

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF

RISHABH SHARMA,

...PETITIONER

VERSUS

1. UNION OF INDIA

THROUGH,

THE SECRETARY,

MINISTRY OF HOME AFFAIRS,

NORTH BLOCK,

NEW DELHI - 110001

...RESPONDENT NO. 1

2. GOVERNMENT OF NCT OF DELHI

DEPARTMENT OF HOME

THROUGH,

THE SECRETARY,

I.P. ESTATE,

NEW DELHI-110002

...RESPONDENT NO. 2

3. GOVERNMENT OF UTTAR PRADESH

HOME DEPARTMENT

THROUGH,

THE SECRETARY,

FIRST, SECOND AND THIRD FLOOR,

LAL BAHADUR SHASTRI BHAWAN, (ANNEXY BUILDING),

SAROJINI NAIDU MARG, LUCKNOW ,

UTTAR PRADESH, INDIA- 226001

...RESPONDENT NO. 3

4. GOVERNMENT OF HARYANA

MINISTRY OF HOME & ADMINISTRATION OF JUSTICE,

THROUGH,

THE SECRETARY,

ROOM NO. 32, 8TH FLOOR,

HARYANA CIVIL SECRETARIAT,

SECTOR-1, CHANDIGARH, PIN 160001

...RESPONDENT NO. 4

5. COMMISSIONER OF DELHI POLICE,
DELHI POLICE HEADQUARTERS,
MSO BUILDING, INDRAPRASHTA MARG,
IP ESTATE, NEW DELHI, DELHI - 110095

...RESPONDENT NO. 5

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR
ISSUANCE OF A WRIT IN THE NATURE OF UNDER ARTICLE 21 OF THE
CONSTITUTION OF INDIA.

To,

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

THE HUMBLE PETITION OF THE PETITIONER
ABOVE NAMED:

MOST RESPECTFULLY SHOWETH: -

1. That the petition is not guided by self-gain or for gain of any other individual person, institution or body. There is no motive other than the larger public interest in filing this petition. Petitioner has no personal interests or individual gain, private motive or oblique reasons in filing this petition. It is totally bona-fide with the sole purpose of larger public interest and in interest of justice as the Article 21 of the Constitution of India.

2. That the source of averments made in this petition is personal knowledge and information collected from this judgment passed by this Hon'ble Court and other media reports and websites. Petitioner is filing this PIL under Article 32 of the Constitution of India in the nature of public interest litigation and praying inter alia for issuance of an appropriate writ, order or direction including writ of Mandamus for immediate removal/dispersal of a mass gathering from Delhi borders.

The Petitioner is seeking the following reliefs:

- a. Issue a writ of mandamus or other appropriate writ order or direction directing Respondents and the concerned authorities to open all the borders of Delhi;
 - b. Issue a writ of mandamus or other appropriate writ order or direction directing the Respondents and the concerned authorities to shift the protestors at the allotted place and provide guidelines related to social distancing and use of mask at the protest place;
 - c. Issue such other appropriate writ or direction that may be deemed to be just and equitable in the facts and circumstances of the case and in the interest of justice.
3. That the Petitioner is a citizen of India and interested in safeguarding the interest of public at large and ventilating the grievances of public regarding the issues of public importance.

4. That the Petitioner is a law student and residing within the territory of Delhi and having college/university in Noida. The Petitioner is a public-spirited person and takes lead in various issues of public interest at the local level.
5. That Union of India, Government of NCT of Delhi, Government of Haryana and Government of Uttar Pradesh is likely to be affected by the orders sought in this petition and they have been impleaded as Respondents. Petitioner submits that to its knowledge, no other persons, bodies, institutions are likely to be affected.
6. That Respondent No. 1 is the Secretary of the Ministry of Home Affairs, governed under the Union of India, Respondent No. 2 is a Secretary of Department of Home, governed under the Government of NCT of Delhi, Respondent No. 3 is a secretary of the Home Department, governed under the Government of Uttar Pradesh, Respondent No. 4 is a secretary of Ministry of Home and Administration of Justice, governed under the Government of Haryana and Respondent No. 5 is the Commissioner of Delhi Police governed under the Government of India.
7. That the cause of action for this writ petition arises out of the gathering of a mass crowd at the Delhi borders against the protest of the 2 Farm Bills that both the houses recently passed: (1) the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020, and (2) the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020.
8. That there is no requirement for moving concerned government for relief sought in this petition. There is no other efficacious, economic, and alternative remedy

available to the Petitioner except for approaching this Hon'ble Court by way of this petition.

9. That Petitioner has not filed any other petition either in this Hon'ble Court of in any other High Court seeking same and similar directions as prayed in this petition.
10. That there is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with the issue involved in this petition. It is totally bonafide with purpose of larger public and national interest.

GROUND

- A. BECAUSE of the ongoing protest at the Delhi borders, the roads have been blocked by the protesters and closed border points, which have affected vehicular traffic and people who are travelling to and from Delhi to get medical treatment in reputed government/private hospitals situated in Delhi are also affected. Further, considering the present situation in Delhi, the COVID-19 cases have been rising and this makes the transportation of essential medical equipment's even more important, but because of these protests, the same is not possible.
- B. BECAUSE of the mass gatherings of protestors, the rate of transmission of coronavirus disease is likely to get increased and since there is no vaccine

available for the masses yet, the only way to prevent the spread of coronavirus is to put immediate restrictions on mass gatherings and practice social distancing. Majority of protestors are elderly people who are more vulnerable to this deadly virus, and it is in their best interest to completely avoid such mass gatherings.

- C. BECAUSE even though the Police has allotted a dedicated place for the protestors to protest peacefully, but the protestors are not shifting/moving to the allotted place and in order to create trouble for the commuters they have blocked the borders. Furthermore, owing to their large number of protestors, the police is not able to control such a large gathering.
- D. BECAUSE under IPC if such acts are committed by people which pose a threat of infection/ spread of such life threatening disease to people/ community at large, the same is a punishable offence under Section 269 and 270 IPC which states that “Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”
- E. BECAUSE even the Epidemic Diseases Act, provides for punishment upto 6 months to person whose act/acts pose a threat of infection/ spread of such life-threatening disease to people/ communicating at large.

F. BECAUSE the Petitioner does not have any alternative and efficacious remedy for enforcement of the dispersal/removal of mass gathering at the Delhi borders and shift them to the allotted place for the betterment of the citizens of India.

PRAYER

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

- a. Issue a writ of mandamus or other appropriate writ order or direction directing Respondents and the concerned authorities to open all the borders of Delhi;
- b. Issue a writ of mandamus or other appropriate writ order or direction directing the Respondents and the concerned authorities to shift the protestors at the allotted place and provide guidelines related to social distancing and use of mask at the protest place;
- c. Issue such other appropriate writ or direction that may be deemed to be just and equitable in the facts and circumstances of the case and in the interest of justice.

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

DRAWN BY:

FILED BY

DUSHYANT TIWARI/

OM PRAKASH PARIHAR

Advocates

OM PRAKASH PARIHAR

Advocate-on-record for the Petitioner

NEW DELHI

DRAWN ON: 03.12.2020

FILED ON: 04.12.2020