

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO 1152 OF 2017

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY ...PETITIONER

VERSES

UNION OF INDIA & ANOTHER ...RESPONDENTS

REJOINDER REPLY TO RESPONDENT-1 (UNION OF INDIA)

ON BEHALF OF PETITIONER:

**ASHWINI KUMAR UPADHYAY S/O SURESH CHANDRA
UPADHYAY, G-284, GOVINDPURAM, GHAZIABAD-201013**

PAPER BOOK

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(ADVOCATE FOR PETITIONER: R.D.UPADHYAY)

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WRIT PETITION (C) NO 1152 OF 2017

IN THE MATTER OF:

Ashwini Kumar Upadhyay ...Petitioner

Verses

Union of India & another ...Respondents

REJOINDER REPLY TO RESPONDENT-1 (UNION OF INDIA)

ON BEHALF OF PETITIONER:

I, Ashwini Kumar Upadhyay s/o Suresh Chandra Upadhyay, resident of G-284, Govindpuram, Ghaziabad, at present in New Delhi, do hereby solemnly affirm and declare as under:

- 1.** I am petitioner in the above stated writ petition and read the reply filed by Respondent-1 (Union of India) on 21.03.2018.
- 2.** I am well acquainted with the facts and circumstances of the case and as such competent to swear this affidavit.
- 3.** I am an Advocate, practice in Supreme Court and a social-political activist, striving for welfare of socially-economically downtrodden people, particularly EWS and BPL families.
- 4.** I believe that the Great golden goals as set out in the Preamble cannot be achieved without Education Reform, Police Reform, Judicial Reform and particularly Electoral Reform.
- 5.** At the outset, I deny the averments, submissions, contentions and allegations contained in Counter Affidavit dated 21.3.2018 to the extent they oppose my Prayers. I submit that affidavit is drafted in clumsy manner and its contents are vague.

- 6.** The instant petition is being filed for meaningful effectuation of the provision in Section 29A (5) of the RPA. Section 29A of the RPA regarding registration with the Election Commission of associations and bodies as political parties provides as follows:
“(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India”.
- 7.** There is no mechanism to ensure that the aforesaid provision of Section 29A(5) is actually observed by political parties in letter and spirit after their registration. The RPA also does not specifically provide for deregistration of political party for violation of the undertaking contained in its Memorandum or Rules in pursuance of the said provision. The violation of crucial mandatory provision in of Section 29A(5) which is a precondition for registration cannot remain remediless as it makes the said provision redundant and nugatory. Precisely for this reason, the RP (Second Amendment) Bill, 1994 was introduced to provide for cancellation of the registration on the ground that it bears a religious name or that its activities are not in accordance with the provisions of Section 29A (5). But, the bill lapsed on the dissolution of Lok Sabha in 1996.

- 8.** The Chief Election Commissioner vide his letter dated 15.7.1998 addressed to the then Law Minister submitted a proposal for strengthening of the existing provisions regarding registration and deregistration of political parties.
- 9.** The National Commission to Review the Working of Constitution (NCRWC) in its Report on Electoral Processes and Political Parties appropriately stressed that “*no electoral reforms can be effective without reforms in the political party system*”. It also highlighted the need for a comprehensive legislation to regulate party activities, criteria for registration as a national or State party - *de-recognition of parties*”.
- 10.** The then Chief Election Commissioner vide his letter dated 5.7.2004 had requested the then Prime Minister for *immediate* consideration of the pending proposals and, if possible, undertake necessary legislation so that the same could be made effective well before the next Assembly Elections. However, nothing came out of this letter also. This was followed up lastly by a DO letter dated 25.7.2016 to the present Union Law Minister.
- 11.** The Law Commission in its 255th Report recommended: “*Section 29A(5) of the RPA should be amended in accordance with the draft Political Parties (Registration and Regulation of Affairs) Act to require parties to insert a specific provision in their memorandum to “shun violence for political gains, and avoid discrimination or distinction based on race, caste, creed, language or place of residence*”.

- 12.** The present Union Law Minister vide his letter DO no. H-11021/11/2016-Leg.II dated 18.11.2016 to the CEC informed the status of the various electoral reform proposals pending in the Ministry. But, there was no mention in it about the ECI's proposal regarding deregistration of political parties.
- 13.** The ECI may consider amending the Annexure V and VI to the guidelines to bring them in conformity with the amended Forms 2A, 2B, 2C, 2D and 2E to be furnished by the candidates as per the recent notification dated 4.7.2017.
- 14.** It is suggested that the party's name should not have an ethnic or linguistic basis, as the aforesaid restriction will be well within the requirement of Section 29A(5) of the Act. Also, the validity of allowing to continue such parties registered prior to 2005 is also prima facie questionable on the ground of violation of Articles 14 and 19 of the Constitution. Moreover, not only the party's objectives should be in consonance with the Constitution of India but its ideology, policies and programs activities should also be in accordance with the Preamble and Parts III and IV of the Constitution. The absence of any specific provision in Section 29A and the guidelines issued by the ECI under it has encouraged several political parties to raise fissiparous and secessionist demands and propagate ideas and undertake activities, on religious, ethnic, caste or linguistic basis prejudicial to the sovereignty, unity and integrity of the nation and ideals of socialism, secularism and democracy.

15. In view of the inaction on the part of the Executive in the last 24 years to enact the provision proposed in 1994, despite repeated requests from the Election Commission, and the recommendations of the NCRWC and the Law Commission cited hereinbefore, the Election Commission can exercise its power under Article 324 of the Constitution to remove this serious lacuna in Section 29A of the RPA. This can be done by making a specific provision to this effect in the guidelines issued by it, similar to the one in para 2(2) of the Symbols Order, which was also issued in exercise of powers under Article 324 of the Constitution and Section 29A and all other powers enabling it in this behalf. The guidelines may also provide that the registration shall be liable to be cancelled on the ground that the political party bears a name with religious, ethnic, or linguistic connotation or that its activities are not in accordance with the provisions of Section 29A(5) of the RPA, 1951, or that it has become defunct or has not contested any election in the last 5 years.

16. In view of the reluctance of the respondents to take care of the glaring lacuna (regarding lack of any provision to ensure continued compliance of the mandatory crucial precondition for registration of a political party) in Section 29A of the RPA and the Guidelines issued there under, intervention of this Hon'ble Court has become necessary for meaningful effectuation of the requirement in sub Section (5) of Section 29A of the Representation of the People Act, 1951.

17. That in his concluding address to the Constituent Assembly on November 26, 1949 Dr. Rajendra Prasad said:
“Whatever the Constitution may or may not provide, the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it. If the people who are elected are capable and men of character and integrity, they would be able to make the best even of a defective Constitution. If they are lacking in these, the Constitution cannot help the country. After all, a Constitution, like a machine, is a lifeless thing. It acquires life because of the men who control it and operate it, and India needs today nothing more than a set of honest men who will have the interest of the country before them.”

18. Whatsoever a highly placed person does, the same is done by others as well. Whatever standards he sets, people follow. Therefore, it is imperative that our legislators, like Caesar’s wife, must be above suspicion. This is necessary because not only they make laws for governance but also, and more importantly, because they control the entire administrative system. The sharp deterioration in governance due to erosion of basic values of integrity, neutrality, and devotion to duty at all levels has been largely due to sharp fall in integrity and character of the ruling class over the years. The present day sad spectacle of even Central Ministers, Chief Ministers and top civil servants being sent to jail for corruption, and even judges of Superior Judiciary being

accused of corruption, which was unheard of earlier, is the direct fall out of lacunae in our electoral system which permits the corrupt and criminals to grab political power. *Unless this is checked, it is futile to expect any improvement in governance and administration.* As pointed out by our Hon'ble outgoing President "If the Gangotri gets polluted, neither Ganga nor any of its tributaries can stay unpolluted".

19. During the Lok Sabha debate on Representation of the People Bill, Shri Krishna Chandra Sharma emphasized, "*It is of great importance that altars of democracy in our land should be kept pure and unblemished*". (Parliamentary debates, Lok Sabha, Volume 11, Part II, Page 8458) Likewise, Shri Munishwar Datt Upadhyay cautioned: "*But so far as this Bill is concerned, it has an intimate relation with our life and everyone among us who is present here thinks that if any defect or any other thing is left out then we may not be able to set up this House and the States' Legislatures and Councils properly, and such a thing may cause grave harm to Country.*" (Page 8566).

20. It is pertinent to note the resolution titled 'Agenda for India' adopted by the Parliament at the time of Golden Jubilee of Independence, *the very first resolve* ran as follows:-"*That meaningful electoral reforms be carried out so that our Parliament and other Legislative bodies be balanced and effective instruments of democracy; and further that political life and process be free of the adverse impact on governance of undesirable extraneous factors including criminalization.*"

21. Nothing significant has been done by successive governments in last 21 years to restore and maintain purity of the highest democratic institutions of Parliament and State Legislatures by preventing entry of the corrupt or persons with criminal background in the August bodies.

22. That in the case of Association for Democratic Reforms, reported in AIR 2002 SC 2112, the Hon'ble Mr. Justice Dharmadhikari, in his supplementing opinion, observed thus: *"The reports of the advisory commissions set up one after the other by the Government to which a reference has been made by brother Shah, J., highlight the present political scenario where money power and muscle power have substantially polluted and perverted the democratic processes in India. To control the ill-effects of money power and muscle power the commissions recommend that election system should be overhauled and drastically changed lest democracy would become a teasing illusion to common citizens of this country."*

23. That in PUCL Vs. Union of India and another (AIR 2014 SC 188) testing the validity of the Rules 41 and 49-O of the Conduct of Election Rules, 1961, a three-Judges Bench of this Hon'ble Court has observed as follows-

"For democracy to survive, it is essential that the best available men should be chosen as people's representatives for proper governance of the country. This can be best achieved through men of high moral and ethical values, who win the elections on a positive vote."

24. In a catena of decisions, this Hon'ble Court has held that the ECI has plenary power to ensure free and fair election. Article 324 (1) of the Constitution reads as under: **“324. Superintendence, direction and control of elections to be vested in an Election Commission**

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission)”.

25. That by the Representation of the People (Amendment) Act, 1988 (1 of 1989), Section 29A was inserted in the RPA, 1951. The Statement of Objects and Reasons appended to the Bill reads as under:

"At present, there is no statutory definition of political party in the Election Law. The recognition of a political party and the allotment of symbols for each party are presently regulated under the Election Symbols (Reservation and Allotment) Order, 1968. It is felt that the Election Law should define political party and lay down procedure for its registration. It is also felt that the political parties should be required to include a specific provision in the memorandum or rules and regulations governing their functioning that they would fully be committed to and abide by the principles enshrined in the preamble to the Constitution of India".

26. With great respect to the Lordships, it is submitted that the judgment of the 2 Judges Bench in the case of Indian National Congress versus Institute of Social Welfare & others [JT 2002 (Supp 1) SC 398] on the non-applicability of Section 21 of the General Clauses Act, 1897 to Section 29A of the RPA needs reconsideration in view of the following:-

(i) It overlooked that para (2) of the Election Symbols (Reservation and Allotment) order, 1968, issued under Section 29A of the RPA, 1951 specifically provided that *“The General clauses, Act, 1897 shall, as far as may be, apply in relation to the interpretation of this order as it applies in relation to the interpretation of a Central Act”*.

(ii) The conclusion that Section 21 of the General Clauses Act is not applicable to Section 29A of the RPA, 1951 and that the Election Commission cannot review its order under 29A is in derogation of Section 14 of the General Clauses Act, because then it would mean that once registration is refused, the Election Commission cannot reconsider the case even after the requirement of sub Section (5) and the guidelines issued by the Commission is complied with.

(iii) It was per incuriam of the judgment by a 3 Judges Bench wherein, on the basis of the said provision the Election Commission's power to withdraw recognition of a political party as a National Party was upheld in the case of Janta Dal (Samajwadi) versus Election Commission of India (AIR 1996 SC 577), which remained unnoticed in the judgment in the

case of Indian National Congress, even though the nature of proceedings and order is the same in respect of both withdrawal of recognition and de-registration.

(iv) It was also per incuriam of the decision by a 3 Judges Bench in the case reported in (1991) 4 SCC 485 that “*the power of rescindment has to be determined in the light of the subject matter, context and effect of the relevant provisions of the statute*”. On the other hand, in the case reported in 2008 AIR SCW 6459, a 3 Judges Bench has held that the power under Section 21 of the General Classes Act, 1897 includes power to amend, vary or rescind. It did not restrict application of the Section only to administrative and legislative orders. The said judgment did not note any such restrictions stipulated in para 38 of the 2002 judgment. Not only this, in the case reported in (2014) SC 16 SCC 396, the Constitution Bench has held that there was no impediment in revocation or variation by subsequent proclamation of proclamation issued under Article 356(1) which had been approved by Parliament.

(v) decision runs counter to the Section 29A(7): “*Provided that no association or body shall be registered as a political party under this sub-Section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub- Section (5).*” Evidently, a party which cannot be registered can also not to be allowed to continue as such if it violates the provision in its Memorandum or rules in terms of sub-Section (5) of Section 29A.

(vi) *The conclusions in paras 40.1, 40.2 and 40.3 of the said judgment make the provision in sub-Section (5) of Section 29A redundant and nugatory since a political party after obtaining registration can merrily flout the provision in its Memorandum or Rules and Regulations in terms of the mandatory requirement of that sub Section. For this reason these conclusions are clearly not in consonance with the law laid down by the Constitution Bench in the case of Union of India versus Sriharan [(2016) 7 SCC 1] wherein it has been held that “An interpretation and construction of constitutional provisions which conflicts with the constitutional goal to be achieved should be eschewed and interest of nation in such situation should be the paramount consideration. This principal applies equally even while interpreting statutory provision having application at the National level in order to achieve the avowed object of national integration and larger public interest”.*

(vii) The decision in the case of Indian National Congress (Supra) was also not in consonance with the decision reported in *AIR 2012 SC 2226 (3JJ)* that *it is the Court’s duty to give effect to legislative intent and object.*

27. Keeping in view the above stated reasons and the judgments of this Hon’ble Court, it is respectfully submitted that the decision in the case of Indian National Congress needs a relook so that the requirement in Section 29A (5) does not remain on paper only but is made effective and enforceable to serve the purpose for enacting it.

28. The violation of the *crucial mandatory provision* in sub Section (5) of Section 29A which is a precondition for registration cannot remain *remediless as it makes the said provision redundant*. Precisely for this reason, the Central Government had introduced in June 1994 the Representation of the People (Second Amendment) Bill, 1994 to provide for cancellation of the registration on the ground that it bears a religious name or that its activities are not in accordance with the provisions of Section 29A (5). However, this bill lapsed on the dissolution of the Lok Sabha in 1996, (Page 507 of "How India Votes : Election Laws, Practice and Procedure" by V.S. Rama Devi and S.K. Mendiratta).

29. The absence of any specific provision in Section 29A and the guidelines issued by the Commission under it has encouraged several political parties to raise fissiparous and secessionist demands and propagate ideas and undertake activities, on religious, ethnic, caste or linguistic basis, prejudicial to the sovereignty, unity and integrity of the nation and ideals of socialism, secularism and democracy.

30. That in view of the failure of the successive Governments to plug this serious lacuna in section 29A of the RPA, the ECI could certainly take care of it by providing for it in the Guidelines, as was done in the case of Symbols Order. But, it did nothing. Inaction on the part of both respondents in this matter requires intervention of this Hon'ble Court as per the law laid down in this regard in catena of cases.

31. Neither this Hon'ble Court should remain a helpless spectator to such an undesirable situation nor the Election Commission of India be left remediless to tackle it. The political parties cannot be allowed to take advantage of this technical omission in the Guidelines regarding applicability of Section 21 of the General Clauses Act since, like the Symbols Order, the Guidelines regarding registration have also been issued by the Election Commission in exercise of its powers under Article 324 and Section 29A of the RPA and the omission can be corrected by the Election Commission itself as per law laid down in the ADR case(*AIR 2002 SC 2112*) that the Commission can cope with the situation where the field is unoccupied to tackle situations which nullify the stipulation in Section 29A once a political party is registered.

32. That in view of the inaction on the part of the Government in the last 24 years to enact the provision proposed in 1994, despite repeated requests from the Election Commission, and the recommendations of the NCRWC and the Law Commission cited hereinbefore, the Election Commission can exercise its power under Article 324 of the Constitution to remove this serious lacuna in Section 29A of the Act. This can be done by making a specific provision to this effect in the guidelines issued by it, similar to the one in para 2(2) of the Symbols Order, which was also issued in exercise of powers under Article 324 of the Constitution and Section 29A and all other powers enabling it in this behalf.

33. The ECI Guidelines may also provide that the registration shall be liable to be cancelled on the ground that the political party bears a name with religious, ethnic, or linguistic connotation or that its activities are not in accordance with the provisions of Section 29A (5) of the RPA or that it has become defunct or not contested election in the last 5 years.

34. That in ADR case (*AIR 2002 SC 2112*), this Hon'ble Court after referring the *Vineet Narain v. Union of India*, and *Kihoto Hollohan v. Zachillhu*, opined that if the Act or Rules are silent on particular subject and implementing authority has constitutional or statutory power to implement it, the Court can necessarily issue directions or orders on the said subject to fill vacuum or void till suitable law is enacted. It was held that one of the basic structures of the Constitution is *"republican and democratic form of government and, therefore, superintendence, direction and control of the "conduct of all elections" to Parliament and to the legislature of every State vests in the Election Commission; and the phrase "conduct of elections" is held to be of wide amplitude which would include power to make necessary provisions for conducting free and fair elections."*

35. That accordingly, the Election Commission can be directed to amend the Guidelines on the lines of para 2 (2) of the Symbols Order to take care of the existing lacuna and remove any doubt in regard to its powers under Article 324 to enforce the crucial mandatory provision in Section 29A (5) of

the Act having a direct bearing on the requirement of a political party bearing true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy and would uphold the sovereignty, unity and integrity of India.

36. That in view of the reluctance of the respondents to take care of the glaring lacuna (regarding lack of any provision to ensure continued compliance of the mandatory crucial precondition for registration of a political party) in Section 29A of the Act and the Guidelines issued there under, intervention of this Hon'ble Court has become necessary in terms of the following observations of this Hon'ble Court in the case of Vineet Narain, [(1998) 1 SCC 226, Para 49] that *“There are ample powers conferred by Article 32 read with Article 142 to make orders which have the effect of law by virtue of Article 141 and there is mended to all authorities to act in aid of the orders of this Courts as provided in Article 144 of the Constitution. In a catena of decisions of this Court, this power has been recognised and exercised if need be, by issuing necessary directions to fill vacuum till such time the legislature steps in to cover the gap or the executive discharges its roll”*.

37. The same view has been reiterated in several other cases including [AIR 2008 SC 2118. Paras 7-8] wherein it was held that if there is a buffer zone unoccupied by Legislature or Executive, which is detrimental to public interest, judiciary must occupy the field to sub-serve public interest.

38. Corruption and criminalization has been an area of concern since last four decades, leading India plummeting in annual international ranking released by Transparency International. Many recommendations have come from various high-powered Committees and Commissions, constituted to advise the government on the issue of electoral and political party reforms. The Law Commission emphasized at two levels: the first, debarring of candidates from contesting the election, if a competent court in respect to offences, punishable by imprisonment of 05 years or more have framed charges against contesting candidate and the second is to disqualify for filing false affidavit. In addition, the Law Commission has suggested several changes to curb corruption/criminalization, as they hinder and stifle the developmental agenda being undertaken and the evils sponsored through this become omnipotent and tarnish the foundation of democratic system. However, the Executive has not taken apt steps to implement Law Commission and ECI's recommendation till date.

39. Presently democracy is no more than universal adult suffrage, in which an honest citizen is vouchsafed of selecting from among an increasingly unappetizing few. Reforming of electoral system for upholding the highest tradition of probity and morality in public life must be done. Overlapping nature of the measures to be taken for de-criminalization necessitates that steps suggested in the petition and the Law Commission Report No-255th should be undertaken simultaneously.

- 40.** It is submitted that existing provisions in Section 29A regarding registration with the ECI of associations and bodies as Political Parties and the guidelines issued there under by the ECI are not fully in consonance with the Preamble and Articles 14, 19 and 324 of the Constitution.
- 41.** It is submitted that permitting parties registered prior to 2005 to retain their names with religious/caste/ethnic or linguistic connotations is violation of letter and spirit of the Constitution and the oath undertaken by their office bearers, while denying registration to such parties registered after 2005 is violative of Article 14 and 19 of the Constitution.
- 42.** It is submitted that as Dr. Rajendra Prasad had forewarned, if the people who are elected, lack in character and integrity, the Constitution cannot help the country. This is precisely what is happening in the country today, requiring intervention by this Hon'ble Court.
- 43.** This Hon'ble Court has emphasized and reiterated the need for ensuring and maintaining purity of highest legislative bodies. It is submitted that since the political parties choose candidates for these bodies, it is necessary that the persons controlling the party are themselves men/women of great character and integrity.
- 44.** It is submitted that despite unanimous Resolution of the Parliament at the time of Golden Jubilee of Independence, successive governments did nothing to carry out meaningful promised electoral reforms in last 20 years.

- 45.** It is submitted that on the Government has failed to act on the proposal made in the CEC's letter dated 15.7.1998 addressed to the Law Minister about strengthening of existing provisions regarding registration and deregistration of political parties, despite CEC's subsequent letters dated 5.7.2004 to the Prime Minister and dated 4.12.2015 and 25.7.2016 to the Law Ministers and the recommendations of the NCRWC and the Law Commission 255th Report.
- 46.** It is submitted that the ECI has failed to consider, leave alone their implementation, changes in the guidelines and application format for registration of political parties under Section 29A of the RPA, 1951.
- 47.** It is submitted that the amendments in the ECI's guidelines are necessary to ensure meaningful effectuation of the provision in Section 29A(5) that the Memorandum or Rules and Regulations of the political party shall contain a specific provision that *"the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy and would uphold the sovereignty, unity and integrity of India"*.
- 48.** The affidavits in Annexure V and VI of Guidelines required same information about assets and criminal records of the office bearers of the party as required to be furnished by candidates. Hence, both Annexures need to be amended to bring them in conformity with the amended Form 2A, 2B, 2C, 2D and 2E prescribed by Ministry Notification dated 7.4.2017.

49. There is no statutory guideline / code of conduct for political office bearer that's why they misuse the freedom of speech not only during election campaign but also during media debates thus dividing the society, which is dangerous for fraternity, unity and national integration. The ECI should issue a guideline and code of conduct in this regard.

50. It is respectfully prayed that in the interest of restoring and maintaining purity and sanctity of our highest legislative bodies and to safeguard the future of democracy in the country, this Hon'ble Court may graciously be pleased to:

(a) declare that existing provisions in Section 29A of the RPA, regarding Registration with the ECI of association and bodies as Political Parties and the guidelines issued thereunder by the ECI are not fully in consonance with the letter and spirit of the Preamble and Articles 14, 19 and 324 of the Constitution and the mandate to the ECI for conducting free and fair polls, as envisaged in the Preamble to the RPA, 1951;

(b) declare that the ECI shall have power to deny registration or deregister a political party, which does not fulfil or violates the terms and conditions in the guidelines, or has become defunct or has not contested election for last 5 years;

(c) direct the ECI to amend guidelines to incorporate recommendations of the Law Commission 255th Report;

(d) direct the ECI to review the political parties registered with religious/caste/ethnic/linguistic connotations and de-register them if they failed to rename within three months;

(e) pass such other order or direction as may be deemed fit and proper in the facts and circumstances of the case and award the cost of this petition to the Petitioner.

- 51.** Petitioner seeks liberty to cite the following judgments: *(1981) 1 SCC 568, AIR 2002 SC 2112, AIR 2003 SC 2363, JT 2002 (Supp 1) SC 398, AIR 2014 SC 188, (1991) 4 SCC 485, (2008) AIR SCW 6459, (2016) 7 SCC 1, AIR 2012 SC 2226 (3JJ), (1998) 1 SCC 226 (Para 49), AIR 2008 SC 2118 (Paras 7 and 8), (1998) 1 SCC 226, AIR 1993 SC 412, AIR 2008 SC 20118.*
- 52.** Petition deserves to be allowed with costs in terms of decisions of this Hon'ble Court reported in *AIR 1990 SC 1446 (Para 71), AIR 1987 SC 579 (Para 9) and (2008) 4 SCC 720.*
- 53.** That no new facts or documents, which were not part of the record before this Hon'ble Court are stated or filed.
- 54.** Keeping in view the above stated facts, it is respectfully prayed that this Hon'ble Court may be pleased to allow the instant petition with above directions in larger public interest and in the interest of democracy. It is prayed accordingly.

VERIFICATION

I, the Deponent do hereby verify that the contents of Paras 1-54 (Page 1-21) of this affidavit are true and correct to my personal knowledge and belief. No part of it is false nor has anything material been concealed therefrom.

I solemnly affirm today (23rd day of March 2018) at Delhi

DEPONENT

(ASHWINI KUMAR UPADHYAY)