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**Filed By:**

*shadan farasat*

**Place: New Delhi**

**Date: 08.06.2020**

**SHADAN FARASAT  
ADVOCATE FOR THE  
PETITIONER**

**IN THE SUPREME COURT OF INDIA**  
CIVIL ORIGINAL JURISDICTION  
CONTEMPT PETITION (CIVIL) NO. \_\_\_\_ OF 2020  
IN  
**WRIT PETITION (CIVIL) DIARY NO. 10817 OF 2020**

**IN THE MATTER OF:**

**Foundation for Media Professionals**

Through its Authorized Representative,

Mr. Paranjoy Guha Thakurta

**... Petitioner**

**VERSUS**

1. **Ajay Kumar Bhalla,**

**... Respondent No. 1**

2. **B.V.R. Subrahmanyam**

Srinagar - 190001

**... Respondent No. 2**

3. **Union of India**

... Respondent No. 3

**4. Union Territory of Jammu & Kashmir**

... Respondent No. 4

**CONTEMPT PETITION UNDER SECTION 12 OF THE  
CONTEMPT OF COURTS ACT, 1971 AND ARTICLE 129  
OF THE CONSTITUTION FOR THE WILFUL  
DISOBEDIENCE BY THE CONTEMNORS OF THE  
JUDGMENT AND ORDER DATED 11.05.2020 TITLED  
*FOUNDATION FOR MEDIA PROFESSIONALS VS U.T. OF  
JAMMU & KASHMIR & ANR* PASSED BY THIS HON'BLE  
COURT IN DIARY NO. 10817/2020 WITH SUPPORTING  
AFFIDAVIT**

To,

The Hon'ble Chief Justice,

And his companion Judges,

Of the Hon'ble Supreme Court

The Contempt Petition of  
The Petitioner above-named

**MOST RESPECTFULLY SHOWETH:**

1. That the present Petition has been filed by the Petitioner under Sections 12 of the Contempt of Courts Act, 1971, (**“Contempt Act”**) read with Article 129 of the Constitution of India, in the facts and circumstances explained hereinafter. The Petitioner herein is aggrieved by the contumacious conduct of the Respondents/Contemnors, specifically their wilful disobedience of this Hon’ble Court’s judgment and order dated 11.05.2020 in ***Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr, Diary No. 10817/2020 (2020 SCC Online SC 453)*** in failing to notify and facilitate the functioning of the “Special Committee” as directed by this Hon’ble Court.
2. That the Petitioner society, Foundation for Media Professionals (FMP), is a non-profit society registered under the Societies Registration Act, 1860 established



with the objective of defending and expanding freedom of the press. As an organization committed to protecting the freedom of speech and expression and the rights of all journalists, the Petitioner Society had filed the captioned Writ Petition challenging Order No. Home-21 (TSTS) of 2020 dated 26.03.2020 and other subsequent orders issued by Respondent No. 4 under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 [**“Telecom Suspension Rules”**], *inter alia*, restricting internet speed in mobile data services to 2G only in Jammu & Kashmir for being violative of Articles 14, 19, 21, and 21A of the Constitution of India.

3. That the contents and grounds of the captioned Writ Petition and accompanying applications and written submissions may be referred to and read as part and parcel of this Application. The same are not being repeated here for the sake of brevity.

4. That this Hon'ble Court heard substantive oral arguments from both parties on 04.05.2020 and reserved its judgement in the matter. This Hon'ble Court pronounced its judgement in the present petition on 11.05.2020 and established a Special Committee to determine the necessity of continuing restrictions on internet access in Jammu & Kashmir "immediately". The Special Committee constituted by this Hon'ble Court comprised of:

- i. The Secretary, Ministry of Home Affairs (Home Secretary), Government of India, who is the Chairperson of the Committee, is responsible for the constitution and functioning of the Special Committee, and has been impleaded as Respondent No. 1 herein.
- ii. The Secretary, Department of Communications, Ministry of Communications, Government of India;  
and

- iii. The Chief Secretary, Union Territory of Jammu and Kashmir, who has been impleaded as Respondent No. 2 herein.

Respondent No. 3 and 4 have been impleaded as proper parties in the present petition, since they were present before this Hon'ble Court when the judgment and order dated 11.05.2020 was passed directing the constitution of the Special Committee. A true copy of this Hon'ble Court's judgement dated 11.05.2020 in ***Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr, Diary No. 10817/2020 (2020 SCC Online SC 453)*** (hereinafter referred to as "**Foundation for Media Professionals**") is annexed herewith as **Annexure C-1 at pgs. 41 to 47.**

### **Brief Factual Background**

5. That the facts giving rise to the present contempt petition are as follows:

5.1 That on 11.05.2020, this Hon'ble Court vide its judgement ***Foundation for Media Professionals (supra)***, directed the aforementioned Special Committee to examine the contentions and the material placed on record by the Petitioner, including the appropriateness of the alternatives suggested by it, and to "immediately" determine the necessity of continuation of mobile internet speed restrictions in the Union Territory of Jammu & Kashmir. The relevant portion of this Hon'ble Court's judgement is extracted below:

*"23.....It may be noted that in the earlier judgment of Anuradha Bhasin (supra) this Court had directed that, under the usual course, every order passed under Rule 2(2) of the Telecom Suspension Rules restricting the internet is to be placed before a Review Committee which provides for adequate procedural and substantive safeguards to ensure that the imposed restrictions are narrowly tailored. However, we are of the view that since the issues involved affect the State, and the nation, the Review Committee which consists of*

*only State level officers, may not be in a position to satisfactorily address all the issues raised. We, therefore, find it appropriate to constitute a Special Committee comprising of the following Secretaries at national, as well as State, level to look into the prevailing circumstances and **immediately determine** the necessity of the continuation of the restrictions in the Union Territory of Jammu and Kashmir:*

.....

*24. The Special Committee is directed to examine the contentions of, and the material placed herein by, the Petitioners as well as the Respondents. The aforesaid Committee must also examine the appropriateness of the alternatives suggested by the Petitioners, regarding limiting the restrictions to those areas where it is necessary and the allowing of faster internet (3G or 4G) on a trial basis over certain geographical areas and advise the Respondent No. 1 regarding the same, in terms of our earlier directions.” (Emphasis supplied)*

5.2 In addition to directing the Respondents herein to establish the Special Committee, this Hon'ble Court noted that the orders issued under Telecom Suspension Rules had been passed for the entire Union Territory of Jammu & Kashmir and did not reflect any reasons for imposing restrictions in all the districts. In particular, this Hon'ble Court reiterated its holding in **Anuradha Bhasin v. Union of India, 2020 SCC Online SC 25** (hereinafter referred to as '**Anuradha Bhasin**') , that *“the degree of restriction and the scope of the same, both territorially and temporally, must stand in relation to what is actually necessary to combat an emergent situation.”* It further stated:

*“This Court, vide its earlier judgment dated 10.01.2020 in Anuradha Bhasin v. Union of India, 2020 SCC Online SC 25, gave certain directions regarding the imposition of restrictions on the internet in a proportionate manner. The aforesaid*

*case had, in addition to the procedural rules, supplemented the requirements of having timely review and the non-permanence of internet shutdown orders.* (Emphasis supplied)

This Hon'ble Court thus, emphasized that restrictions on internet access are proportionate *only* if they are territorially and temporally limited. This Hon'ble Court further directed that a copy of its order and copies of the paperbooks of the present Petition be sent to the Special Committee.

5.3 After the passage of the judgment by this Hon'ble Court, Respondent No. 4 issued an order on the same night, Order No. Home-48(TSTS) of 2020 dated 11.05.2020 directing internet service providers to continue a blanket restriction on mobile internet speed to 2G for the entire Union Territory of Jammu & Kashmir. The order, which expired on 27.05.2020, was seemingly not reviewed either by the Review

Committee constituted under the Telecom Suspension Rules or by the Special Committee constituted by this Hon'ble Court in ***Foundation for Media Professionals (supra)***. A true typed copy of Order No. Home-48(TSTS) of 2020 dated 11.05.2020 is annexed herewith as **Annexure C-2 at pgs. 48 to 51.**

5.4 That on 16.05.2020, the Petitioner herein sent a representation to the Special Committee seeking immediate restoration of 4G mobile internet services in Jammu & Kashmir, bringing on record this Hon'ble Court's judgment in ***Foundation for Media Professionals (supra)***, specifically its observations that the Committee had to "immediately" determine the necessity and proportionality of the continuation of blanket restrictions of mobile internet in Jammu & Kashmir. The representation detailed how Order No. Home-48(TSTS) of 2020 dated 11.05.2020 violated the judgment of this Hon'ble Court, and also highlighted



certain factual aspects of the difficulties faced by the people of Jammu & Kashmir due to the restriction of internet services during the COVID-19 pandemic and the lockdown. Till date, the Petitioner has not received any response, or acknowledgement of the receipt of its representation by the Special Committee. A true copy of the Petitioner's representation to the Special Committee dated 16.05.2020 is annexed herewith and marked as **Annexure C-3 at pgs. 52 to 62.**

- 5.5 That on 27.05.2020, Respondent No. 4 passed Order No. Home- 56 (TSTS) of 2020, continuing the restriction on mobile internet speeds to 2G in all districts throughout the Union Territory, without any restriction by time or region. Notably, the order itself notes that terrorist attacks have increased, thus establishing that the internet speed restrictions are not a suitable measure for achieving the government's desired aim. Further, the order cites the onslaught of

summer and the melting of snow as grounds for restricting the internet speed. Such perennial reasons render internet restrictions permanent and are not based on any "emergency" or "urgency" and go against the spirit of the Telecom Suspension Rules as well as the judgment of this Hon'ble Court in **Anuradha Bhasin (supra)**, where the Court emphasized that the restrictions cannot be permanent. Further, the order is patently incorrect in so far as it states that, "*Internet restrictions have not posed any hindrance to COVID-19 control measures including use of mobile apps, accessing online educational content or carrying out business activities.*" A true typed copy of Order No. Home-56(TSTS) of 2020 dated 27.05.2020, which is in the process of being challenged separately by way of a writ petition, is annexed herewith as **Annexure C-4 at pgs. 63 to 66.**

5.6 That on 28.05.2020, the Petitioner sent the Special Committee another representation bringing on record Order No. Home-56(TSTS) of 2020 dated 27.05.2020 and the violation of both the letter and spirit of this Hon'ble Court's judgment. The Petitioner specifically highlighted that pursuant to the judgment in **Anuradha Bhasin (supra)**, the Special Committee (which had replaced the Review Committee) must examine the orders passed by Respondent No. 4 and assess the need for continuation of internet restrictions every seven working days. The representation urged the Special Committee to comply with this Hon'ble Court's direction and issue a reasoned order after examining the material placed on record by the Petitioner regarding the unsuitability of internet restrictions as a counter-terrorism strategy, the availability of less restrictive alternatives and the harm being suffered by healthcare professionals, students, businesspersons and ordinary people of

Jammu & Kashmir The Petitioner formally called upon the Committee to review order No. Home 56 (TSTS) of 2020 dated 27.05.2020 and direct restoration of 4G mobile internet in Jammu & Kashmir. The Petitioner has not received any reply or acknowledgement of receipt of this representation till date. A true copy of the Petitioner's representation dated 28.05.2020 to the Special Committee is annexed herewith as **Annexure C-5 at pgs. 67 to 74.**

**Contempt of this Hon'ble Court's judgment in *Foundation for Media Professionals (supra)***

6. That the present petition is being moved to bring on record the contumacious conduct of the Respondent Nos. 1 and 2 herein and their wilful disobedience of of this Hon'ble Court's judgment in ***Foundation for Media Professionals (supra)*** dated 11.05.2020, inasmuch as, to the best of the Petitioner's knowledge, they have not constituted the Special Committee in line with the

directions of this Hon'ble Court in ***Foundation for Media Professionals (supra)***. To the best of the Petitioner's knowledge, there is no public record of:

- i. The notification constituting the Special Committee and the date of constitution of the Committee;
- ii. The number of meetings of the Special Committee, and the dates of each meeting;
- iii. The minutes of the meetings of the Special Committee;
- iv. Any orders passed by it reviewing the suitability, necessity, and proportionality of Respondent No. 4's directions (specifically Order No. Home-48(TSTS) of 2020 dated 11.05.2020 and Order No. Home-56(TSTS) of 2020 dated 27.05.2020) continuing the restriction of mobile internet speed to 2G only for the *entire* Union Territory during the time of the COVID-19 pandemic and the lockdown;
- v. Any orders passed reflecting a consideration of the appropriateness of the alternatives suggested by

the Petitioner and for allowing faster internet on a trial basis over certain geographical areas; and

- vi. Proof of compliance with Rules 2(2) and 2(5) of Telecom Suspension Rules, which is a clear violation of both the letter and spirit judgments of this Hon'ble Court in ***Anuradha Bhasin (supra)*** and ***Foundation for Media Professionals (supra)***.

7. That the directions of this Hon'ble Court have been summarily ignored and the Respondents have wilfully disobeyed their duty to implement this Court's directions, which they were bound to and had undertaken to implement, and therefore must be held in contempt of this Hon'ble Court. This can be demonstrated from the following facts:

7.1. That 29 days have elapsed since this Hon'ble Court expressly directed the Special Committee to "immediately" determine the "necessity" of the continuation of restrictions on internet access in

Jammu & Kashmir. However, to the best of the Petitioner's knowledge, no action has been taken by the Special Committee, either to comply with this direction and review Respondent No. 4's orders dated 11.05.2020 and 27.05.2020; or to consider the necessity and proportionality of the ongoing blanket mobile internet speed restrictions in the entire Union Territory of Jammu and Kashmir.

7.2. There is no information available in the public domain about whether the constitution of the Special Committee has been notified; whether it has conducted any meetings; or passed any orders since it was directed to be established through this Hon'ble Court's judgement on 11.05.2020. It is respectfully submitted that such a lax attitude, especially during a health pandemic (COVID-19) and humanitarian crisis, violates both the letter and the spirit of this Hon'ble Court's judgment in ***Foundation for Media Professionals (supra)***, and

amounts to wilful disobedience of this Hon'ble Court's judgment and order, which had taken judicial notice of the concerns relating to the ongoing pandemic and the hardships that may be faced by the people of Jammu & Kashmir. As demonstrated earlier in IA No. 48309/2020 for additional documents filed in the captioned matter which contains personal testimonies from people of Jammu & Kashmir, each day of delay in restoring 4G mobile internet is causing immense hardship and suffering to the people of Jammu & Kashmir, who have been deprived of effective internet access for more than 300 days, and where the number of wireline subscribers (1,32,743) accessing 4G fixed line internet is nearly 1/100<sup>th</sup> the times the number of wireless subscribers (1,03,20,749), reliant on mobile internet.

7.3. That this Hon'ble Court's judgement dated 11.05.2020 unequivocally directed the Special Committee to examine the contentions and the material placed on record by the Petitioner (which have already been sent to



the Committee) to immediately determine the necessity of continuation of internet restrictions in the Union Territory, and determine whether faster internet should be permitted on a “trial basis” in certain areas of Jammu & Kashmir. It had entrusted the Special Committee with the function of ensuring that internet restrictions are geographically and temporally restricted to what is absolutely necessary and proportionate. However, despite 29 days having elapsed since 11.05.2020, to the best of the Petitioner’s knowledge, the Special Committee has failed to examine the material placed on record by it and issue a reasoned decision.

7.4. Finally, this Hon’ble Court had directed the Special Committee to consider the appropriateness of the alternatives proposed by the Petitioner. In its writ petition and written submissions tendered in the captioned matter, the Petitioner had proposed the

following alternatives (to demonstrate the disproportionate nature of Respondent No. 4's orders):

- i. Identification of suspected persons, interception of their conversations, and/or blocking of their numbers under applicable law based on intelligence inputs.
- ii. The blocking of specific websites ("blacklisting") that are known to spread terrorism or are used to recruit terrorists under Section 69A of the Information Technology Act, 2000.
- iii. Restrictions upon internet access in a specific region for a specific period of time, based upon a specific intelligence input about a threat. It is pertinent to note that Order No. Home (56) TSTS of 2020 dated 27.05.2020 specifically references an encounter in Srinagar and it fails to offer any material basis which would justify restrictions on internet access in all other districts of Jammu & Kashmir as well.

- iv. Offline measures, such as the considered and localised application of Section 144, Cr.P.C. on the basis of credible and specific intelligence, which can enforce restrictions on movement.
- v. The government has already prohibited internet access on unverified pre-paid SIM cards. Since verified pre-paid SIM cards and post-paid connections can be more easily traced, they are unlikely to be used for any illegal activity and since they will be used by ordinary civilians, 4G internet should be restored on such SIM cards

However, neither the orders passed by Respondent No. 4 dated 11.05.2020 and 27.05.2020 , nor the orders of the Special Committee demonstrate any consideration of these alternatives.

7.5. That the conduct of the Respondents in wilfully disobeying both the letter and spirit of this Hon'ble Court's judgement dated 11.05.2020 amounts to

contempt of this Hon'ble Court's judgment and order dated 11.05.2020 in ***Foundation for Media Professionals (supra)***.

7.6. The present petition is being filed alongside an application seeking a direction from this Hon'ble Court to (i) direct Respondent Nos. 3 and 4 to publicly notify the constitution of the Special Committee immediately; (ii) for the Special Committee to take a decision regarding the necessity of continuing the internet restrictions in Jammu & Kashmir; and (iii) in the interim, to direct restoration of mobile internet services in Jammu & Kashmir to 4G speed. The present petition is also being moved without any prejudice to the Petitioner's right to initiate separate proceedings for challenging Order No. Home 56 (TSTS) of 2020 dated 27.05.2020 or any other subsequent order passed by Respondent No. 4 restricting mobile internet speeds to 2G/3G in Jammu & Kashmir.

**Order No. Home 56(TSTS) of 2020 dated 27.05.2020 violates this Hon'ble Court's judgment in *Foundation for Media Professionals (supra)***

8. That in addition to the arguments demonstrating contempt made above, it is submitted that Order No. Home 56 (TSTS) of 2020 dated 27.05.2020 does not comply with the guidelines laid down by this Hon'ble Court in ***Anuradha Bhasin (supra)*** and ***Foundation for Media Professionals (supra)*** for two reasons.

8.1. *First*, in both ***Anuradha Bhasin (supra)***, **para 77-79** and ***Foundation for Media Professionals (supra)***, **para 16-17** this Hon'ble Court has clearly held that restrictions on internet access must be temporally and geographically limited; and must not be indiscriminately imposed across all districts without specific reasons, so as to satisfy the proportionality test. It is submitted that Order No. Home 56 (TSTS) of 2020 dated 27.05.2020 does not comply with this requirement inasmuch as it

issues a blanket direction to internet service providers to slow down internet speed to 2G in all districts of Jammu & Kashmir, without providing any reasons which reflect the ground situation in different districts and which may justify the restrictions temporally and territorially.

8.2. *Second*, in **Anuradha Bhasin (supra), para 163**, this Hon'ble Court held that internet restrictions cannot be imposed indefinitely and it directed the Review Committee under Rule 2(5) of the Telecom Suspension Rules to periodically review the necessity of continuation of internet restrictions every seven working days. This direction was meant to provide for "*adequate procedural and substantive safeguards to ensure that the imposed restrictions are narrowly tailored.*" It is submitted that Order No. Home 48 (TSTS) of 2020 dated 11.05.2020 and Order No. Home 56 (TSTS) of 2020 dated 27.05.2020 breaches this requirement because it authorizes internet restrictions for a time period

significantly longer than seven working days and there is no indication that it has been reviewed by the Special Committee constituted by this Hon'ble Court to replace the Review Committee under the Telecom Suspension Rules.

### **Subsequent Factual Developments**

9. That since this Hon'ble Court delivered its judgement on 11.05.2020, the COVID-19 crisis has worsened in Jammu & Kashmir. As on date, there are 3467 confirmed cases and 39 deaths relating to COVID-19 in the Union Territory according to the Ministry of Health & Family Welfare's dashboard.
10. That after two months of a nationwide lockdown which was imposed by Respondent No.3 on 25.03.2020, India is gradually re-opening its economy pursuant to 'Guidelines for Phased Re-Opening (Unlock 1)' issued by Respondent No.3 on 30.05.2020. A true copy of Order

No.40-3/2020-DM-I(A) dated 30.05.2020 issued by Respondent No. 3 under Disaster Management Act, 2005 is annexed herewith as **Annexure C-6 at pgs. 75 to 82.**

11. Through Order dated 30.05.2020, Respondent No.3 has allowed re-opening of certain activities which were earlier prohibited but several social distancing norms remain in place. In particular, access to 4G internet remains crucial even during the current phase for the following reasons:

11.1.As COVID-19 cases rise due to easing of restrictions, hospital infrastructure will get (and is already getting) overwhelmed, thus making telemedicine even more crucial during this phase. Doctors will continue to face the same problems (described in detail in the captioned Petition) in downloading and accessing essential medical information from the internet, as long as mobile internet speeds remain restricted to 2G.



11.2. Schools and universities continue to remain shut and a decision regarding re-opening of educational institutions will be taken in July 2020 after consulting States and Union Territories. In fact, the Central Government has advised the Union Territory to defer the opening of schools in Jammu & Kashmir. A true copy of the news report dated 03.06.2020 titled "Centre asks J&K to defer decision on reopening of schools from June 15" published in Indian Express is annexed as **Annexure C-7 at pg. 83**

11.3. Persons above the age of 65 years, persons with co-morbidities, pregnant women and children below 10 years have been advised to continue staying indoors.

11.4. Employers and district authorities have been directed to encourage use of the Aarogya Setu mobile app, which takes 11 times longer to download on 2G speed as per technical simulations. **(See pg. 75 of the affidavit by technical expert, Mr. Prateek Waghre in I.A. No. 48309 of 2020)**

11.5. Shops have been directed to ensure physical distancing and not allow more than five customers at one time. Since shops will operate at limited capacity, e-commerce remains necessary to ensure that people have access to essential supplies without any difficulty.

11.6. All organizations are required to continue following work from home as far as possible which requires high speed internet for file sharing and video conferencing.

The lack of 4G mobile internet has meant that the residents of Jammu & Kashmir have continued to suffer and be deprived of adequate fulfilment of their right to health, education, employment, and access to justice guaranteed under Article 14, 19, 21 and 21A of the Constitution.

12. That restoration of 4G internet services in Jammu & Kashmir is a broad-based demand which has been endorsed by leaders across party lines. Most recently,

the National General Secretary of the Bharatiya Janata Party, Shri Ram Madhav authored an opinion editorial noting that *“certain harsh measures like denial of 4G services, which were necessary under special circumstances, can now be done away with, as the state administration and security apparatus are capable of handling difficult situations.”* As Shri Ram Madhav explained, *“J&K has always been seen from either a Pakistan prism or the prism of the terrorists. That there are millions of ordinary people both in Jammu and in Kashmir, who are far removed from terrorism and separatism, and want to lead life as peaceful citizens of the country, does not appeal to these eminences.”* These observations are also consistent with this Hon’ble Court’s direction that restrictions on internet access can be imposed only for limited periods of time, and only in the case of a public emergency or for public safety. A true copy of op-ed titled ‘It is Time to Allow J&K Full Fledged Political Activity’ dated 21.05.2020 published by

the Indian Express is annexed herewith as **Annexure C-8 at pgs. 84 to 86.**

13. That Shri Amit Shah, the Minister of Home Affairs has also stated in a media interview that *“the lowest terrorist incidents after (19)90 have occurred after the removal of 370 and during 2014-2020.”* Therefore, Respondent No.3’s own assessment of the security situation suggests that there is no pressing need to continue denying access to 4G internet services to all districts of Jammu & Kashmir. A true copy of news report titled ‘Amit Shah's Interview with Arnab Goswami: On COVID, Mamata, CAA, Maharashtra, China & More’ dated 31.05.2020 published by Republic World is annexed herewith as **Annexure A-9 at pgs. 87 to 90.**

14. These subsequent factual developments have to be seen in light of the fact of wilful disobedience of Respondent Nos. 1 and 2 in failing to set up and facilitate the functioning of the Special Committee to

review the necessity of the orders passed by Respondent No. 4 continuing to restrict mobile internet access in Jammu and Kashmir.

15. The Respondents herein have wilfully disobeyed, and continue to wilfully disobey, the judgment and order given to them by this Hon'ble Court in ***Foundation for Media Professionals (supra)***, Diary No. 10817/2020 dated 11.05.2020 inasmuch as they have not constituted the Special Committee in line with the directions of this Hon'ble Court in paragraph 23 and 24 of its judgment in ***Foundation for Media Professionals (supra)***. The Respondents' conduct amounts to contempt of court, and contempt proceedings should be initiated against them forthwith.

16. That it is settled law that civil contempt includes disobedience, which is the consequence or inference of a dormant or passive behaviour on the part of the contemnor. This includes cases where the contemnor

does not take steps and just remains unmoved by the directions of the court. This Hon'ble Court in ***Maninderjit Singh Bitta v. Union of India, (2012) 1 SCC 273*** has held:

*“22..... As such, even in cases where no positive/active role is directly attributable to a person, still, his passive and dormant attitude of inaction may result in violation of the orders of the court and may render him liable for an action of contempt.*

.....

**25.** *Deprecating the practice of undue delay in compliance with the orders of the Court, this Court again in **M.C. Mehta v. Union of India** [(2001) 5 SCC 309] observed: (SCC p. 311, paras 8-9)*

*“... clear lapse on the part of NCT and Municipal Corporation. Even if there was no deliberate or wilful disregard for the court orders, there has clearly been a lackadaisical attitude and approach towards them. Though no further action*

*in this matter need be taken for now, but such lethargic attitude if continues may soon become contumacious.*”

26. *It is also of some relevance to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. .... The proceedings before the highest court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the court on a grievance raised by the public at large or public-spirited persons...” (Emphasis supplied)*

A true copy of **Maninderjit Singh Bitta v. Union of**

**India, (2012) 1 SCC 273** is annexed herein as **Annexure C-10** at **pgs. 91 to 103**.

17. That Respondent No. 1 (the Home Secretary of the Government of India) and Respondent No. 2 (Chief Secretary, U.T. of Jammu and Kashmir) may be summoned by this Hon'ble Court to explain their non-compliance with the judgment and order dated 11.05.2020 in **Foundation for Media Professionals (supra)**.

18. The cause of action arose on 11.05.2020 when Respondent No. 1 and 2 failed to review the Order No. Home-48(TSTS) of 2020 dated 11.05.2020, and is continuing till date inasmuch as Respondent Nos. 1 and 2 have failed to constitute the Special Committee. The cause of action continues since the Special Committee was required to consider the submissions and suggestions of the Petitioner, and the necessity and proportionality of Respondent No. 4's directions



immediately, which, even after 29 days it has not done.

The petition is being filed within limitation.

19. That the present Petition is being filed bona fide and in the interest of justice.

20. Due to the prevailing circumstances, the present Petition is being filed without a notarized affidavit from the Petitioner. The Petitioner undertakes to file a notarized affidavit in support of the Petition as soon as the same is feasible and also undertakes to pay any deficit in Court-Fee subsequently.

### **PRAYER**

In light of the aforesaid facts and circumstances, it is humbly prayed that this Hon'ble Court may be pleased to:

- a.** Initiate contempt proceedings against the Respondent No. 1 and Respondent No. 2 for their wilful disobedience and failure to constitute a Special

Committee in line with the directions in paragraphs 23 and 24 of the judgment dated 11.05.2020 passed by this Hon'ble Court in *Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr*, Diary No. 10817/2020;

- b.** Summon the Secretary, Ministry of Home Affairs (Home Secretary), Government of India (Respondent No. 1) to direct them to explain their position with respect to the non-compliance with paragraphs 23 and 24 of this Hon'ble Court's judgment in *Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr*, Diary No. 10817/2020
- c.** Summon the Chief Secretary, Union Territory of Jammu and Kashmir (Respondent No. 2) to direct them to explain their position with respect to the non-compliance with paragraphs 23 and 24 this Hon'ble Court's judgment in *Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr*, Diary No. 10817/2020

- d. Issue appropriate directions for the compliance of the judgment dated 11.05.2020 passed by this Hon'ble Court in *Foundation for Media Professionals v. U.T. of Jammu & Kashmir & Anr*, Diary No. 10817/2020; and
- e. Pass any other Order(s)/ Direction(s) that this Hon'ble Court may deem fit and proper in the present facts and circumstances.

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

**Filed By:**



**Place: New Delhi**

**SHADAN FARASAT**

**Date: 08.06.2020.**

**ADVOCATE FOR THE**

**PETITIONER**

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION CIVIL NO. \_\_\_ of 2020

In

Writ Petition (Civil) (Diary) No. 10817 OF 2020

**AND IN THE MATTER OF:**

Foundation for Media Professionals

... **Petitioner(s)****VERSUS**

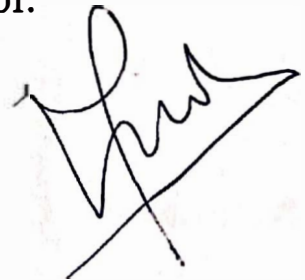
Ajay Kumar Bhalla &amp; Ors.

... **Respondent(s)****AFFIDAVIT**

I, Paranjoy Guha Thakurta S/o Late Pranab Guha Thakurta, aged about 64 years, the authorised representative of Foundation For Media Professionals, having its registered office at A-101, Shatabdi Rail Vihar, Sector-62, Noida-201301, presently at Gurgaon do hereby state on solemn affirmation as under:-

1. That I am the Authorised Representative of the Petitioner in the above mentioned Petition and as such I am conversant with the facts and circumstance of the present case.

2. That the contents of the contempt petition are true and correct to the best of my knowledge and belief, information derived from the record of the case and the legal submissions made therein are as per the advice of the counsel and are believed to be true and correct.
3. That the **Annexures** are true copies of the respective Originals.
4. The averments of facts stated herein above are true to the best of my knowledge and belief and no part of it is false and no material has been concealed thereof.

**DEPONENT**

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**Verification:**

Verified at Gurgaon on this 8th Day of June 2020 that the contents of my above affidavit are true and correct and no part of has been concealed thereof.

**DEPONENT**