

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
CONTEMPT PETITION (CIVIL) NO. 411/2020

IN THE MATTER OF :

FOUNDATION FOR MEDIA PROFESSIONALS ... PETITIONER


VERSUS

AJAY KUMAR BHALLA & ORS. ... RESPONDENTS

SHORT AFFIDAVIT ON BEHALF OF  
RESPONDENT NO. 3 [UNION OF INDIA]

I, Dharmendra Kumar, S/o Shri Baijnath Prasad, aged 44, presently working as Deputy Secretary (Legal and Constitution) in the Ministry of Home Affairs, Government of India, do solemnly affirm and state as under:

1. That in my official capacity I am well acquainted with the facts and circumstances of the present case and I am authorised to swear to this affidavit, which is being filed for the limited purpose of satisfying this Hon'ble Court that, *ex facie*, no case whatsoever of contempt of this Hon'ble Court is made out in this matter.
2. I state at the outset that, as explained in this affidavit, all directions issued by this Hon'ble Court in its judgment and final order dated 11.05.2020 in the present case have been fully and faithfully carried out by the concerned officials of the Government of India and the Government of the Union Territory of Jammu

  
(धर्मनंद कुमार)  
DHARMENDRAKUMAR  
उप सचिव  
Deputy Secretary  
गृह विभाग  
Ministry of Home Affairs  
आसन संख्या ८, नई दिल्ली  
Govt. of India, New Delhi

and Kashmir. I categorically deny the assertion by the petitioner that contempt of this Hon'ble Court has been committed, in any manner whatsoever, by the (alleged) non-compliance of the judgment and final order dated 11.05.2020 passed by this Hon'ble Court.

3. This Hon'ble Court had passed the following directions in the judgment and final order dated 11.05.2020:


*“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:*

*a. The Secretary, Ministry of Home Affairs (Home Secretary), Government of India.*

*b. The Secretary, Department of Communications, Ministry of Communications, Government of India.*


*c. The Chief Secretary, Union Territory of Jammu and Kashmir*

*The aforesaid Special Committee shall be headed by the Secretary, Ministry of Home Affairs (Home Secretary), Government of India.*


  
SECRETARY  
MINISTRY OF HOME AFFAIRS  
GOVERNMENT OF INDIA  
NEW DELHI

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.....”

4. I state that it would be evident from a reading of the operative portion extracted above that this Hon’ble Court had constituted a ‘Special Committee’ comprising of three officials, headed by the Home Secretary, Government of India, and directed the said Special Committee to examine the contentions of, and the materials placed on record by, the petitioner(s) before this Hon’ble Court. Further, the Special Committee was directed to examine the appropriateness of the alternatives suggested by the petitioners regarding limiting the restrictions on 4G services to only those areas where it is necessary and allowing faster internet speeds in other areas on a trial basis. On an examination of all these facets of the matter, the Special Committee was directed to advise the Union territory of Jammu and Kashmir, in regard to the restrictions on internet services in Jammu and Kashmir.
5. I submit that the case sought to be put forward in the contempt petition is based on the alleged failure of the respondents herein to constitute this Special Committee and, thereafter, the alleged failure of the Special Committee to carry out the mandate given by this Hon’ble Court.

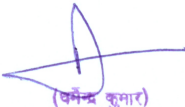
  
(धर्मनंद कुमार)  
(DHARMENDRA KUMAR)  
उप सचिव  
Deputy Secretary  
गृह मंत्रालय  
Ministry of Home Affairs  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

6. I submit that the contentions regarding the alleged failure to constitute this Special Committee through a notification or order of the Government are wholly wrong and misconceived. The Special Committee stood constituted by the judgment and final order dated 11.05.2020 passed by this Hon'ble Court itself, and no further order or notification of the Government was necessary in this regard.
7. I further submit that on 15.05.2020 (i.e. 4 days after the pronouncement of the judgment by this Hon'ble Court) the Special Committee constituted by this Hon'ble Court had its first meeting. All aspects of the matter were elaborately discussed, including the prevailing security situation in Jammu and Kashmir and the impact of the restrictions placed on 4G services in the region. The suggestions made by the petitioners before this Hon'ble Court were also discussed and debated. The Special Committee decided to obtain further detailed inputs, in regard to the prevailing situation on the ground level, before taking a decision in regard to the possibility of easing the restrictions on 4G services.
8. The Special Committee met again thereafter, on 10.06.2020, after detailed inputs in regard to the prevailing situation were obtained and analysed. A thorough and comprehensive consideration of all facets of the matter, including the feasibility of the alternatives suggested by the petitioners as well as the recent occurrence of terrorism related incidents in the region, was carried out. Ultimately, based on a considered and wide-ranging assessment of the prevailing situation in this sensitive region, the Committee arrived at a decision that the no further relaxation of

  
(धर्मेन्द्र कुमार)  
(DHARMENDRA KUMAR)  
उप सचिव  
Deputy Secretary  
गृह विभाग  
Ministry of Home Affairs  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

the restrictions on internet services, including 4G services, could be carried out at present. It was also decided that the next review by the Special Committee would be carried out after two months. However, the situation would be reviewed regularly by the other competent authorities, and if there is an improvement in the security situation appropriate action would accordingly be taken. A report to this effect was duly submitted by the Special Committee to the Government of the Union Territory of Jammu and Kashmir. A copy of this report, which sets out in detail the entire exercise carried out by the Special Committee, as well as the considerations which weighed with its members, is being placed before this Hon'ble Court in original. A reading of this report would establish beyond doubt that there is no merit whatsoever in the allegations levelled against the respondents in the contempt petition.

9. I may also respectfully submit that, from time to time, orders have been issued by the competent authority of the Government of the Union Territory of Jammu and Kashmir, in terms of the 'Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017', to regulate the internet services, including 4G services, in Jammu and Kashmir. These orders were issued, *inter-alia*, on 17.6.2020 and 8.7.2020. While the validity of these orders cannot be made the subject matter of a contempt petition, I submit that these orders are strictly in compliance with the law laid down by this Hon'ble Court, including in its judgment dated 11.05.2020 passed in the present case.
10. In view of the foregoing submissions, I submit that the contempt petition is misconceived and without any merit whatsoever, and is liable to be rejected outright by this Hon'ble Court.

  
(धर्मन्द्र कुमार)  
(DHARMENDRA KUMAR)  
उप सचिव  
Deputy Secretary  
गृह मंत्रालय  
Ministry of Home Affairs  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

**DEPONENT VERIFICATION**

Verified at New Delhi on this the 21 day of July, 2020 that the contents of this affidavit are correct to my knowledge derived from and based on the official record(s) and the information available in my office. No part of it is false and nothing material has been concealed therefrom.



**DEPONENT**

(अमरेंद्र कुमार)  
AMARENDRA KUMAR  
उप सचिव  
Deputy Secretary  
गृह विभाग  
Ministry of Home Affairs  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi