/d 23.5.2018, Hon'ble High Court of Delhi], already cited in the Intervention Application No. 63349/2020. Hence, the present Review Petition has merits to assail the impugned judgment dated 18.8.2020 on the grounds of error apparent on the face of record.

2. That following issues are, therefore, involved:

Qn 1. Under which provision of the Constitution of India, the Hon'ble Prime Minister or any member of the Council of Ministers is empowered to create PM CARES Fund, PMNRF or any Trust without specific legislation thereto under Article 53(3)(b) of the Constitution, as the said ground of the petitioner/ intervener herein was not discussed in the impugned judgment dated 18.8.2020 despite I.A. 63349/2020 on record?

Qn 2. Whether interveners in high profile cases are so insignificant and easily ignorable that they can be deprived even on reasoning to the dismissal of their Applications and their grounds in terms of para no. 19 of the impugned judgment dated 18.8.2020?

Qn 3. Whether PM CARES Fund, PMNRF, CMNRF etc violates article 14 read with articles 53, 74, 77 & 78 (for Union) and articles 154, 163, 166 & 167 (for States) of the Constitution of India to run their activities not in the name of Head of the Government (President, Governor, or its subordinate Officers being Secretaries to the respective Government), but its advisors such as Prime Minister, Defense Minister, Home Minister, Finance Minister, Chief Minister, etc?

Qn 4. Whether Basic Features or Objectives of the ***Emblems And Names (Prevention of Improper Use) Act, 1950****, can be diluted or substituted by the Council of Ministers or its Central Government entrusted with the power of previous sanction under Section 6 read with section 3 & 5 of the said Act of 1950, to enjoy its own patronage in matters of private use of government machinery and its name for running Trusts like PM CARES Fund or PMNRF?*

Qn 5. Whether Government or its machinery is entitled to seek voluntary contributions from the public through its *advertisements within the meaning under Articles 265 to 277 of the Constitution of India or any other law in force?*

Or Alternately,

Whether voluntary contributions can also be classified within the meaning of Revenue to the Government?

Qn 6. If answer to question no. 5 above is affirmative, what is the scope of its public scrutiny and transparency in matters of collection and expenses made out of such account?

Qn 7. And if answer to question no. 5 above is negative, then who is to pay damages and quantum thereof for playing fraud with sentiments of the public?

3. That this Hon'ble Court has dismissed the present Writ Petition and also rejected the Intervention Application No. 63349/2020 of the petitioner herein, vide impugned Judgment/ Final Order dated 18.8.2020, in respect of funds collected under PM CARES in the name of noble cause of affected people in India during pandemic of COVID-19. Government of India has assigned public domain name https://www.pmcares.gov.in/en/ to indicate use of government portal, use of abbreviation "PM" for

"Prime Minister", declared objectives of Government plans and programs for the public healthcare of the people at large in India, making government authorities as ex-officio Trustees including Prime Minister, Defense Minister, Home Minister and Finance Minister and three nominated trustees therein, clearly indicating that the PM CARES is a Government Fund, though fund collections made therein from voluntary contribution from the individuals/ organizations, and thereby donations thereto fully qualify for 80G benefits for 100% exemptions under IT Act, 1961, as well as Corporate Social Responsibility (CSR) expenditure under the Companies Act, 2013, as evident from the details given at government portal at https://www.pmcares.gov.in/en/web/page/about_us, copy already placed as ANNEXURE: A-2 of IA 63349/2020.

4. That in future when Coalition Government comes to power, the then Hon'ble Prime Minister may create another private Trust based on impugned judgment dated 18.8.2020 in lieu of the present PMNRF & PM Cates Funds, and spend the public funds at their own whims beyond the control or scrutiny of the Parliament in their limited tenure, and thereby create a kind of kingship of the then ruling Prime Minister which has been abolished long ago under the Constitution of India.

5. That there is strong reason to assert that the impugned judgment dated 18.8.2020 is reviving another kind of kingship by allowing the shelter of private auditors or charter accountants in affairs of the PM Cares Fund, which is in gross ignorance to the nature of audit done by private Chartered Accountants as against the Constitutionally appointed Comptroller & Auditor General of India (CAG), whose report is required to be placed before the Parliament for scrutiny by Members of Parliament. On the contrary, the audit by CAs may often permit many office expenses, fictitious charities or even further donations to other trusts/ persons, which are otherwise not permitted in any government audit. As such, mere tax benefit against tax scrutiny does not guarantee fair dealing of the charitable trusts, and there are many examples where private Charitable Trusts are found evading taxes, or handling disputes among trustees on the grounds of mismanagement or misappropriations. In these circumstances, the impugned judgment dated 18.8.2020 is liable to be reviewed under strict parameters in larger public interest.

6. That under Indian law, it is open secret that there are many sham trusts created for unlawful purposes, such as tax evasion, intent to defraud creditors, or other fraudulent purposes. At times, the sham trust is

appointing a "puppet" trustee who is selected simply to give effect to the creator's wishes. In the News article published on 21.10.2015, Economic Times[2] newspaper article titled ***How Indian companies are misusing public trusts to launder their CSR spending*** (with synopsis: *Public trusts are a favoured route to launder money because they are not adequately governed or monitored)*, stated that *CSR spends disclosed by companies need not be vetted by statutory auditors unlike other spending. Moreover, financials of charitable trusts also come under little statutory scrutiny. This combination of factors has left the new CSR norms wide open for abuse.* In the result, there is at least a scope to use the Charitable Trust to avoid scrutiny and misappropriate its funds, though its impact on PM CARES Fund is still beyond the scrutiny of Parliamentary procedure and its consequent CAG audit. Hence, the impugned judgment dated 18.8.2020 is liable to be dismissed and reviewed on strict parameters in the larger public interest.

7. That instead of first analyzing on competence of creating such PM CARES Fund, the Hon'ble Constitutional Bench of three senior Hon'ble

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[2] https://economictimes.indiatimes.com/news/economy/finance/how-indian-companies-are-misusing-public-trusts-to-launder-their-csr-spending/articleshow/49474584.cms?from=mdr

Judges of this Hon'ble Supreme Court have preferred to restrict their arguments on following issues only:

I) Whether the Union of India under Section 11 of Act, 2005, is obliged to prepare, notify and implement a National Disaster Management Plan specifically for pandemic COVID-19 irrespective of National Disaster Management Plan notified in November, 2019?

II) Whether the Union of India is obliged to lay down the minimum standards of relief under Section 12 of Act, 2005, for COVID-19 irrespective of earlier guidelines issued under Section 12 of the Act, 2005 laying down the minimum standards of relief?

III) Whether Union of India is obliged to utilize National Disaster Response Fund created under Section 46 of the Act for the purpose of providing assistance in the fight of COVID-19?

IV) Whether all the contributions/grants from individuals and institutions should be credited to the NDRF in terms of Section 46(1) (b) of the Act rather than to PM CARES Fund?

V) *Whether all the funds collected in the PM CARES Fund till date be directed to be transferred to the NDRF?*

GROUNDS

8. That following grounds amongst others may be taken without prejudice to one another for assailing impugned judgment dated 18.8.2020:

[A] BECAUSE the Constitution of India has kept the Council of Ministers at the level of advisory Council [Articles 74 & 163] to the Executive functions of President of India [Article 53] and Governor of State [Article 154]. It is only through specific law enacted by the Parliament that the specific executive functions can be conferred on any authority other than the President under Article 53(3)(b) of the Constitution. However, the impugned judgment dated 18.8.2020 has illegally conferred executive functions on PM CARES Fund authority without following due process of law for enactment through Parliament. Hence, the impugned judgment dated 18.8.2020 is liable to be reviewed strictly for the error apparent on face of record for violation of Article 53(3)(b) of the Constitution of India on competence to create PM CARES Fund;

[B] BECAUSE under Article 74 of the Constitution, the role of members of Council of Ministers of the Union of India are restricted to advisory role only, whereas by permitting operation of PM CARES Fund, the impugned judgment dated 18.8.2020 has legitimized an illegal authority of PM Cares Fund, and thereby members of the Council of Ministers themselves are illegally permitted by the impugned judgment to act in the capacity of Executives to run the authority PM CARES Fund without any statutory support under article 53(3)(b) of the Constitution, which is unconstitutional and arbitrary. Similarly, PMNRF & CMRF are also unconstitutional in terms of these provisions of the Constitution of India. The impugned judgment dated 18.8.2020 has grossly overlooked or ignored despite intervention of the petitioner in IA 63349/2020, and hence, the impugned judgment dated 18.8.2020 is unsustainable in the eyes of law;

[C] BECAUSE the separation of powers and authorities of the Executive headed by President/ Governor from its advisory body being Council of Ministers [Articles 74 & 163] is essence or BASIC FEATURE of the Constitution of India, as the Council of Ministers is an elected body running on political ideologies, which has an apparent potential to indulge in an unfair advantage or corrupt practices within the meaning of the ***Representation of the Peoples Act, 1951***, as held in ***Bhim Singh v. Union of India & Ors*** [2010(5) SCC 538]. By permitting PM CARES Fund as an executive function run by members of Council of Ministers without statutory support, the impugned judgment dated 18.8.2020 has committed gross error in law apparent on face of record, and hence, the impugned judgment is liable to be reviewed for quashing creation of PM Cares Fund;

[D] BECAUSE in ***Bhim Singh***[3] case, the Hon'ble Prime Minister announced MPLAD Scheme, for enabling MPs to identify small works of capital nature based on locally felt needs in their constituencies. The objective was to enable the MPs to recommend works of developmental nature with emphasis on the creation of durable community assets based on the locally felt needs to be taken up in their Constituencies. The guidelines prescribe that right from inception of the Scheme, durable assets of national priorities viz., drinking water, primary education, public health, sanitation and roads etc. are being created. The Scheme was initially governed by the guidelines of Ministry of Rural Development in February, 1994. After the Scheme was transferred to the Ministry of Statistics and Programme Implementation, revised guidelines were

[3] ***Bhim Singh v. Union of India & Ors*** [2010(5) SCC 538]

issued successively in December, 1994, February, 1997, September, 1999, April, 2002 and November, 2005. Although the term MPLAD is prefixed by MP (i.e. Member of Parliament), the role of MP was limited to recommendations only. This Hon'ble Court upheld the MPLAD scheme, as the MPs are permitted to recommend specific kinds of works for the welfare of the people. These works are to be conducted after approval of relevant authorities and cannot be claimed as an unfair advantage or corrupt practices within the meaning of the Representation of the Peoples Act, 1951. However, the creation of PM CARES Fund goes contrary to the settled case law, and hence, the same is liable to be set aside by reviewing the impugned judgment dated 18.8.2020;

[E] BECAUSE the judicial intervention is warranted where constitutional provisions are violated as apparent in the present case. Article 77 of the Constitution mandates that all the Executive Functions of the Union shall be expressed to be taken in the name of the Hon'ble President and under article 53 therein the executive functions shall be exercised by him either directly or through officers subordinates to him, such as Secretaries or their subordinate officers. Hon'ble Prime Minister or any other person/ authority can exercise the executive function in its own name only against the specific statute created by the Parliament under Article 53(3)(b) of the Constitution of India. Therefore, creation of a Trust by the Government can be permitted only against the specific statute conferring executive functions to the Hon'ble Prime Minister or any person/ authority or when the President himself is the party or he authorizes its Secretaries or their subordinate officers as Trustees to run the Government owned Trust. The impugned judgment dated 18.8.2020 being reticent on the issue is liable to be rejected or dismissed as being unsustainable in the eyes of law.

[F] BECAUSE the duties of the Hon'ble Prime Minister are defined expressly under Article 78 of the Constitution, which relate to advice on proposals and information relating to the administration of the affairs of the Union. Reading with Article 74 therein, the Hon'ble Prime Minister or any member of the Council of Ministers under the Constitution is to aid and advice the President instead of acting for themselves in the capacity of executive by creating PM Cares Fund without statutory support under Article 53(3)(b) of the Constitution of India. The entire work on behalf of the Government of India is required to be run either through President himself or through the Secretary to the Government of

India, including filing a civil suit u/s 79 & 80 of the Code of Civil Procedure, 1908, and all appointments and removals of Constitutional and other civil posts under the Constitution of India. Therefore, creation of PM CARES Fund in the name and trusteeship of any of the Council of Ministers is against the provisions of Article 14, 53, 74, 77 & 78 of the Constitution of India, and thereby, creation of PM CARES Fund by the Trusteeship of some of the Council of Ministers is illegal and arbitrary and hence, impugned judgment dated 18.8.2020 is unsustainable in the eyes of law for the gross error apparent on record;

[G] BECAUSE under Rule 180B(ii) (Conditions of Admissibility), Chapter – XIV (On Raising Matters of Public Importance) of Rules of procedures and Conduct of Business in the Council of States (Rajya Sabha), as amended till August' 2016, the admissibility of Notice is permissible only if the matter concerns of Government of India. As the PM CARES Fund is a private Trust, not working on behalf of the President of India, the affairs of PM CARES Fund cannot be admissible even as Public Importance, nor can it be audited by Comptroller & Auditor General of India (CAG), nor is it transparent for public under RTI Act 2005. Hence, the creation of PM CARES Fund is illegal, devoid of any authority under the Constitution of India, and hence, the impugned judgment dated 18.8.2020 has committed gross error apparent on face of record, which is liable to be dismissed in the eyes of law;

[H] BECAUSE in ***Prime Minister's National Relief Fund (PMNRF)***[4] case, the Hon'ble Division Bench of the Hon'ble High Court of Delhi referred the matter to the third Judge due to divergence of opinion on the issue whether PMNRF is a "public authority" within the meaning u/s 2(h)(d) of Right to Information Act, 2005. The said issue is still pending and scheduled for listing on 15.07.2020 before Ld. Single Judge. In its judgment dated 23.5.2018, the Hon'ble Division Bench of the Hon'ble High Court observed as under:

1) There was no Trust Deed in PMNRF, and it was run by Management Committee since its inception based on the Press Note dated 24.01.1948, and got registered vide regd no. DLI(C)(T-25)/73-74 dated 18.9.1973 by Commissioner of Income Tax;
2) Voluntary donations are received since its inception;
3) Managers of PMNRF included: Prime Minister, President of Indian National Congress Party, Deputy Prime Minister, Finance Minister,

[4] ***Prime Minister's National Relief Fund (PMNRF) v. Aseem Takyar*** [LPA 231/2016 D/d 23.5.2018]

a representative of Tata Trustees and another representative chosen by FICCI. Option was kept open to add more members therein;

4) In 1985, its management committee entrusted the entire management to the Prime Minister, who was given the discretion to appoint a secretary of the fund to manage it;

5) Some government servants held the position in PMNRF in the *ex-officio* capacity. However, PMNRF is not managed by mere officers or government employees;

6) Joint Secretary to the Prime Minister is the Secretary to PMNRF;

7) Fund is housed at PM's Office;

Accordingly, Hon'ble Justice Sunil Gaur has given much convincing dissenting decision to hold that PMNRF is not a "public authority" for the purpose of section 2(h) of RTI Act 2005. Similar would be the fate of PM CARES Fund, which being a private Trust, is beyond the permissible authority under the Constitution and hence, the same is unconstitutional and liable to be dismissed by way of scrutiny under Review to avoid miscarriage of justice;

[I] BECAUSE the moot question remains to be addressed when a person is making voluntary contributions to an entity (be it PM CARES Fund, PMNRF or any NGO/ Society or Trust) towards the declared social cause, whether such person/ contributor has right to seek information how his fund is being used for that public cause and also ascertain whether such service was done exclusively by his contribution by knowing information on entire collections made to that entity? Unless addressing this issue, the impugned judgment dated 18.8.2020 will remain a flaw in the eyes of law. Hence, review of the impugned judgment dated 18.8.2020 is necessary in larger public interest;

[J] BECAUSE the Hon'ble High Court of Delhi is still at the stage of divergent opinion on the subject against LPA 231/2016, in respect of RTI Application filed way back in the year 2011. The delay in past 10 years spent on seeking information against PMNRF has lost patience of many citizens, when prolonged litigation on such subject are now being used by the respondents to create another fund of similar nature as PM CARES Fund. Thus creating a kind of frustration in the minds of common people as to what kind of hopes they carry from the judicial intervention in matters of public contributions. However, one thing is clear that PMNRF is not a Govt authority, and hence, Constitutional provisions on competence to create PMNRF, as well as PM CARES

Fund shall remain a larger issue to be addressed to cover its scrutiny by the Parliament, CAG and RTI Act 2005. Hence, review of the impugned judgment dated 18.8.2020 is necessary in larger public interest;

USE OF TERM 'PRIME MINISTER' FOR NON-GOVERNMENT FUNDS OR ACTIVITIES:

9. That the respondents have consistently maintained that the PM CARES is not subject to RTI Act or Comptroller & Auditor General of India (CAG) as it is not a 'public authority' and the contributions made therein are voluntary. One such instance is the PMO reply no. RTI/4506/2020-PMR dated 2.6.2020 excluding thereby scope of transparency under RTI Act, 2005. However, creation of PM CARES Fund are giving impression to the public clearly as if it is Central Government Fund.

1) PM CARES Fund was notified through Office Memorandum No. CSR-05/1/2020-CSR-MCA dated 28.3.2020 issued by the Ministry of Corporate Affairs, Government of India, admitting clearly therein that the PM CARES Fund is created by Government of India [ANNEXURE: A-3 of IA 63349/2020];

2) Office of PM CARES Fund is also located at PMO, Govt of India and its funds are fully controlled by PMO;

3) Prime Minister, in his official capacity is the Chairperson of PM CARES Fund, along with its other Trustees being Defense Minister, Home Minister and Finance Minister, all in their official capacities respectively [ANNEXURE: A-2 of IA 63349/2020];

4) Its aims were related to national scheme on Covid-2019;

5) PM CARES Fund is hosted on https://www.pmcares.gov.in/en/ and portal *.gov.in is available only to the Government websites as per the guidelines issued on 23.10.2019 [ANNEXURE: A-1 of IA 63349/2020];

6) On 30th March' 2020, through video conferencing the Hon'ble Prime Minister has ask Heads of the Indian Missions across the world advised them to suitably publicize the newly established PM CARES Fund [ANNEXURE: A-5 of IA 63349/2020];

7) Donations from individuals and organizations were demanded by Central Government in their official capacity as Central Government functionaries only;

8) Tax exemption relief for donations into PM CARES Fund u/s 80G of IT Act 1961 as per Notification No. F.No. 178/7/2020-ITA-I dated 9.4.2020 issued by Department of Revenue, Ministry of

Finance, Government of India [ANNEXURE: A-6 of IA 63349/2020];

9) Contributions to PM CARES Fund also qualify for Corporate Social Responsibility (CSR) expenditure under Companies Act, 2013, vide Office Memorandum dated 28.3.2020 issued by Ministry of Corporate Affairs [ANNEXURE: A-3 of IA 63349/2020];

10) Huge donations by Public Sector companies, such as Power Finance Corp (₹ 200 cr), Multiple Public Sector Banks and Enterprises together (over ₹ 200 cr). Hence, those receiving contributions from PSUs are required to be covered under RTI Act;

11) One day salary contributed by employees of Ministry of Defense (around ₹ 500 cr), and by Steel PSUs (over ₹ 500 cr), besides Circular dated 17.4.2020 & 29.4.2020 issued by Department of Revenue directing donation of one day's salary every month till March' 2021 to PM CARES Fund by all employees under Central Government [ANNEXURE: A-7 of IA 63349/2020];

12) Hon'ble Judges of this Hon'ble Court have also contributed into PM CARES Fund along with its Senior Advocates, besides a Circular dated 29.3.2020 issued by the Registry of this Hon'ble

Court seeking upto 3 days salary as contribution into PM CARES Fund [ANNEXURE: A-4 of IA 63349/2020];

10. That Section 3 of the ***Emblems & Names (Prevention of improper use) Act, 1950***, prohibits use of name or emblem specified in its Schedule or any colorable imitation thereof without the previous permission of the Central Government. Item 7 of its Schedule lists name, which may suggest or be calculated to suggest the patronage of the Government of India or of State, or in connection with any local authority, corporation or body constituted by the Government under any law. Accordingly, the terms "Prime Minister", "Home Minister", "Defense Minister", "Finance Minister", web port *.gov.in, and the government machinery cannot be used by any private entity, except by previous permission of the Central Government. And no prosecution can be initiated against any such private entity, save with previous sanction of the Central Government for prosecution of persons involved in the said 'entity' within the meaning of section 6 of the said Act of 1950. Accordingly, section 5 of the said Act of 1950 on penalty cannot be enforced unless previous sanction of the Central Govt is obtained u/s 6 therein.

11. That sections 3, 5 & 6 of the said Act of 1950 are at the whims and fancies of the Central Government to pick and chose for prosecution of the offences on misuse or abuse of the name or emblem of the Central Government functionaries or for its suggested impression on patronage of the Government action, as in case of PM CARES Fund or for that matter even in case of PMNRF, which amount to fraud and cheating on the general public for collecting funds from Indians in India and abroad.

12. That where Council of Ministers of the Central Government itself are involved in such misuse of name or emblem of Central Government to misrepresent itself for its unauthorized or wrongful gains by use of illegal channels to its collection accounts, it is obvious that the entire government machinery and the judiciary would become redundant and meaningless for the public due to bar of previous sanction u/s 6 of the said Act of 1950. Therefore, moot question arises to interpret ***whether Basic Features or Objectives of the said Act of 1950 can be diluted by the Central Government or its Council of Ministers to enjoy its own patronage in matters of private use of government machinery and its name for running Trusts like PM CARES Fund or PMNRF***?

13. That the Basic Features or objectives of the statute are supreme for the statute, which cannot be diluted or neglected by the acts or omissions of the executive functions of the State. So long a statute exists, its basic features or objectives have to be protected even when the Council of Ministers of the Central Government are involved or found to act contrary to the basic features of the said statute. Judicial scrutiny is, therefore paramount to protect basic features and objectives of the statute, i.e. *Emblems And Names (Prevention of Improper Use) Act, 1950*.

14. That this Hon'ble Court is, therefore, required to provide guidelines in respect of prosecution sanctions u/s 6 of the said *Emblems And Names (Prevention of Improper Use) Act, 1950*, where Ruling Political Party or the Council of Ministers of the Central Government are engaged in misusing or misrepresenting the name or emblem as defined u/s 3 of the said Act of 1950, read with allegiance of prospective political patronage contravening the provisions of *Representation of the People Act, 1951*.

GOVERNMENT POWER TO COLLECT VOLUNTARY CONTRIBUTIONS:

15. That the people of India have already welcomed the Government initiatives for voluntary contributions for relief works at the time of calamities or health issues, irrespective of the fact whether the same is legally permissible by the Government or not. Large sums of money have been deposited voluntarily by public as well as organizations in India into the pools of PMNRF as well as PM CARES Fund.

16. That the voluntary contributions so collected till date either in PMNRF, CMRF or in PM CARES Funds does not have legal backing at present, as the funds so collected voluntarily are either not audited by the CAG or its transparency in kept outside the purview of RTI Act 2005. The public fund so collected for national or local social cause when denied transparency either under RTI Act or CAG audit, is bound to cause frustration among citizens of India as to who all have paid, and how that amount is being used or misused. And thereby, the tenets of democratic principles drawn from the transparency of the government functioning are denied to the citizens of India, which is not sustainable in the eyes of law, as interpreted in catena of cases decided by this Hon'ble Court and reduced into the preamble of the *Right to Information Act, 2005*.

17. That the Government is drawing its powers for its revenues through taxes, duties, cess, levies or fees under Articles 264 to 291 (Chapter I, Part-XII), Borrowings under Articles 292 & 293 (Chapter II, Part-XII), and Property, Contracts, Rights, Liabilities, Obligations and Suits under Articles 294 to 307 (Chapter III, Part-XII) of the Constitution of India. There is no provision under the Constitution empowering State to collect voluntary contributions, even though public at large has been willingly contributing funds voluntarily for national or local social cause.

18. That there is special procedure for presenting the Money Bills in the Parliament as defined under Article 109 & 110 of the Constitution, which are different from the Finance Bills. Many checks and balances have been defined in matters of revenues and expenditures of the Government. The moot question arises as to ***whether voluntary contributions can also be classified within the meaning of Revenue to the Government***?

19. That etymologically, "Revenue" comes from the Latin word "*revenir*" means to return, where re- + *venir* is to come or more at COME. According to leading dictionaries, the meaning of Revenue are:

Black's Law 4th Edition, 1968:

Meaning of REVENUE:

Return, yield, as of land, profit, that which returns or comes back from an investment, the annual or periodical rents, profits, interest or issues of any species of property, real or personal, income.

Willoughby v. Willoughby, 66 R.I.430, 19 A.2d 857, 860.

Also the income of an individual or private corporation. Humphrey v. Lang, 169 N.C. 601, 86 S.E. 526, 527, L.R.A.1916B, 626.

As applied to the income of a government, a broad and general term, ***including all public moneys which the state collects and receives, from whatever source and in whatever manner****.*

Fletcher v. Oliver, 25 Ark. 295;

State ex rel. Thompson v. Board of Regents for Northeast Missouri State Teachers' College, 305 Mo. 57, 264 S.W. 698, 700.

The income which a state collects and receives into its treasury, and is appropriated for the payment of its expenses.

Public Market Co. of Portland v. City of Portland, 171 Or. 522, 130 P.2d 624, 644.

Merriam-Webster[5] online dictionary:

Collegiate Definition of REVENUE:

1: the total income produced by a given source

2: the gross income returned by an investment

3: the yield of sources of income (such as taxes) that a political unit (such as a nation or state) collects and receives into the treasury for public use

4: a government department concerned with the collection of the national revenue

20. That the fund so collected even by voluntary contributions shall be classified as REVENUE for the Government, which is subject to audit by Comptroller & Auditor General[6] of India (CAG) under Article 149 of the Constitution, read with ***The Comptroller and Auditor General's***

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[5] https://www.merriam-webster.com/dictionary/revenue
[6] https://cag.gov.in/

(Duties, Powers and Conditions of Service) Act, 1971[7], unless by an Order specifically *relieved from the responsibility for compiling the accounts of any particular services or departments of the Union* u/s 10 of the said Act of 1971.

21. That the issue is now reduced to single point that the specific statutory support is required even for voluntary collections by the Government as the matter is concerned with revenues and its expenditures by the Government. In absence of such statutory support, the collections made in PM CARES Fund or in PMNRF are illegal and colourable exercise of powers of the Council of Ministers giving wrong impression about the call of the Central Government for such voluntary contributions.

CONSEQUENCE OF VOLUNTARY CONTRIBUTIONS MADE INTO PM CARES/ PMNRF:

22. That in case the statutory support is interpreted from the existing statutes, it is not sufficient as the financial matters needs to be expressly clear, independent of statute and transparent for easy understanding of common man, and thereby, there is still a need to make necessary enactment clear in terms. Accordingly, it is also necessary to prohibit the Government and its Council of Ministers from seeking voluntary

[7] https://cag.gov.in/content/dpc-act-cags-duties-powers-and-conditions-service#section3

contributions into PM CARES or PMNRF/CMRF until clear statutory mandate is enacted by the Central Government on the subject of voluntary contributions, and make such voluntary contributions subject to transparency under RTI Act and audit by CAG.

23. That this Hon'ble Court is also required to set an example for dealing with such instances of voluntary contributions made into the pools of PM CARES, PMNRF/CMRF, which are not transparent or any instances of misappropriation or misuse of fund is identified therefrom. As stated above, section 3, 5 & 6 of the ***Emblems And Names (Prevention of Improper Use) Act, 1950***, are attracted for the offences of improper use of name and emblem even by the Council of Ministers, provided previous sanction is granted by the Central Government.

24. That the credentials and track record of the petitioner herein are impeccable and he humbly and most respectfully seeks to bring to the kind attention of this Hon'ble Court, several measures to aid and assist this Hon'ble Court in matters of PM CARES, PMNRF, CMRF or such other voluntary contributions collected by the Government or any local

agency, which may be appreciated by this Hon'ble in the larger public interest.

25. The petitioner has no personal interest, or private/oblique motives in filing the instant Review Petition before this Hon'ble Court, and in order to assist this Hon'ble Court with regards to legality, propriety and better solutions on the subject matter of the present petition, which is the laudable objective of the instant Review Petition.

26. That the petitioner is not involved in any litigation before any other forum/court/authority, which has a nexus with the instant petition.

27. The present Review Petition has been moved *bona fide* and in the interest of larger public interest. In the factual circumstances, the balance of convenience strongly tilts in favour of the petitioner. The interests of justice would be served if the Review Petition is allowed in larger public interest.

PRAYER

It is therefore, in the interest of justice that this Hon'ble Court, may graciously be pleased to:

a) Allow the instant Review Petition against the impugned judgment dated 18.8.2020 passed by this Hon'ble Court in the Writ Petition

(Civil) No. 546 of 2020, titled, *Centre for public interest litigation v/s Union of India*; and/or

b) Pass such other/further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, YOUR HUMBLE PETITIONER AS IS DUTY BOUND, SHALL EVER PRAY.

MUKESH KUMAR
PETITIONER-IN-PERSON

Filed on: 03.09.2020
Place: NEW DELHI