IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO ...... OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION)

IN THE MATTER OF:

Ashwini Kumar Upadhyay

Verses

1. Union of India
   Through Secretary,
   Ministry of Home Affairs,
   North Block, New Delhi-110001
2. Union of India
   Through Secretary,
   Ministry of Finance,
   North Block, New Delhi-110001
3. Union of India
   Through Secretary,
   Ministry of Law and Justice,
   Shashtri Bhawan, New Delhi-110001
4. Law Commission of India
   Through the Chairman/Secretary
   Loknayak Bhawan, Khan Market, New Delhi-110003
5. Chairperson-Lokpal
   6, Vasant Kunj Institutional Area
   Phase-2, New Delhi-110070, ...Respondents

PIL SEEKING DIRECTION TO CENTRE TO ASCERTAIN THE FEASIBILITY OF CONFISCATING CENT PERCENT BENAMI PROPERTY, DISPROPORTIONATE ASSETS AND BLACK MONEY AND AWARDING LIFE IMPRISONMENT IN OFFENCES RELATING TO BRIBERY, BLACK MONEY, BENAMI PROPERTY DISPROPORTIONATE ASSETS, TAX EVASION AND MONEY LAUNDERING ETC

To,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND LORDSHIP'S COMPANION JUSTICES

OF THE HON'BLE SUPREME COURT OF INDIA

HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this writ petition as a PIL under Article 32 seeking writ, order or direction to the Centre to ascertain the feasibility of confiscating cent percent Benami Property Disproportionate Assets and Black Money and awarding Life Imprisonment in the offences relating to bribery, black money, benami property, disproportionate assets, money laundering, tax evasion, profiteering, grain hoarding, food adulteration, human and drug trafficking, black marketing, cheating, fraud, forgery, dishonest misappropriation of property, criminal breach of trust, dishonestly inducing delivery of property, cheating by personation, concealment of property, falsification of accounts, benami transaction, corporate fraud and forensic fraud.

2. Alternatively, being custodian of the Constitution and protector of fundamental rights, the Court may direct the Law Commission of India and/or the Lokpal to examine and publish the best Anti-Corruption Laws of the world, particularly the most strict and effective provisions related to bribery, black money, benami property, disproportionate assets, tax evasion, money laundering, profiteering grain hoarding food adulteration, human and drug trafficking, black marketing, cheating, farud, forgery, dishonest misappropriation of property, criminal breach of trust, dishonestly

inducing delivery of property, cheating by personation, concealment of property, falsification of accounts, benami transactions and fraud including corporate fraud, capital market fraud and forensic fraud.

3. Cause of action accrued on 24.1.2020, when corruption watchdog Transparency International put India at 80 in Corruption Perception Index. India ranked 66 in 1998, 72 in 1999, 69 in 2000, 71 in 2001, 71 in 2002, 83 in 2003, 90 in 2004, 88 in 2005, 70 in 2006, 72 in 2007, 85 in 2008, 84 in 2009, 87 in 2010, 95 in 2011, 94 in 2012, 87 in 2013, 85 in 2014, 76 in 2015, 79 in 2016, 81 in 2017, 78 in 2018.

4. Due to weak and ineffective anti-corruption laws, India has never been ranked even among top 50 in Corruption Perception Index but Centre has not strengthened them to weed-out the menace of corruption, which brazenly offends rule of law as well as right to life liberty dignity guaranteed under Articles 14 and 21. Due to rubbish laws, none of the welfare schemes and government departments are free from corruption and this is the reason, India ranked 1st in Fresh Water Withdrawal, illegal gun ownership, Homeless Population and illegal immigration, 2nd in Intentional Homicides and Traffic Related Deaths, 3rd in CO_2 Emission & 4th in Slavery Index. Due to massive corruption, India ranked 42 in Employment Rate, 43 in Quality of

Life Index, 51 in Democracy Index, 68 in Rule of Law Index, 84 in Air Quality Index, 102 in Hunger Index, 115 in Human Capital Index, 125 in Gender Discrimination, 130 in Life Expectancy Index, 134 in Youth Development Index, 136 in Global Peace Index, 139 in GDP Per Capita, 142 in Press Freedom Index, 144 in World Happiness Index, 145 in Education Index, 168 in Literacy Rate and 177 in Environment Performance Index, but Centre did nothing till date.

5. Right to live happily with dignity, is guaranteed under Article 21 but due to massive corruption, our ranking in Happiness Index is very low. In **World Happiness Index,** India ranked 140 in 2019, 133 in 2018, 122 in 2017, 118 in 2016, 117 in 2015, 120 in 2014, 111 in 2013 and 133 in 2012. Similarly, right to live peacefully is integral part of Article 21 but due to huge corruption, our ranking is extremely low. In **Global Peace Index,** India ranked 141 in 2019, 137 in 2018, 137 in 2017, 141 in 2016, 144 in 2015, 142 in 2014, 141 in 2013, 144 in 2012, 147 in 2011, 144 in 2010, 144 in 2009, 143 in 2008 and 107 in 2007. Rule of Law is integral part of Article 14 but due to wild corruption, our ranking in "**Rule of Law Index"** is extremely low. India ranked 66th in 2011, 67th in 2012, 66th in 2013, 68th in 2014, 59th in 2015, 66th in 2016, 66th in 2017, 66th in 2018, 68th in 2019 and 69th in 2020.

6. Right to trade is guaranteed under Article 19 but due to mammoth corruption, our international ranking is very low. In **Ease of Doing Business Index,** India ranked 63 in 2019, 77 in 2018, 100 in 2017, 130 in 2016, 130 in 2015, 142 in 2014, 134 in 2013, 132 in 2012, 132 in 2011, 134 in 2010, 133 in 2009, 122 in 2008, 120 in 2007, 134 in 2006 and 116 in 2005. We never ranked even among top 50 in the "Ease of Doing Business Index" but Centre has not implemented the best anti-corruption laws and policies of the developed countries.

7. Total budget of Centre, States, Local bodies is around 70 lacs crore but due to massive corruption in every department, around 10% of this budget (7 lacs crore) becomes black money. Centre can save this huge public money by recalling currency above Rs. 100, restricting cash transaction above Rs. 5000, linking assets above Rs. 50,000 with AADHAAR, confiscating 100% black money, benami property, disproportionate assets and awarding life imprisonment to looters.

8. Due to Centre's inaction, even after 73 years of independence and 70 years after becoming sovereign socialist secular democratic republic, none of our districts are free from bribery, black money, benami property, disproportionate assets, tax evasion, money laundering, profiteering, grain hoarding, food adulteration, human and drug

trafficking, black marketing, cheating, mischief, forgery, dishonest misappropriation of property, criminal breach of trust, dishonestly inducing delivery of property, cheating by personation, concealment of property, falsification of accounts, benami transactions and fraud including corporate fraud, capital market fraud and forensic fraud.

9. Due to weak and ineffective anti-corruption laws, even one district is not free from land mafias, drug and liquor mafias, mining mafias, medicine-hospital mafias, transfer-posting mafias, betting mafias, tender mafias, hawala mafias, school and coaching mafias, illegal immigration mafias, conversion mafias, superstition-black magic mafias and white-collar political mafias, who divide our society and country on the basis of religion race caste sex and place of birth.

10. Due to weak and ineffective anti-corruption laws, India ranked 80 in Corruption Perception Index. It confirms Centre's poor performance on many fronts viz. absence of corruption, fundamental rights, open government, public order and security, regulatory enforcement and civil and criminal justice system. Corruption has devastating effects on right to life liberty dignity, badly affects social economic justice, fraternity, dignity of individual, unity and national integration thus offends fundamental rights guaranteed under Articles 14 and 21.

11. The injury caused to people is extremely large because corruption is insidious plague, having wide range of corrosive effects on society. It undermines democracy and rule of law, leads to violations of human rights, distorts markets, erodes quality of life and allows organized crime like separatism, terrorism, naxalism, radicalism, gambling, smuggling, kidnapping, money laundering and extortion, and other threats to human security to flourish. It hurts the EWS-BPL families disproportionately by diverting the funds intended for development, undermines government's ability to provide basic services, seeds inequality & injustice and discourages foreign aids and investment.

12. Corruption is key element in economic underperformance and main obstacle in poverty alleviation. Right to life and liberty guaranteed under Article 21 cannot be secured and the golden goals of Preamble cannot be achieved without curbing corruption. Therefore, it is duty of Centre to implement the best and most effective anti-corruption laws of the world in order to give strong message that Government is determined to weed-out corruption, black money generation, benami transaction and money laundering. Centre must take steps to reaffirm the rule of law, improve transparency and to warn the looters that betrayal of public trust will no longer be tolerated.

13. The injury to the EWS-BPL families is very large because corruption distorts and disrupts entire public distribution system. It is inimical to fostering of excellence & has adverse impact on EWS-BPL group. Due to huge corruption, even after 73 years of independence, 50% population is in distress, leading hand-to-mouth existence and not knowing where next meal is coming from, with abominable health standards and primary education levels. Much of this malaise is traceable to extensive black money generation, benami transaction. There is no country in top 50 of Human Development Index, which has significant amount of corruption. There is correlation between welfare State with attention to education, public health and absence of corruption. Therefore, Centre must take steps to confiscate cent percent black money, benami properties & disproportionate assets and award rigorous life imprisonment to looters & money launders.

14. Rule of law, guaranteed under Article 14; right to trade, guaranteed under Article 19; right to clean air, right to drinking water, right to health, right to peaceful sleep, right to shelter, right to livelihood and right to education guaranteed under Articles 21-21A; can't be secured without curbing corruption black money generation benami transaction but Centre hasn't taken steps to weedout these menaces.

Petitioner submits that clean governance is impossible without recalling currency above Rs. 100, restricting cash transactions above Rs.5000, linking assets above Rs. 50,000 with AADHAAR and confiscating cent percent black money, benami properties and disproportionate assets and awarding life imprisonment to looters.

15. Cash transaction in high value currency is used for illegal activities - terrorism, naxalism, separatism, radicalism, gambling, smuggling, money laundering, kidnapping, extortion, bribing and dowry etc. It also inflates price of essential commodities as well as major assets like real estate, gold etc. Hence, these problems can be curbed up to great extent by recalling currency above Rs. 100/-, restricting cash transaction above Rs. 5000/-, linking assets above Rs. 50,000/- with AADHAAR, confiscating cent percent black money, benami property and disproportionate assets and awarding life imprisonment. These 5 steps will weed-out corruption & black money generation. Another benefit is that the looters would be forced to declare their unaudited fixed-movable assets and deposit their cash in banks; thus, not only Centre but also States and Local Bodies will get sufficient revenue, which can be used to develop good quality infrastructure and best facilities throughout the country and for welfare of the citizens.

16. If Centre recalls currency above Rs. 100/-, restricts cash transaction above Rs. 5,000/-, links assets above Rs. 50,000/- with AADHAAR, confiscate 100% disproportionate assets, award life imprisonment to looters, it will lead to an increment of 2% GDP. It will also clean election, which is dominated by black-money benami transactions and thrives on cycle of black investments, capture of power through foul means, use of political strength to amass wealth, with disdain of the citizen. There may be some inconvenience for a short period and politicians who have black money benami property disproportionate assets may focus on the distress to common man, but not even one honest citizen will lose his savings and nothing will get confiscated.

17. India's anti-corruption laws are very weak and ineffective and failed to control corruption. The Benami Transactions Act, passed in 1988 was gathering dust without action. Though present government added some teeth to it but activities to catch benami properties are still going very slow. For example, amended Act came into existence from 1.11.2016 but action taken is restricted to few immovable properties and bank deposits after demonetization. Finding real beneficiary of benami properties is herculean task and that is the main reason for its slow implementation. To speed up this

information gathering, Centre came out with cash reward up to Rs 1 crore for *'secret informers'* but, success is less because people are scared that the rogue employee of the investigation agencies will leak information about the informer. Similar scheme by Income Tax and Customs Department has also failed in fetching big information.

18. Benefits of recalling currency above 100, restricting cash transaction above 5,000, linking assets above 50,000 with AADHAAR and confiscating cent percent benami properties-disproportionate assets and awarding life imprisonment are: **(i)** clean-transparent economy **(ii)**20% more revenue for Centre States Local Bodies **(iii)**20% drop in commodity prices **(iv)** bank loan at 5% annual interest rate **(v)** 10% reduction in construction and infrastructure cost **(vi)** 50% reduction in terrorism separatism and fundamentalism **(vii)** 50% reduction in casteism communalism linguism regionalism**(vii)** 20% more subsidy to EWS-BPL families **(viii)** world class infrastructure across the country **(ix)** 20% growth in industry agriculture and service sector **(x)** significant growth in employment **(xi)** more social security benefits for citizens **(xii)** focus shift from tax manipulation to innovation **(xiii)** Business will become globally competitive **(xvi)** better rule of law **(xv)** security of right to life liberty and dignity

19. Every family has debit card and AADHAAR therefore restricting cash transaction above Rs. 5,000/- and linking property with AADHAAR is feasible. The advantage is that the tax authorities will get details about black money benami transaction immediately. Looters used to register their properties in other's name and keep original property documents with themselves. Such property deals in fictitious names would be identified very easily. The moment benami transaction is detected, tax authorities can approach the owner and if owner is unaware or deny knowledge of the ownership, property can be treated as benami property. Even if owner takes onus and claims that it is his property, he needs to show the source of income for buying it. Opponents may come out against this move. Will this amount to harassing the genuine tax payers as the opponents will put it? No, because there are several provisions in Benami Act to protect them. Usual transactions like buying property in the name of spouse, kids, parents, joint names with siblings is exempted in the Benami Act. However, they need to show the source of money used for such purchase. This may cause some discomfort to genuine tax payers but majority would support above steps because it will result in unearthing the massive black money and benami properties.

20. Root cause of 50% problems is corruption and it can't be controlled without tax reform police reform judicial reform democratic reform administrative reform and legal reform. Many eminent commissions including the Law Commission Election Commission Venkatchaliya Commission and Administrative Commission have given more than 500 suggestions to weedout corruption and secure the democracy but Centre did nothing to implement them. Petitioner submits that Black money coming into banking system will brought along with massive data, a treasure-trove that would enable the Centre to take action against looters and Ill-gotten wealth will be part of economy.

21. In monthly addresses to the nation, the Prime Minister has reiterated his plan to weedout black money benami properties. This is because a major part of black money is held in form of benami properties. Demonetization, announced on 8.11.2016, was the first step towards the fight against black money. Noting that digital transactions help in bringing *irreversible change* in people's interest, the Prime Minister reiterated that it will work as a big weapon to weed-out corruption. Cashless transaction played key role in ensuring that scholarship pension and subsidies reaches real poor.

At inaugural session of *Hindustan Times Leadership Summit* Prime Minister said: *"Linking Aadhaar with mobile and Jan Dhan accounts have evolved such a system which was not even thought of till some years ago, a system which is irreversible. Earlier pension money and students stipend was distributed in crores of fake accounts. All that has been addressed with the help of Aadhaar in the last three years."*

22. In Nirbhaya Case [Criminal Appeal 607-608 of 2017), three Judges Bench of this Hon'ble Court has very categorically observed:

*"**144.** Society's reasonable expectation is that deterrent punishment commensurate with the gravity of the offence be awarded. When the crime is brutal, shocking the collective conscience of the community, sympathy in any form would be misplaced and it would shake the confidence of public in the administration of criminal justice system. As held in Om Prakash v. State of Haryana [(1999) 3 SCC 19], the Court must respond to the cry of society and to settle what would be a deterrent punishment for what was apparently abominable crime.*

***145.** Bearing in mind the above principles governing the sentencing policy, I have considered aggravating and mitigating circumstances in the present case. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice* *against the crime. Justice demands that the courts should impose punishments befitting the crime so that it reflects public abhorrence of the crime. Crimes like the one before us cannot be looked with magnanimity. Factors like young age of the accused and poor background cannot be said to be mitigating circumstances. Likewise, post-crime remorse and post-crime good conduct of the accused, the statement of the accused as to their background and family circumstances, age, absence of criminal antecedents and their good conduct in prison, in my view, cannot be taken as mitigating circumstances to take the case out of the category of "rarest of rare cases". The circumstances stated by the accused in their affidavits are too slender to be treated as mitigating circumstances."*

23. In State of Andhra Pradesh v Vasudeva Rao[(2014)9SCC 319] the Apex Court has very categorically reiterated that *"Corruption is one of the most talked about subjects today in the country since it is believed to have penetrated into every sphere of the public activity. It is described as wholly widespread and spectacular. Corruption as such has reached dangerous heights and dangerous potentialities. The word 'corruption' has wide connotation and embraces almost all the spheres of our day to day life the world over."*

24. In B.C. Goswami v. Delhi Administration [AIR 1973 SC 1457], this Hon'ble Court very categorically observed: *"Now the question of sentence is always a difficult question, requiring as it does, proper adjustment and balancing of various considerations which weigh with a judicial mind in determining its appropriate quantum in a given case. The main purpose of the sentence broadly stated is that the accused must realize that he has committed an act which is not only harmful to the society of which he forms an integral part but also is harmful to his own future, both as an individual and as a member of the society. Punishment is designed to protect society by deterring potential offenders as also by preventing the guilty party from repeating the offence; it is also designed to reform the offender and re-claim him as a law abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining this question. In modern civilized societies, however reformative aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both loose their efficaciousness. One does not deter and the other may frustrate thereby making the offender a hardened criminal."*

25.In State of M.P. v Ram Singh, [(2000) 5 SCC 88] Court held: *"Corruption in a civilised society is a disease like cancer, which if not detected in time, is sure to maliganise the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence – shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society."*

26. In Subramanian Swamy v Manmohan Singh [(2012)3SCC 64] the Apex Court very reiterated: *"Corruption not only poses a grave danger to concept of constitutional governance, it also threatens the very foundation of the democracy and the Rule of Law. The magnitude of corruption in public life is incompatible with concept of the Socialist, Secular and Democratic Republic. Where corruption* *begins all rights end. Corruption devalues human rights, chokes development, and undermines justice, liberty, equality and fraternity, which are the values in Indian Preambular vision...".*

27.In State of Gujarat versus R.A. Mehta,[(2013) 3 SCC 1], the Court observed: *"Corruption threatens constitutional governance and shakes the foundation of democracy and rule of law. Corruption is opposed to democracy and social order as being not only anti-people, but also due to the fact, that it affects the economy of a country and destroys its cultural heritage. It threatens security of the society, undermines the ethical value and justice and jeopardizes sustainable development. Corruption devalues human rights, chokes development and corrodes the moral fabric of society. It causes considerable damage to the national economy, national interest and image of the country. The very object, the noble and grand vision of Preamble will be defeated if corruption is not curbed immediately".*

28. Preamble is not a mere flourish of words, but is an ideal setup for practices & observances on matters of law through Constitutional mechanism. The purpose of Preamble is to clarify who has made the Constitution, what is its source, what is ultimate sanction behind it; what is the nature of polity, which is sought to be established by the Constitution and what are its goals and objectives. Preamble acknowledges, recognizes, proclaims that the Constitution emanates from 'People of India' and not from any external source and meant for 'Welfare of the People'. Constitution must be read as a whole and in case of doubt; it is interpreted consistent with basic structure to promote great objectives stated in the Preamble. Welfare of the people is ultimate goal of all laws, State actions and above all the Constitution. They have one common object that is to promote well-being of the society as a whole. It is impossible to achieve the great golden goals of Preamble without curbing corruption, the greatest menace to democracy-development.

29. The punishment for white collar crimes is not sufficient as we can see in the Coal Scam. As per CAG, the scam was of 1,85,591 crores, which affected the entire nation but the maximum punishment awarded was 3 years with fine of Rs 50,00,000. Likewise, CWG scam was a 70,000 Crore, which not only affected our economy but also the integrity of the nation. In this case accused were charged with conspiracy, forgery, and misconduct and under provisions of PC Act. This clearly shows that not only the sentence under the PCA should be increased but also it should be consecutive.

30. On 29.9.2014, Spaniard Lopez Tardon was sent to prison for 150 years in money-laundering case. He was guilty of a conspiracy charge that carried up to 20 years in prison and guilty of 13 money-laundering charges that carried up to 10 years each. In US judge had authority to craft prison term that effectively added up to life term. Major John Cockerham, while working as Army contracting officer, awarded contracts for services to be delivered carrying more than $9 million in bribe process. He directed contractors to pay Carolyn Blake, his sister of Sunnyvale, Texas and wife Melissa and others in order to conceal receipt of bribe payments. Wife Melissa Cockerham admitted to have stored the cash in safe deposit boxes at banks in Kuwait-Dubai. Carolyn Blake admitted to accepting over $3 million bribe proceeds on behalf of her brother. Blake expected 10% of the amount she collected. Having pleaded guilty in March, 2009 before US Magistrate Judge in the Western District of Texas, San Antonio Division, the sister Carolyn Blake faces 20 years in prison and fine upto $500000 or two times the value of laundered funds, whichever is greater. Cockerhams were also convicted on their pleas and faced imprisonment and fine of the similar quantum. A List of Prisoners, sentenced to more than 100 years is **Annexure P-1.** (pages 31-41)

31. On 30.04.2016, Justice Arijit Pasayat (Chairman of SIT-Black Money) called for a more stringent Prevention of Money Laundering Act with increased jail term. He was of the opinion that the 3-7 years sentence prescribed under the PMLA is too less. Justice Pasayat cited example of United States where such offenders are sentenced for upto 150 years. He said: *"How I wish we had such sentencing here. Those stealing one rupee and those laundering Rs 300 crores are given the same sentence here,"* Justice Pasayat said: *"While murder and attempt to murder are predicate offences, tax offences are still not included in the category. If you are evading massive amount of tax, that is murder of the economy which will eventually impact people,"* Moreover, in catena of decisions, this Hon'ble Court has reiterated that corruption is menace of our social and economic development. [*State of MP v. Ram Singh (2000) 5 SCC 88; State of AP v. V Vasudeva Rao (2004) 9 SCC 319; Subramanian Swamy v. Manmohan Singh (2012) 3 SCC 64; State of Gujarat v. R. A. Mehta (2013) 3 SCC 1*] This Hon'ble Court has reiterated that there is no sentencing principle [*State of Punjab v. Prem Sagar (2008) 7 SCC 550; Soman v. State of Kerala (2013) 11 SCC 382*]. However, Centre has not taken any steps till date.

32. The Dupreme Court has indicated the need of consecutive sentence in three decisions. [*Mohammad Akhtar Hussain v. Assistant Collector of Customs (1988) 4 SCC 183; O. M. Cherian v. State of Kerala (2015) 2 SCC 501; Muthu Ramalingam v. State (2016) 8 SCC 313*] However, due to Centre's inaction, India doesn't have a defined policy of consecutive and concurrent sentence till date.

33. The Supreme Court has observed about sentencing principle of proportionality thrice. [*Om Prakash v. State of Haryana (1999) 3 SCC 19; Jai Kumar v. State of MP (1999) 5 SCC 1; Alister Anthony Pareira v. State of Maharashtra (2012) 2 SCC 648*] However, Centre has not taken appropriate steps in this regard till date.

DIRECTION TO THE LAW COMMISSION TO PREPARE REPORT

34. **GUJARAT URJA VIKAS NIGAM [(2016)9 SCC 103 PARA 41]**

We are of the view that in the first instance the Law Commission may look into the matter with the involvement of all stakeholders. **Para 43.** *The questions which may be examined by Law Commission are:* **43.1.** *Whether any changes in statutory framework constituting various tribunals with regard to persons appointed, manner of appointment, duration of appointment, etc. is necessary in the light of judgment of this Court in Madras Bar Association (2014)10SCC 1]* *or on any other consideration from point of view of strengthening the rule of law?* **43.2.** *Whether it is permissible and advisable to provide appeals routinely to this Court only on a question of law or substantial question of law which is not of national or public importance without affecting the constitutional role assigned to the Supreme Court having regard to the desirability of decision being rendered within reasonable time?***43.3.** *Whether direct statutory appeals to the Supreme Court bypassing the High Courts from the orders of Tribunal affects access to justice to litigants in remote areas of the country?***43.4.** *Whether it is desirable to exclude jurisdiction of all courts in the absence of equally effective alternative mechanism for access to justice at grass root level as has been done in provisions of the TDSAT Act (S. 14-15).***43.5.** *Any other incidental or connected issue which may be appropriate.* **Para 44.** *We request the Law Commission to give its report as far as possible within one year. Thereafter matter may be examined by authorities concerned.*

35.**BCCI v Bihar Cricket Association (2016)8SCC 535 Para 93.** *We are not called upon in these proceedings to issue direction insofar as the above aspect is concerned. All that we need say is that since BCCI discharges public functions and since those functions are in the* *nature of a monopoly in hands of BCCI with tacit State and Centre approvals, the public at large has right to know/demand information as to the activities and functions of BCCI especially when it deals with funds collected in relation to those activities as a trustee of wherein the beneficiary happens to be the people of this country. As a possible first step in the direction in bringing BCCI under the RTI, we expect the Law Commission to examine the issue, make a suitable recommendation. Beyond that we do not consider it necessary to say anything at this stage.* ***Para 94.*** *So also the recommendation made by the Committee that betting should be legalised by law, involves the enactment of a law which is a matter that may be examined by the Law Commission and the Government for such action as it may consider necessary in the facts and circumstances of the case.*

36. **Babloo Chauhan v Govt. Of Delhi (2017) SCC DEL 12045**

*"**Para 11.** Third issue concerns the possible legal remedies for victims of wrongful incarceration and malicious prosecution. The report of Prof. Bajpai refers to the practice in United States of America and the United Kingdom. He points out that that there are 32 states in the USA including District of Columbia (DC) which have enacted laws that provide monetary and non-monetary compensation to people*

wrongfully incarcerated. There are specific schemes in the UK and New Zealand in this regard.17. The Court, accordingly, requests Law Commission of India to undertake a comprehensive examination of the issue highlighted in paras 11 to 16 of this order and make its recommendation thereon to the Government of India."

37.**AP Pollution Control Board v Prof M.V. Nayudu**[(2001)2 SCC 62]

Para 73. *Inasmuch as most of the statutes dealing with environment are by Parliament, we would think that the Law Commission could kindly consider the question of review of the environmental laws and the need for constitution of Environmental Courts with experts in environmental law, in addition to judicial members, in the light of experience in other countries. Point 5 is decided accordingly.*

38. **Mahipal Singh Rana** [(2016) 8 SCC 335] ***Para 58,*** *In view of the above, we request the Law Commission to go into all relevant aspects relating to regulation of legal profession in consultation with all concerned at an early date. We hope that the Government will consider taking further appropriate steps in the light of the report of the Law Commission within six months thereafter. The Central may file an affidavit in this regard within month after expiry of one year.*

39. **Naresh Kumar Matta v DDA** [2013SCC ONLINE DEL 2388]

Para 12 Delay of five years in computing the cost of a flat is totally incomprehensible. The Court is of the opinion that the Law Commission should consider preparation of an enactment to recover damages/compensation from officers who take unduly long time in taking decisions or do not take a decision.

40. **Pravasi Bhalai Sangathan (2014) 11 SCC 477]** ***Para 29***

However, in view of the fact that the Law Commission has undertaken the study as to whether the Election Commission should be conferred the power to derecognise a political party disqualifying it or its members, if a party or its members commit the offences referred to hereinabove, we request the Law Commission to also examine the issues raised herein thoroughly and also to consider, if it deems proper, defining the expression "hate speech" and make recommendations to Parliament to strengthen Election Commission to curb the menace of "hate speeches" irrespective of whenever made.

42. Petitioner has not filed any other same/similar petition either in this Court or in other Court, seeking same/similar directions, as prayed.

43. Petitioner has no personal interest, individual gain, private motive or oblique reasons in filing this PIL.

44. There is no civil, criminal or revenue litigation, involving petitioner, which has/could have legal nexus, with the issue involved in the PIL.

45. There is no requirement to move concerned authority for the relief sought. There is no other remedy available except filing the PIL.

46. Our Anti-Corruption Laws are weak and ineffective. For Example:

S.N	LAWS	CURRENT PUNISHMENT
A.	PCA	
1	S.7 Public servant taking illegal remuneration	Imprisonment up to 5 years. No provision to forfeit 100% property
2	S.8 Taking gratification by illegal means	Imprisonment up to 5 years. No provision to forfeit 100% property
3	S.9 Taking gratification to influence public servant	Imprisonment up to 5 years. No provision to forfeit 100% property
4	S.10 Punishment for abetment by public servant	Imprisonment up to 5 years. No provision to forfeit 100% property
5	S.11 Public servant obtaining valuable thing	Imprisonment of up 5 years. No provision to forfeit 100% property
6	S.12 Punishment for abetment of offences	Imprisonment up to 5 years. No provision to forfeit 100% property

7	**S.13** Criminal misconduct by public servant	Imprisonment of 1-7 years. No provision to forfeit 100% property
8	**S.14** Habitual offender under sections 8, 9 and 12	Imprisonment of 2-7 years. No provision to forfeit 100% property
9	**S.15** Punishment for attempt	Imprisonment of 1-3 years. No provision to forfeit 100% property
B.	**BENAMI PROPERTY ACT**	
1	**S.53** Penalty for Benami transaction	Imprisonment of 1-7 years. No provision to forfeit 100% property
C.	**MONEY-LAUNDERING ACT**	
	S.4 Punishment for Money laundering	Imprisonment of 3-7 years. No provision to forfeit 100% property
D.	**FCRA 2010**	
1	**S.33** Making of false statement, declaration or delivering false accounts	Imprisonment for a term which may extend to 6 months or with fine No provision to forfeit 100% property
2	**S.34** Penalty for contravention of section 10	Imprisonment of 1-3 years. No provision to forfeit 100% property
3	**S.35** Punishment for contravention of provision	Imprisonment of 1-5 years. No provision to forfeit 100% property
4	**S.36** Power to impose additional fine where article or currency or security is not available for confiscation	Punishable with fine not exceeding 5 times the value of article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act
5	**S.37** Penalty for offences where no separate punishment been provided	Punishable with imprisonment for a term which may extend to one year. No provision to forfeit 100% property

PRAYERS

The Court may issue appropriate writ/order/direction to Centre to:

a) ascertain the feasibility of confiscating cent percent Black Money, Benami Properties and Disproportionate Assets and awarding Life Imprisonment in offences relating to bribery, black money, benami property, disproportionate assets, tax evasion, money laundering, profiteering, grain hoarding, food adulteration, human and drug trafficking, black marketing, cheating, fraud, forgery, dishonest misappropriation of property, criminal breach of trust, falsification of accounts, benami transaction, corporate fraud and forensic fraud;

b) Alternatively, being custodian of the Constitution and protector of fundamental rights, the Court may direct the Law Commission of India and/or Lokpal to examine and publish the best anti-corruption laws of the world, particularly the most effective provisions related to bribery, black money, benami property, disproportionate assets, tax evasion, money laundering, profiteering, grain hoarding, food adulteration, human-drug trafficking, black marketing, cheating, forgery, criminal breach of trust, falsification of accounts, benami transactions and fraud including corporate fraud and forensic fraud;

c) pass such other order(s) as the Court may deem fit and proper.

New Delhi
16.11.2020

Advocate for petitioner
(Ashwani Kumar Dubey)