

IN THE SUPREME COURT OF INDIA
 CIVIL ORIGINAL JURISDICTION
 WRIT PETITION (CIVIL) NO OF 2018
 (UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Bhartiya Matdata Sangthan
 878A, Master Prithvi Nath Marg,
 Karol Bagh, New Delhi-110005
 Through its General Secretary
 Vimal Wadhawan

...Petitioner

Verses

1. Union of India
 Through the Secretary,
 Ministry of Law and Justice,
 Shastri Bhawan, New Delhi-110001

2. Union of India
 Through the Secretary,
 Ministry of Home Affairs,
 North Block, New Delhi-110001

...Respondents

PIL UNDER ARTICLE 32 SEEKING DIRECTION TO THE GOVERNMENT TO PROVIDE A CITIZEN CHARTER IN EACH DEPARTMENT, NOTIFY THE GRIEVANCE REDRESS OFFICER IN EVERY DEPARTMENT AND ESTABLISH A GRIEVANCE REDRESSAL COMMISSION;

To,
 THE HON'BLE CHIEF JUSTICE
 & 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 seeking direction to the Central Government to provide a Citizen Charter in each department, notify the Grievance Redress Officer in every department and establish a Grievance Redressal Commission.
- 2.** Petitioner has not filed any other writ petition either in this Hon'ble Court or in any other High Court seeking same and similar directions as prayed in the instant writ petition.
- 3.** Petitioner is a public charitable trust, registered under the Indian Trust Act and committed to uphold the Constitution and enforcement of the Rule of Law. Petitioner's full name is Bhartiya Matadata Sangathan. Office at: 878A, Master Prithvi

Nath Marg, Karol Bagh, New Delhi-110005, Ph:011-41440421,
Email: bharatiyamatdata@gmail.com. True copy of the Trust
Deed is annexed herewith as Annexure P-1 (Page)

4. Petition is being moved through its General Secretary Vimal Vadhawan, who is an Advocate, practices before this Hon'ble Court and a social-political activist, contributing his best to the development of socially-economically downtrodden people. Ph:9968357171,PAN:AAVPW4527D,AADHAAR:812246926334. Email:vimalwadhawang@gmail.com, Annual income: 03 Lakh.
5. The facts constituting cause of action accrued on 27.8.2011 and every subsequent date, when a Resolution was adopted to provide Citizen Charter but Executive has not implemented it.
6. The injury caused to the public because the Government has not only failed to appoint Lokpal at Centre and Lokayukta in all States but also a citizen charter in every department. Hence failed to provide time bound service in spirit of the Article 21.
7. Petitioner has no personal interests, individual gain, private motive or oblique reasons in filing this writ petition. It is not guided for gain of any other individual person, institution or body. There is no motive other than the larger public interest.
8. There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with the issue involved in this petition. This petition is totally bona-fide.
9. There is no requirement to move concerned authority for relief sought in this petition. There is no other remedy available except approaching to this Hon'ble Court by way of this PIL.

- 10.** This century good governance era has witnessed a large number of innovative ideas to introduce people orientation in bureaucratic behavior in order to secure transparency and accountability in administration and to create alternate public delivery system. Citizen Charter is one of those initiatives.
- 11.** A Citizen's Charter is the commitments made by a department regarding the standards of service which it delivers. It is an instrument which seeks to make the department transparent, accountable and citizen friendly. It is based on the premise that the People is "King" and government organizations exist not to rule but to serve the citizens. Citizen's Charters are merely reflections of this principle. In order to ensure that both the service provider as well as citizens realizes that public agencies are meant to provide service, each department should spell out the services it has to perform and then specify norms for these services.
- 12.** Citizen Charter was first launched in U.K. by John Major in 1991 through Citizen Charter Mark Award. Later on various countries adopted it through different names. Example: Australia (Service Charter, 1997), Belgium (Public Service Users' Charter 1992), Canada (Service Standards Initiative, 1995), France (Service Charter, 1992), India (Citizens' Charter, 1997), Jamaica (Citizens' Charter 1994), Malaysia (Client Charter, 1993), Portugal (The Quality Charter in Public Services, 1993), and Spain (The Quality Observatory, 1992) (OECD, 1996).

- 13.** The characteristics of an ideal citizen charter may be as thus:
- (i) Brief and clear description of services
 - (ii) Standards in terms of time and quality of services.
 - (iii) Procedure in getting the services
 - (iv) Clear description of costs
 - (v) Specification of grievance redressal mechanism
 - (vi) Provision of appellate body
 - (vii) Citizen-employee participation in framing of charter
 - (ix) Obligation of citizens
 - (x) Feedback mechanism
 - (xi) Charter should be in short and simple language.
- 14.** Themes on which a citizen charter is based is as under:
- (i) Standard of performance
 - (ii) Services would be produced according to choice.
 - (iii) Quality should be satisfactory to people
 - (iv) Value to taxpayer's money.
- 15.** Principle to be adopted in citizen charter is as under:
- (i) Set standards of service;
 - (ii) Be open and provide full information;
 - (iii) Consult and involve;
 - (iv) Encourage access and promote choice;
 - (v) Treat all fairly;
 - (vi) Put things right when they go wrong;
 - (vii) Use resources effectively;
 - (viii) Innovate and improve; and
 - (ix) Work with other providers

16. Benefits of the citizen charter is as under:

- (i) Citizens come to know department activities, procedures and performance, thereby facilitating transparency. (ii)
- Reduces corruption (iii)
- Promotes good governance
- (iv) Ensures accountability
- (v) It leads to citizen friendliness and citizen convenience
- (vi) It is citizen friendly and convenient
- (vii) Increases morality in administration
- (viii) Raises efficiency & effectiveness in public delivery system.
- (ix) Reduces cost
- (x) Increases participation
- (xi) Prevents delay and red tapism

17. In India, the idea of Citizen Charter was first mooted by the organization called common cause in 1994. The next move came up in Conference of Chief Secretaries in 1996, to develop an Agenda for Effective and Responsive Administration. The conference recommended a phased introduction of citizen's charter. Thereafter, in Chief Ministers' Conference in May 1997; one of the key decisions was to formulate and operationalise Citizens' Charters at the Union and State Government levels. In 1997, Department of Administrative Reform and Public Grievances simultaneously formulated guidelines for structuring a model charter as well as a list of do's and don'ts to enable various government departments to bring out focused and effective citizen charters.

18. Existing Citizen Charters have following shortcomings:

(i) In a majority of cases, the Charters are not formulated through a consultative process.

(ii) By and large, service providers are not familiar with the philosophy, goals and main features of the citizen Charter. (iii)

Adequate publicity to the Charters had not been given in any of the Departments evaluated. In most Departments, the Charters are only in the initial stage of implementation. (iv) No funds

have been specifically earmarked for awareness generation of Citizens' Charter or for orientation of the staff on various components of the Charter. (v) Many

ministries have not adopted Citizen Charter on the ground that

they are not public organization like Ministry of Home Affairs, Ministry of Human Resource Development etc. (vi) Other

Ministries have failed to implement Citizen Charter despite having it like Ministry of Rural Development, Ministry of Panchayati Raj, Ministry of Women and Child Development.

19. General weakness of citizen charter may be as thus:

(i) Poor design and weak content.

(ii) No mention of citizen's responsibility.

(iii) Absence of penal provisions in case of non implementation of the spirit of charter.

(iv) The attitude that Citizen Charters are directed from top (v)

No training has been provided to staff

(vi) Transfer of Staff at crucial stage of Charter formulation (vii)

Standard of Service delivery are either too lax or too high (viii)

Some charters are too detailed and some are too brief. (ix)

Traditional culture of secrecy. (x)

Less budgetary support. (xi)

Inadequate Groundwork by Government Agencies for making Citizen Charter. In most cases they had done just form filling exercise as observed by Public Accounts Committee. (xii)

Charters are rarely updated according to changing needs & technology. Their resistance to change within Bureaucracy itself which was given the task for delivery of Services.

20. It is submitted that following steps need to be taken: (i)

Consultation with all stakeholders (ii)

Orientation training to staff to objective of Citizen Charter (iii)

Publicity Campaign (iv)

Creation of Database on consumer Grievances (v)

Replication of Best Practices

(vi) Earmark of Budget

21. Existing Citizen Charters are volunteer scheme i.e. they are not legally enforceable on the part of Government. It should be made legally binding. In this Direction, a Bill (The Rights of Citizen for time bound delivery of Services) has been Placed in 15th Lok Sabha but it couldn't be passed and bill has been lapsed due to dissolution of Lok Sabha.

22. True Copy of Right of Citizens for Time Bound Delivery of Goods & Services and Redressal of their Grievances Bill-2011 (Bill No 131 of 2011 as introduced in Lok Sabha on 16.12.2011) is annexed herewith as Annexure P-2. (Pages

23. Charters need to be made more explicit and forthcoming in specifying commitments and offering mechanisms and procedures to ensure the implementation and monitoring of commitments if these were to be realized and the nature of organization changed to make it more citizen-centric.

24. It is a service delivery excellence model which provides assessment improvement framework. Sevottam literally is the combination of Hindi words ‘Sewa + Uttam’, meaning uttam sewa i.e. excellence in services. Model has been developed with the overarching objective of improving the quality of public service delivery in the country. It has three modules as under.

(a) Charter implementation thereby opening up a channel for receiving citizens’ inputs into the way in which organizations determine service delivery requirements. Citizens’ Charters publicly declare the information on citizens’ entitlements thereby making citizens better informed and hence empowering them to demand better services. (b) Public

Grievance Redress requires a good Grievance Redressal System operating in a manner that leaves the citizen more satisfied with how the organization responds to complaints/grievances, irrespective of the final decision. (c) ‘Excellence in Service

Delivery’, postulates that an organization can have an excellent performance in service delivery only if it is efficiently managing well the key ingredients for good service delivery and building its own capacity to continuously improve service delivery.

25. Benefits of Citizen Charter reads as under:

- (i) Make organization citizen friendly accountable transparent.
- (ii) Improves the speed and quality service delivery.
- (iii) Eliminates outdated activities, money resources wastage.
- (iv) Improves cleanliness and physical space in the office
- (v) Solves maximum complaints immediately on receipt. (vi)
- Reduces causes of complaints, corruption and negligence. (vii)
- Eliminates fire-fighting style of working.

26. Mahatma Gandhi said:“A customer is the most important visitor on our premises. He is not dependent on us; we are dependent on him. He is not an interruption on our work; he is the purpose of it. He is not an outsider on our business; he is part of it. We are not doing him a favour by serving him; he is doing a favour by giving us an opportunity to do so.”

27. Good Governance means Transparency, Accountability and Citizen Friendliness. Good Governance is the Technology and Citizen’s Charter is the Tool. It has been recognized world over that good governance is essential for sustainable development, both economic and social. The three essential aspects emphasised in good governance are transparency, accountability and responsiveness of the administration. "Citizen's Charters" initiative is a response to the quest for solving the problems which a citizen encounters, day in and day out, while dealing with the organizations providing public services. The concept of Citizen's Charter enshrines the trust between the service provider and its users. The concept was first

articulated and implemented in the UK by the Conservative Government of John Major in 1991 as a National Programme with a simple aim: to continuously improve the quality of public services for the people of the country so that these services respond to the needs and wishes of the users. The programme was re-launched in 1998 by the Labour Government of Tony Blair which rechristened it "Service First".

28. The Government of Malaysia issued Guidelines on the Client's Charter in 1993 to assist government agencies to prepare and implement Client's Charter, which is "a written commitment by an agency to deliver outputs or services according to specified standards of quality" (Government of Malaysia, 1998). A Best Client's Charter Award was instituted in 1993. The Malaysian system of Client's Charter closely follows the UK Model. A distinction is made between agency-wide and unit charters. The concept of 'service recovery' enjoins taking steps to restore the trust and confidence of the client in a proactive manner when things go wrong.

29. The Commonwealth Government of Australia launched its Service Charter initiative in 1997 as part of its on-going commitment to improve the quality of service provided by agencies to the Australian community by moving the government organization away from bureaucratic processes to customer-focused outcomes. Service Charters are considered a powerful tool for fostering change and require the organization to focus on services delivered, to measure and assess

performance, and to initiate performance improvement. By providing goals for agencies to strive towards, a Charter acts as a surrogate for competition where none exists (Department of Finance and Administration, 1999). Centrelink is a one-stop shop that provides access to Australian government services for over six million customers. Centrelink has adopted one-to-one service as an innovative and personalised approach to service delivery. One-to-one service treats customers with respect and consistency and takes the complexity out of dealing with government.

30. The Treasury Board of Canada Secretariat started a Service Standard Initiative in 1995 which took its cue from the Citizen's Charters of the United Kingdom, but enlarged the scope considerably. This Service Standard Initiative in Canada was started against the backdrop of citizen expectations relating to friendly, respectful and courteous service; faster response times; extended hours at government offices; and "one-stop-shopping". At the same time there was a need to reduce the deficit and provide value for money through more efficient use of resources (Treasury Board of Canada, 1995).

31. A comparison of these four major Citizen's Charter initiatives shows that the service quality approach is embedded in them in different degrees. Once a decision is taken to make public services citizen-centric, the customer focus of the Total Quality Management (TQM) variety cannot be far behind. In fact, the Citizen's Charter approach has several things in

common with TQM. Both begin by focusing on meeting customer/citizen requirements. Other key common elements are conformance to standards, stakeholder involvement and continuous improvement.

32. Over the years, in India, significant progress has been made in the field of economic development. This, along with a substantial increase in the literacy rate, (from 51.63% to 65.38% in the last decade) has made Indian citizens increasingly aware of their rights. Citizens have become more articulate and expect the administration not merely to respond to their demands but also to anticipate them. It was in this climate that since 1996 a consensus had evolved in the Government on effective and responsive administration. In a Conference of Chief Ministers of various States and Union Territories held on 24 May, 1997 in New Delhi, presided over by the Prime Minister of India, an "Action Plan for Effective and Responsive Government" at the Centre and State levels was adopted. One of the major decisions at that Conference was that the Central and State Governments would formulate Citizen's Charters, starting with those sectors that have a large public interface (e.g., Railways, Telecom, Posts, Public Distribution Systems). These Charters were required to include standards of service and time limits that the public can reasonably expect avenues of grievance redress and a provision for independent scrutiny with the involvement of citizen and consumer groups.

33. Corruption is an insidious plague that has a wide range of corrosive effects on society. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism, and other threats to human security to flourish. This evil phenomenon is found in all the States and its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign aid and investment. Corruption is key element in economic underperformance and major obstacle to poverty alleviation and development.

34. India has been ranked 81st in Corruption Perception Index, 2015 of Transparency International. Now we have a new instrument, the Lokpal and Lokayukta Act, 2013 to address this scourge at National. Its implementation in letter and spirit will send a clear message that the Executive is determined to control corruption. It will warn the corrupt that betrayal of the public trust will no longer be tolerated and it will reaffirm the importance of core values such as honesty, respect for the rule of law, accountability and transparency in promoting development and making the India a better place to live.

35. Petitioner is filing this petition under the Article 32 for appointment of an autonomous Lokpal at Centre in spirit of the Lokpal and Lokayukta Act, 2013. Its implementation with a Citizen Charter in every department will definitely ensure time

bound delivery of goods and services in every department. It is balanced, strong and pragmatic and offers a new framework to curb the corruption. The Act introduces a comprehensive set of standards and measures that all States can apply in order to strengthen their legal and regulatory regimes to fight corruption. It calls for preventive measures and the criminalization of the most prevalent forms of corruption in public and private sector. It will be very difficult for corrupts to hide their illicit gains. This is very important issue for country like us where corrupts have plundered the national wealth.

36. On 27.8.2011, both houses of Parliament unanimously adopted 'Sense of the House Resolution' which reads as thus: "This House agrees in principle on following issues: (i) Citizen Charter (ii) Lower bureaucracy under Lokpal through an appropriate mechanism, and (iii) Establishment of Lokayukta in the States; And further resolves to forward the proceedings of the House to the Standing Committee on Law and Justice while finalizing its report".

37. The Hon'ble Sh. Pranav Mukherjee, the then Finance Minister, Sh. Arun Jaitley and Smt. Sushma Swaraj, the then Leader of Opposition in upper and lower respectively, Hon'ble Sh. Manmohan Singh, the then Prime Minister and all Parliamentarians unanimously endorsed 'Sense of the House Resolution' by thumping of desks.

38. After the Resolution, the Hon'ble Prime Minister said: "*Parliament has spoken. The 'Will of Parliament' is the 'Will of the*

people’.” Setting tone for debate Sh. Pranav Mukherji said: *“It is our responsibility to abide by the Constitution so that there is no conflict with the desire of our masters, the People of India. Our Constitution is flexible enough to accommodate various ideas. It can accommodate various thoughts. None of us can say that rising corruption issue is not important. Person continued on fast on corruption issue in old age and risked his life. I accept that Lokpal Bill could not be passed for 40 years despite legislations in this regard being introduced 8 times. This is lapse of governments. Therefore, if somebody is making agitation, sitting on fast, demanding participation in consultations, we should take it positively. Country is at crossroad. I request all of you to give serious and considered view on the important and genuine issues raised by Sh. Hazare. Let’s seize the moment and demonstrate commitment in dealing with corruption, which is gnawing at the vitals of our polity”.*

39. Smt. Sushma Swaraj, the then leader of opposition said: *“History has given us an opportunity, which we should not miss. Let us not get into technicalities. We should give this country an effective impartial independent and strong Lokpal”.* Sh. Arun Jaitley said: *“BJP finds considerable merit in Sh. Hazare's three demands, including covering entire bureaucracy and citizen charter for public grievances under Lokpal and setting up Lokayuktas in all the States”.*

40. Winding up the daylong debate, Sh. Mukherjee said: *“While a respected Gandhian with massive support is on*

agitation, it is not always necessary to move in conventional straight jacket way. I do feel that on the basis of the 'Sense of the House', we can request Sh. Hazare to end his fast so that the conflict between civil society, Parliament or political parties ends. I am happy the impasse has been resolved".

41. Later Union Minister Sh. Vilasrao Deshmukh handed over a letter from the Hon'ble Prime Minister Sh. Manmohan Singh and a copy of 'Sense of the House Resolution' to Sh. Anna Hazare, and read it publicly in Ramleela Maidan Delhi and requested him to end his fast unto death.

42. Preamble to the Constitution is not a mere flourish of words, but is an ideal setup for practices and observances as a matter of law through Constitutional mechanism. The purpose of the Preamble is to clarify who has made the Constitution, what is its source, what is the ultimate sanction behind it; what is the nature of polity, which is sought to be established by the Constitution and what are its aims and objectives. Preamble clearly acknowledges, recognizes and proclaims that the Constitution emanates from the 'People of India' and not from any external or lesser source and meant for the 'Welfare of the People'. The Hon'ble Sh. Manmohan Singh, the then Prime Minister of India rightly said that 'Sense of the House Resolution' dated 27.08.2011 is 'Will of the People'. But, it has not been implemented till date.

43. Corruption is a big barrier in achieving the golden goals, as set out in Preamble of the Constitution. It is constitutional

obligation of the Executive to appoint an autonomous Lokapal at centre and an independent Lokayukta in States and guarantee time bound delivery of goods and services and redressal of citizen's grievances related to corruption in a time bound manner. An independent and effective Lokapal at Centre and equally effective Lokayukta in States in spirit of the Lokapal and Lokayukta Act 2013 is not only necessary to curb the corruption; but also essential to achieve the great golden goals as set out in Preamble of the Constitution of India. However, Executive failed to provide an autonomous Lokpal at Centre and an independent Lokayukta in every State in spirit of the Lokapal and Lokayukta Act 2013, which is necessary to curb the corruption.

44. Welfare of the people is the ultimate goal of all Laws, State action and above all the Constitution. They have one common object that is to promote well-being and larger interest of the society as a whole. It is impossible to secure justice and equal opportunity to all citizens, and to promote fraternity; unity and national integration without curbing the corruption, the greatest menace to the democracy. In a vibrant democracy, public discussions and debate on various issues, including corruption is necessary for smooth functioning of democracy. Such discussions bring in awareness, which is required for effective working of democracy.

45. On 19.12.2011, Union Government introduced the Right of Citizens for Time Bound Delivery of Goods and Services and

Redressal of their Grievances Bill, 2011 in the Parliament. It makes mandatory for every authority to publish a Citizen Charter to address grievances within 30 days but it lapsed after the Lok Sabha was dissolved.

46. Corruption and hypocrisy ought not to be inevitable products of democracy, as they undoubtedly are today. Now days Corruption has its deep roots in Indian Society. People who work on right principles are unrecognized and considered to be foolish in the modern society. Earlier, bribes were paid for getting wrong things done, but now bribe is paid for getting right things done at right time. In most of the offices, one has either to give money to the employee concerned or arrange for some sources to get work done. There are only few forums or organizations, unaffected from Corruption.

47. A 2005 study conducted by Transparency International found that more than 62% of Indians had first-hand experience of paying bribes or influence peddling to get jobs done in public offices successfully. In its 2008 study, Transparency International reports about 40% of Indians had first-hand experience of paying bribes or using a contact to get a job done in public office. In 2012, India was ranked 94th out of 176 countries in Transparency International's Corruption Perceptions Index. In 2016, we were ranked 76th and even now, we are ranked 81st.

48. ARC in its report submitted in 1966 suggested that: *"The special circumstances relating to our country can be fully met by*

providing for two special institutions for the redress of citizens' grievances. There should be one authority dealing with complaints against the administrative acts of Ministers or Secretaries to the government at the Center and in the States. There should be another authority in each State and at the Centre for dealing with complaints against the administrative acts of other officials... The setting up of these authorities should not, however, be taken to be a complete answer to the problem of redress of citizens' grievances. They only provide the ultimate set-up for such redress as has not been available through the normal departmental or governmental machinery and do not absolve the department from fulfilling its obligations to the citizen for administering its affairs without generating, as far as possible, any legitimate sense of grievance. Thus, the administration itself must play the major role in reducing the area of grievances and providing remedies wherever necessary and feasible...When this in-built departmental machinery functions effectively, the number of cases which will have to go to an authority outside the Ministry or Department should be comparatively small in number".

- 49.** ARC while preparing its report had three ends views: (i) *Evolution of a suitable grievance procedure for the individuals to invoke in complaints of maladministration;* (ii) *Creation of a mechanism, which would reduce corruption in the administrative services;* and (iii) *Setting up a mechanism, which would take*

cognizance of complaints of favoritism and nepotism against Central and State Ministers.”

50. From Preamble of the Constitution of India, it is clear that the two primary objectives that were before the Constituent Assembly was: (1) to constitute India into Sovereign Democratic Republic and (2) to secure to its citizens the right mentioned therein. It was a plan to build a ‘Welfare State’ and an *egalitarian* society. Statement in the Preamble that the People of this country conferred the Constitution on themselves is not open to challenge. This Hon’ble Court has accepted the facts, as set out in the Preamble, as correct. Whenever question arise as to whether the Legislature has laid down the policy of a statute, whether in connection with the Article 14 or the rule against delegated legislation, this Hon’ble Court has sought to find out the policy from the Preamble. Reading the Preamble and Articles 12, 53, 79, 124, 154, 168, 214, 233, 245 and 246 together, this Hon’ble Court said that power of each organ of the State can be used only for promotion of constitutional values and to achieve the great golden goals, as set out in Preamble of the Constitution. The broad contours of basic elements or fundamental features of the Constitution are delineated in the Preamble. The end of the Constitution is to grant Powers to People; to limit government and to require those who govern to confirm to the mandates of the Constitution.

51. Preamble of the Constitution declares ‘People of India’ as the sovereign political body who hold the ultimate power, not

the Parliament and the Executive. Preamble of the Constitution is of extreme importance and Constitution should be read and interpreted in the light of the noble vision expressed in the Preamble. Preamble was expressly voted to be part of the Constitution. Intention behind all government actions and purposes is to further the 'Welfare of the People' and national interest only. Public good is synonymous with protection of the interests of citizens as a territorial limit or nation as a whole. The Constitution makes it imperative for the State to secure to all its citizens the rights guaranteed by the Constitution and where the citizens are not in a position to assert and secure their rights, the State comes into picture and protect and fight for the right of the citizen. The Preamble read with Directive Principles of State Policy, Articles 38, 39 and 39A enjoin the State to take up these responsibilities. Preamble promises socio-economic justice, basic Rights confer certain justiciable socio-economic rights and the Directives fix socio-economic goals, which the State must strive to attain.

52. All powers are derived from the People or vesting the sovereignty or the reserved powers in the People. The words "We the People of India" echo the opening words in the Preamble to the Constitution of India and emphasizes the ultimate sovereignty of the People and that the Constitution itself is founded on the authority of the People "Who hold the power and conduct the government through Representatives." Preamble of the Constitution indicates the source from which the

Constitution comes. The Preamble as expressed is sovereign 'Will of the People'. The Constitution is a constitutive document fundamental to the governance of the country, whereby, according to accepted political theory, the 'People of India' have provided a Constitutional polity, consisting of certain primary organs institutions and functionaries to exercise the power provided in the Constitution of India. All powers belong to the People and are interested by them to specify the institutions and functionaries with the intention of working out, maintaining and operating a Constitutional order. The source of the Constitution of India are the People themselves from whom the Constitution derives its ultimate sanction. There assertion affirms republican and democratic character of the polity and sovereignty of the People of India.

- 53.** In *Rangarajan v Jagjivan Ram* (1989)2SCC 574 it is held: *"The democracy is a government by the People via open discussion. Democratic form of government itself demands its citizens an active and intelligent participation in the affairs of the community. Public discussion with people's participations is a basic feature and rational process of democracy, which distinguishes it from all other forms of government. Democracy can neither work nor prosper unless people go out to share their views. Truth is that public discussion on issues relating to administration has positive value"*.
- 54.** In *Subramanian Swamy v Manmohan Singh*, (2012) 3 SCC 64, it is held: *"Corruption not only poses a grave danger to*

concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in public life is incompatible with the 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. The duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. In a situation where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one, which seeks to perpetuate it”.

- 55.** In *State of Gujarat v R.A. Mehta*, AIR 2013 SC 693, it has been held: *“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 the 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 the Preamble will be defeated if corruption is not curbed immediately”.*

- 56.** In *Usha Bharti v State of A.P.* AIR 2014 SC 1686, this Hon'ble Court said: *"The fundamental aim of the Constitution of India is to give power to the 'People of India'. Guiding spirit of the Constitution is 'We the People of India'. In our country, People are Supreme, through the Constitution, and not the Elected Representatives and Executive. The provision for Right to Recall through the vote of no confidence is in no manner repugnant to any of the provisions of the Constitution of India"*.
- 57.** In *Bidi Supply v Union of India* AIR 1956 SC 479, this Hon'ble Court said: *"It is clear that the Constitution is not for the exclusive benefits of Governments and States; it is not only for Lawyers and Politicians and officials and those highly placed. It also exists for the common man, for the poor and humble, for those who have business at stake, for the butcher, the baker and candlestick maker. It lays down for this land 'Rule of Law' as understood in the free democracy of the world. It constitutes India into a Sovereign Democratic Republic and guarantees in every page rights and freedom to individual side by side and consistent with overriding power of the State to act for common good of all"*.
- 58.** On the aspect of interpretation of a Constitution, the following observations of Justice Dickson of the Supreme Court of Canada in *Hunter versus Southam Inc* (1984) 2 SCR 145 (Canada SC) are quite apposite: *"The task of expounding a Constitution is crucially different from that of construing a statute. A statute defines present rights and obligations. It is easily enacted and as easily repealed. A Constitution, by*

contrast, is drafted with an eye to the future. Its function is to provide a continuing framework for the legitimate exercise of governmental power and when joined by a Bill or Charter of Rights, for the unremitting protection of individual rights and liberties. Once enacted, its provisions cannot easily be repealed or amended. It must, therefore, be capable of growth and development over time to meet new social, political and historical realities often unimagined by its framers. The judiciary is the guardian of the constitution and must, in interpreting its provisions, bear these considerations in mind.”

In *M. Nagaraj versus Union of India* (2006) 8 SCC 212, the Constitution Bench has held: *“The Constitution is not an ephemeral legal document embodying a set of legal rules for the passing hour. It sets out principles for an expending future and is intended to endure for ages to come and consequently to be adapted to the various crises of human affairs. Therefore, purposive rather than strict literal approach to the interpretation should be adopted. A constitutional provision must be construed not in a narrow and constricted sense but in a wide and liberal manner so as to anticipate and take account of changing conditions and purposes so that a constitutional provisions does not get fossilized but remains flexible enough to meet newly emerging problems and challenges.”*

GROUNDS

- A.** BECAUSE Right to service viz. time-bound delivery of goods and services and redressal of citizen’s grievances in time bound

manner is integral part of the 'Right to Life' under Article 21 of the Constitution of India. Hence, it is duty of the Government to take appropriate steps to provide a citizen charter in each and every department.

B. BECAUSE ultimate goal of the Legislature Executive and the Judiciary is to strive for 'Welfare of the People'. Eradication of corruption, the greatest menace to the Indian democracy and development of the country, is necessary to achieve the great golden goals as set out in Preamble of the Constitution.

C. BECAUSE Corruption not only poses a grave danger to concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in public life is incompatible with the 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. The duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. In a situation where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one, which seeks to perpetuate it.

PRAYER

Keeping in view the above stated facts and circumstance, India's ranking in Transparency International's Corruption Perception

Index, and the appalling effects of corruption on Right to life and liberty guaranteed under Article 21 of the Constitution, it is respectfully prayed that this Hon'ble Court may be pleased to issue a writ, order or direction or a writ in the nature of mandamus, directing the respondents to:

- a) direct and declare that Right to time bound Service i.e. Right to time-bound delivery of Goods and Services and Right to time bound Redressal of Grievances is integral part of right to life guaranteed under Article 21 of the Constitution of India;
- b) direct the Central Government to ascertain the feasibility of reintroducing the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of Grievances Bill, 2011, which was lapsed due to dissolution of Loksabha; (Annex. P-1)
- c) in the alternative to Prayer(b), direct the Central Government to take appropriate steps to provide a Citizen Charter in each department, notify the Grievance Redress Officer in every department and establish a Grievance Redressal Commission;
- d) pass such other order(s) or direction(s) as this Hon'ble Court may deem fit to provide a Citizen Charter in every department and ensure time bound delivery of goods and services and for redressal of citizen's grievances in time bound manner
- e) and allow the cost of the petition to petitioner.

Filed on: 19.6.2018

(Ashwani Kumar Dubey)

New Delhi

Advocate for petitioner

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 2018

IN THE MATTER OF:

Bhartiya Matdata Sangthan

...Petitioner

Verses

Union of India & another

...Respondents

AFFIDAVIT

I, Vimal Wadhawan, General Secreatry of Bhartiya Matdata Sangthan, aged 56 years, son of Late Sh. Surender Nath Wadhawan, Residence at: 17-A, DDA Flats, Behind Laxmi Bai College, Ashok Vihar-III, Delhi-110052, do hereby solemnly affirm and declare as under:

1. I am sole petitioner above named and well acquainted with facts and circumstances of case and as such competent to swear this affidavit.
2. I have read and understood contents of accompanying synopsis and list of dates pages (B - F) and writ petition paras (1 - 58) pages (1 - 27) and total pages (1 -) which are true and correct to my knowledge/belief.
3. Annexure filed with petition are true copies of their respective originals.
4. I have not filed any other petition either in this Hon'ble Court or in any other High Court seeking same/similar directions prayed in this petition.
5. I have no personal interests, individual gain, private motive or oblique reasons in filing this PIL. It is not guided for gain of any other individual person, institution or body. There is no motive other than public interest.
6. 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 bona-fide.
7. There is no requirement to move concerned government authority for relief sought in this PIL. There is no other remedy available except approaching this Hon'ble Court.
8. I have gone through the Article 32 and Supreme Court Rules and do hereby affirm that the present writ petition is in conformity thereof.
9. I have done whatsoever enquiry/investigation, which was in my power to do, to collect the data/material, which was available; and which was relevant for this Hon'ble Court to entertain the present writ petition.
10. I have not concealed any data/material/information in this petition; which may have enabled this Hon'ble Court to form an opinion, whether to entertain this petition or not and/or whether to grant any relief or not.
11. The averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this Affidavit is false or fabricated, nor has anything material been concealed there from.

(Vimal Wadhawan)

DEPONENT

VERIFICATION

I, the Deponent do hereby verify that the contents of above affidavit are true and correct to my personal knowledge and belief. No part of this affidavit is false nor has anything material been concealed there from.

I solemnly affirm today i.e. 19th day of June 2018 at New Delhi.

(Vimal Wadhawan)

DEPONENT

APPENDIX**ARTICLE 14 IN THE CONSTITUTION OF INDIA**

“14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth”

ARTICLE 21 IN THE CONSTITUTION OF INDIA

“21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law”

PREAMBLE OF THE CONSTITUTION OF INDIA

*“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:
JUSTICE, social, economic and political;
LIBERTY, of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity;
and to promote among them all
FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”*

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO OF 2018

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

BHARTIYA MATDATA SANGTHAN ...PETITIONER

VERSES

UNION OF INDIA & ANOTHER ...RESPONDENTS

PAPER BOOK

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(ADVOCATE FOR PETITIONER: ASHWANI KUMAR DUBEY)

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PERFORMA FOR FIRST LISTING

Section: **PIL**

The case pertains to (Please tick / check the correct box):

- Central Act: Constitution of India
- Section: Article 21
- Central Rule: N/A
- Rule No: N/A
- State Act: N/A
- Section: N/A
- State Rule: N/A
- Rule No: N/A
- Impugned Interim Order: N/A
- Impugned Final Order / Decree: N/A
- High Court: N/A
- Name of Judges: N/A
- Tribunal / Authority Name : N/A

1. Nature of Matter: Civil
2. (a) Petitioner / Appellant : Bhartiya Matdata Sangthan
 (b) Email ID: bharatiyamatdata@gmail.com
 (c) Phone No: 9968357171,
3. (a) Respondent: Union of India and another
 (b) Email ID: N/A
 (c) Phone No: N/A
4. (a) Main Category: 08 PIL Matters
 (b) Sub Category: 0812 Others
5. Not to be listed before: N/A
6. Similar / Pending matter: WP(C) 684/2016
7. Criminal Matters:
 - (a) Whether accused / convicted has surrendered: N/A

(b) FIR / Complaint No: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of Sentence Undergone including period of detention/custody under gone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 Notification: N/A

(b) Date of Section 6 Notification: N/A

(c) Date of Section 17 Notification

9. Tax Matters: State the Tax Effect: N/A

10. Special Category: N/A

11. Vehicle No in case of motor accident claim matters): N/A

12. Decided Cases with Citation: N/A

Date: 19.06.2018

ADVOCATE FOR PETITIONER

(ASHWANI KUMAR DUBEY)

Advocate-on-Record

Registration Code No-1797

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SYNOPSIS

Mahatma Gandhi said – *“A customer is the most important visitor on our premises. He is not dependent on us; we are dependent*

on him. He is not an interruption on our work; he is the purpose of it. He is not an outsider on our business; he is part of it. We are not doing him a favour by serving him; he is doing a favour by giving us an opportunity to do so."

Good Governance means Transparency, Accountability and Citizen Friendliness. Good Governance is the Technology and Citizen's Charter is the Tool. It has been recognized world over that good governance is essential for sustainable development, both economic and social. The three essential aspects emphasized in good governance are transparency, accountability and responsiveness of the administration. "Citizen's Charters" initiative is a response to the quest for solving the problems which a citizen encounters, day in and day out, while dealing with the organizations providing public services. The concept of Citizen's Charter enshrines the trust between the service provider and its users. The concept was first articulated and implemented in the UK by Conservative Government of John Major in 1991 as a National Programme with a simple aim: to continuously improve the quality of public services for the people of the country so that these services respond to the needs and wishes of the users. The programme was re-launched in 1998 by Labour Government of Tony Blair, which rechristened it "Service First".

The basic objective of the Citizen's Charter is to empower the citizen in relation to public service delivery. The principles of the Citizen's Charter movement as originally framed were: I.

- Quality: Improving the quality of services; II.
- Choice: Providing choice wherever possible;
- III. Standards: Specify what to expect and how to act if standards are not met;
- IV. Value: Add value for the taxpayers' money;
- V. Accountability: Be accountable to individuals and organizations; and
- VI. Transparency: Ensure transparency in Rules / Procedures / Schemes / Grievances.

These were later elaborated by the Labour Government as following nine principles of Service Delivery (1998):

- Set standards of service
- Be open and provide full information
- Consult and involve
- Encourage access and the promotion of choice
- Treat all fairly
- Put things right when they go wrong
- Use resources effectively
- Innovate and improve
- Work with other providers.

The UK's Citizen's Charter initiative aroused considerable interest around the world and several countries implemented similar programmes e.g., Australia (Service Charter, 1997), Belgium (Public Service Users' Charter 1992), Canada (Service Standards Initiative, 1995), France (Service Charter, 1992), India (Citizen's Charter, 1997), Jamaica (Citizen's Charter

1994), Malaysia (Client Charter, 1993), Portugal (The Quality Charter in Public Services, 1993), and Spain (The Quality Observatory, 1992) (OECD, 1996).

Some of these initiatives are very similar to the UK model, while others chart new ground by leaning on the service quality paradigm of the Total Quality Management (TQM) movement. Other initiatives are pitched somewhere in between. Even in the UK, in the context of the Next Steps/Modernizing Government Initiatives, Citizen's Charters have acquired a service quality face for delivery of public services. Quality tools adopted for improving public services include Business Excellence Model, Invest in People, Charter Mark, ISO 9000 and Best Value (Government of UK, 1999).

The Government of Malaysia issued Guidelines on the Client's Charter in 1993 to assist government agencies to prepare and implement Client's Charter, which is "a written commitment by an agency to deliver outputs or services according to specified standards of quality" (Government of Malaysia, 1998). A Best Client's Charter Award was instituted in 1993. The Malaysian system of Client's Charter closely follows the UK Model. A distinction is made between agency-wide and unit charters. The concept of 'service recovery' enjoins taking steps to restore the trust and confidence of the client in a proactive manner when things go wrong.

The Commonwealth Government of Australia launched its Service Charter initiative in 1997 as part of its on-going

commitment to improve the quality of service provided by agencies to the Australian community by moving the government organization away from bureaucratic processes to customer-focused outcomes. Service Charters are considered a powerful tool for fostering change and require the organization to focus on services delivered, to measure and assess performance, and to initiate performance improvement. By providing goals for agencies to strive towards, a Charter acts as a surrogate for competition where none exists (Department of Finance and Administration, 1999). Centrelink is a one-stop shop that provides access to Australian government services for over six million customers. Centrelink has adopted one-to-one service as an innovative and personalised approach to service delivery. One-to-one service treats customers with respect and consistency and takes the complexity out of dealing with government.

The Treasury Board of Canada Secretariat started a Service Standard Initiative in 1995 which took its cue from the Citizen's Charters of the United Kingdom, but enlarged the scope considerably. This Service Standard Initiative in Canada was started against the backdrop of citizen expectations relating to friendly, respectful and courteous service; faster response times; extended hours at government offices; and "one-stop-shopping". At the same time there was a need to reduce the deficit and provide value for money through more efficient use of resources (Treasury Board of Canada, 1995).

On 27.8.2011, both Houses of Parliament unanimously adopted 'Sense of the House Resolution' which reads as thus: "This House agrees in principle on following issues: (i) Citizen Charter (ii) Lower bureaucracy under Lokpal through an appropriate mechanism, and (iii) Establishment of Lokayukta in the States; And further resolves to forward the proceedings of the House to the Standing Committee on Law and Justice while finalizing its report".

The Right of Citizens for Time Bound Delivery of Goods & Services and Redressal of their Grievances Bill-2011 (Bill No 231 of 2011 was introduced in the Loksabha on 16.12.2011 but lapsed due to dissolution of Loksabha in 2014. Unfortunately the successive government has not introduced it again. Hence, petitioner is filing this petition in public interest.

LIST OF DATES

- 27.08.2011: Parliament adopted Sense of House Resolution to provide Citizen Charter in every department.
- 16.12.2011: Right to time bound service Bill was introduced in Loksabha but lapsed due to dissolution.
- 19.06.2018: Right to time bound service is integral part of right to life under Article 21. But, Government has failed to secure it. Hence, this petition.