

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR

PUBLIC INTEREST LITIGATION NO. \_\_\_\_\_ /2020

PETITIONER : Adv. Arvind K. Waghmare

VERSUS

RESPONDENTS: PM Cares Fund (Prime Ministers Citizens Assistance and Relief in Emergency Situation), A Public Charitable Trust Created by Union Cabinet of India and others

SYNOPSIS

Date	Events
28.03.20	The respondents-Union Cabinet created a public Charitable Trust name and styled as "PM Cares Fund" (Prime Ministers Citizens Assistance and Relief in Emergency Situations) having the Hon'ble Prime Minister of India as its Chairperson and Ministers from the Department of Defence, Home and Finance were made Ex-Officio Board of Trustees.
	That the said fund was termed as dedicated National Fund with the prime objective of dealing with any kind of emergency or distress situation posed by the Corona Virus (Covid 19) pandemic and thus aimed at to provide relief to be affected citizen-persons in India. It is thus submitted that the said Fund was created in the extreme health emergency in view of the Covid 19 Pandemic in order to have Assistance from people of the country and also from overseas.

	<p>It is submitted that at the time of creation of the said Public Charitable Fund "PM Cares Fund", the certain guidelines with objectives were issued by the respondents- Board of Trustees.</p>
	<p>It is submitted that as per the said guidelines of the "PM Cares Fund", it was specifically mentioned therein that apart from the ex-officio chairperson and other 3 ex-officio Trustees, 3 other trustees will be appointed-nominated by the Hon'ble Chairperson of the Trust.</p>
	<p>It is submitted that since the creation of the said Charitable trust named as "PM Cares Fund" i.e. from 28.03.2020 till today i.e. still 09.05.2020 no such other Board of Trustees i.e. the 3 trustees to be nominated were not nominated and/or appointed by the Chairperson of the said Trust and thus despite there was no proper appointment-nomination as per the guidelines framed, the said trust is functioning and accepting crores of rupees in the said fund which is totally not suitable to the guidelines-deed framed by the respondents i.e. the Board of Trustees of "PM Cares Fund".</p>
	<p>It is therefore, submitted that the since the said fund was created in the extreme emergency situation to combat Covid 19 Pandemic in India and therefore, it was necessary to appoint on the Board of Trustees forthwith i.e. the moment the trust was created for creating donations from the people of India-citizen and also from the overseas. But unfortunately same was not</p>

	<p>done by the respondents and till date i.e. 09.05.2020, the other three important members on Board of Trust were not appointed-nominated and therefore, the petitioner being the citizen of India praying to this Hon'ble Court to look into the said issue immediately and direct the respondents, more particularly, the respondents no. 1 to 5 to immediately appoint-nominate other 3 important members as Board of Trustees on said trust name as "PM Cares Fund".</p>
	<p>The petitioner being the citizen of India and also one of the small donar in the said fund, thus, asking the said reliefs in order to have trust worthiness and for fortifying the confidence of the general public of the country in the said public trust called as "PM Cares Fund" and further most humbly and respectfully asking to the Hon'ble Court to direct the respondents, more particularly, the respondent no. 1 to 5 to appoint-nominate at least 2 members (out of 3 to be nominated-appointed) as a Board of Trustees from the opposition parties of the country i.e. from the Lok Sabha and Rajya Sabha in order to have proper check and balance of the affairs of the said public trust and for having transparency in the said high profile national dedicated fund.</p>
<p>28.03.20 to 09.05.20</p>	<p>There was no appointment-nomination of the 3 important Members on the trust called as "PM Cares Fund" as Board of Trustees and despite</p>

	<p>that the Lakhs and Crores of Rupees Fund were collected and utilized for the emergency work of Covid 19 Pandemic in India.</p>
<p>28.03.20 to 09.05.20</p>	<p>The respondents more particularly the respondents no. 1 to 5 had not declared in the public domain as to how many rupees were collected as on date and how the funds were utilized to the benefits of the affected Citizens of India due to Covid 19 Pandemic.</p>
	<p>Therefore, the petitioner in person most humbly and respectfully in order to fortify and strengthen the general peoples faith and confidence in the said national dedicated funds, it is necessary to issue immediate direction to the respondents to declare the funds collected so far i.e. within India and from overseas. It is to be noted as per the reports available in the first seven days from the creation of the said fund more than 6500 Crores were collected and the said was record and also it shows the support of the entire people of the country and from outside and therefore, it is necessary to issue the directions as prayed in the petition to immediately make public the collection of the funds in the name of "PM Cares Fund" and also the petitioner seeking further directions from the Hon'ble to direct the respondents to updates, the donation received and the expenditure made, atleast in every 7 days on the official websites of the said fund and or through the circular.</p>

	<p>The petitioner being the citizen of India also praying for suitable directions to the respondents to audit the income and expenditure of the said fund named as "PM Cares Fund" through the top most constitutional body created for the purpose of Audit i.e. through Comptroller and Auditor General of India (CAG) instead of the independents Auditors to be nominated by the Board of Trustees, in order to save the Constitutional honour, otherwise the citizen of the country will loose confidence and trust in the Constitutional Institutions.</p>
	<p>It is most humbly submitted that during this period from 28.03.2020 to 09.05.2020 as earlier stated crores of Rupees were collected from the people of the country. But shockingly despite the high collection and also number of countries financial health including USA and as per the directions of WHO Asian Development Bank had also granted USD 1.5 Billion loan to India for combating the Covid 19 Pandemic.</p>
	<p>On the other hands despite the receipt of Lakhs of Crores of rupees in the said dedicated fund from all directions right from the common people-citizen to high profile personnel, celebrities, employees, corporates such as Tata Groups, Ajim Premji Foundation etc., the plight of the citizen of the country and more particularly, the daily labourers, constructions labourers, factory labours is very shocking and</p>

	<p>the conditions is getting versioned day by day and number of stranded labourers in the various part of the country, due to declaration of nationwide lockdown and the reports are coming from every part of the country that number of stranded labourers and affected citizen were died due to starvation and man made accident like the one recently happed near Aurangabad on Railway Track in which number of innocent labourers were brutally killed and therefore, being citizen of the country the petitioner sadden after seeing the sorry state of affairs despite having Lacks and Crores of rupees collected in the said fund named as "PM Cares Fund" and therefore, the necessary direction as prayed in the petition is very much necessary considering the extreme urgent situation.</p>
	<p>It is submitted that the petitioner is having full locus being the citizen of the country and therefore, in the interest of general public of the country this petition in the form of Public Interest Litigation is being submitted to get extreme emergent relief considering the formation of emergent fund by the respondent no. 1 to 5 named as "PM Cares Fund". It is submitted that if the immediate intervention of this Hon'ble Court is not sought at the stage then there may be big loss or mis-management in the said national dedicated fund called as "PM Cares Fund". It is further submitted that the petitioner was accepting from the side of the</p>

	<p>Hon'ble Courts in India to have suo moto intervention in the affairs of the said national dedicated fund called as "PM Cares Fund", but, for want of the said the petitioner is approaching in the public interest jurisdiction of this Hon'ble Court and therefore, considering the relief prayed in the petition, the petition is fully fit as Public Interest Litigation.</p>
	<p>It is submitted that the petitioner in person is asking the certain immediate directions from the respondents no. 1 to 5 only in order to strengthen the trust and also to strengthen the transparency in the affairs of the funds.</p>
	<p>It is further submitted that in view of the relief prayed in the petition, the petitioner in person is not challenging the creation of the fund and also not asking for any probe in the creation of the fund and also not asking for transfer to any other account maintained by the Government of India, but on the contrary the petitioner in person is reposing faith in the said fund but only asking for certain direction in order to have transparency in the affairs of the said high profile national dedicated fund called as "PM Cares Fund".</p>
	<p>The petition is based on the materials collected from the certain official websites, the reports of the Electronic Media and Print Media including Times of India, Lokmat, The Hitvada, Dainik Bhaskar, Lok Satta, Punya Nagari, Sakal, Deshonnati etc., having circulation in the</p>

	territorial jurisdiction of this Hon'ble Court.
	Hence this petition.

**POINTS TO BE URGED :**

- i) Whether the petitioner is not entitled for the urgent reliefs prayed, in the prayer clause (i) to (v) at Page No. 18 to 20 of this petition, in respect of the emergent fund created by the respondents no. 1 to 5 to fight Corona Virus (Covid 19) Pandemic in India?
- ii) Whether the citizen of India from whom the funds were collected is not entitled to ask for more transparency in the affairs of the said high profile national dedicated fund called as "PM Cares Fund", a Public Charitable Trust created for Assistance to the affected citizen of the country and allied matters?
- iii) Whether, it was right on the part of respondent no. 1 to 5 to run the trust without nominating-appointing the most important members on the Board of trust and also not making public the collection of the fund received from it?
- iv) Whether, the petitioner in person being the citizen of country is not entitled to raise the question and asked for transparency and trust worthiness in the affairs of the said fund created for the use of citizen of the country named as "PM Cares Fund"?



ACTS AND RULES :

- i) Constitution of India
- ii) Public Trusts Laws Applicable in India

CITATION RELIED UPON :

Will be cited at the time of hearing.

NAGPUR  
DATED : 09/05/2020

PETITIONER-IN-PERSON  
(Adv. Arvind K. Waghmare)

1) That, the petitioner is a citizen of India having permanent resident at the address quoted in the title clause and is peace living and law abiding citizen. That, the petitioner is also a legal practitioner having more than 20 years standing at the Bar and a public spirited person associated with number of social organizations and also made number of litigations in public interest including the one in respect of pesticides deaths in the Vidarbha Region. It is further submitted that the petitioner is the life member of High Court Bar Association as well as District Bar Association and practicing most for the public cause.

2) It is submitted that the petitioner in person is approaching to this Hon'ble Court in the most emergency situation and asking for the directions in respect of the fund created by the Union Cabinet on 28.03.2020 name and styles as PM Cares Fund (Prime Ministers Citizens Assistance and Relief in Emergency Situation), A Public Charitable Trust by creating a Trust Deed to that effect (Copy of the same is not available in the public domain), it is submitted that the petitioner is entirely placing reliance from the gathered material received from the concerned websites, print media and the reports of electronic media in respect of the same.

3) It is submitted that the petitioner in person added as many as 9 Respondents to the petition. It is submitted that the petitioner in person seeking directions against the respondents No. 1 to 5 only in this petition. It is further submitted that the respondents no. 6 to 9 is the implementing authorities of the respondent no. 1 to 5 and they have collected the funds from the Nagpur Division as well as Amravati Division for "PM Cares Fund" which false within the jurisdiction of this Hon'ble Court and therefore, the respondent no. 6 to 9 joint as party respondents in the petition as implementing and collections authorities in this cause due to Corona Virus (Covind 19) in the region.

4) It is further made it clear that the petitioner is not challenging and or disputing the creation of the public Trust in the name and style as "PM Cares Fund" on any ground, whether constitutional or otherwise. It is further submitted that the petitioner is very well aware about the earlier petitions filed by the some lawyers and group of lawyers before the Hon'ble Apex Court.

5) It is further most humbly submitted that, as has stated in the above paragraph the petitioner is at all not challenging the creation of the fund in any way and also not

asking and praying for transfer of the entire "PM Cares Fund" amount to the Consolidated Fund of India or any other account of the Union Government. It is further made it clear that the petitioner is also not asking for any probe or investigation regarding the creation of the "PM Cares Fund", a Public Charitable Trust created by Union Cabinet through Trust Deed to fight the extreme Emergency Health situation occurred in the country and therefore, it is submitted that the cause of action though is in respect of the "PM Cares Fund", a Public Charitable Trust, but the facts and prayers as prayed in the petition are totally different from the petition earlier filed before the Hon'ble Apex Court and therefore, the petition though pertains to mere directions in respect of the "PM Cares Fund", a Public Charitable Trust, in the public interest and to raise the trust and confidence of the general public of the country. In other words the petition asking for transparency and real public trust by way of Specific Directions asked for in the present petition and therefore, the present petition is neither against the formation of the "PM Cares Fund" and the power used by the union cabinet and also not challenging the virus of the fund in any way and it is only in respect of certain directions in the public interest and for in the interest of transparency in respect of high profile

National Dedicated Fund created by the Union Cabinet on 28.03.2020. And therefore, considering the prayers and facts as set out in the petition the earlier order passed in respect of the petitions pertains to "PM Cares Fund" before the Hon'ble Apex Court in no way operates as res judicata in the matter.

6) It is further most humbly and respectfully submitted that the petitioner being the citizen of India and also a small doner to the "PM Cares Fund" is having every right to know the exact position of the account of the "PM Cares Fund" being a citizen. It is further submitted that the "PM Cares Fund" created by the Union Cabinet on 28.03.2020, is in respect of the entire country and right from ordinary individual celebrities, government officials, professional, government organizations, public sector undertakings, Corporate etc. had paid Crores of Rupees to the "PM Cares Fund" upon the appeal of the Hon'ble Prime Minister of India.

7) It is submitted that the major doners are Tata Groups having donated of Rs. 1500 Crores, Ajim Premji Foundations having donated Rs. 1125 Crores, collective donation of Army, Navy and Force of Rs. 500 Crores and the celebrates from the Bollywood also generously donated

crores of rupees to the fund. It is further submitted that as many as 339 members of Parliament have donated Rs. 365 Crores from their Member of Parliament Local Area Development Schemes, the Employees of Defence Ministries also generously donated to the fund and not only that the other employees-Ex-employees of the Union and State Governments are also donated generously to the said fund and in most cases one day payment of every employees is being deducted since April 2020 to March 2021 in order to grant donation to the "PM Cares Funds".

8) It is further submitted that, as per the reports in the media, both print and electronic, and as per the other websites, it was learnt that in the first phase of 7 days from the creation of the "PM Cares Funds" on 28.03.2020 i.e. in a week, the fund generated an amount of more than Rs.6500 Crores which is very high considering the record of PMNRF, which is the loan fund created by the Government of India in the year 1948 to deal with Emergent situation in the country. It is thus submitted that since the creation of the Fund till date, it is expected that the amount more than 50000 Crores and in between 100000 Crores must have been accumulated in the "PM Cares Funds", but the same are mere speculation for want of exact reports from the

respondents and therefore, the every citizen of this country is very much eager and excited to know the fate of the account created by the respondents. It is submitted that as on date more than 40 days is elapsed and billions of Rupees were collected in the said "PM Cares Funds".

9) It is further submitted that apart from the collection in the "PM Cares Funds" other major countries like USA granted USD 2.9 Million and Asian Development Bank (ADB) approved and granted USD 1.5 Billions (11400 Crores) as per the advise WHO and thus the funds from all directions are being accumulated in the "PM Cares Funds" and the citizens of the country is not aware about the exact collection of the fund which was created to fight against Corona Virus Pandemic in India.

10) It is thus submitted that though the trust is created on 28.03.2020 by the respondents having the Hon'ble Prime Minister of the India is the Chairperson and Ministers of Defence, Home and Finance have made ex-officio Board of Trustees and the Chairperson was granted with the power to nominate as many as 3 Board of Trustees from the field of Research, Health, Science, Law, Social Work, Public Administration and Philanthropy. It is submitted that the moment the Public Trust is created it requires full creative

strength and so far as the "PM Cares Fund", a Public Charitable Trust created by the respondents is concerned till date, they have not nominated 3 Trustees on the "PM Cares Fund", a Public Charitable Trust and without there being full Board of Trustees the trust is created and made operational w.e.f. from 28.03.2020, which is against the settled judicial norms and therefore, it is necessary to immediately direct the respondents to process the nomination of the other three board of trustees on the "PM Cares Fund", a Public Charitable Trust.

11) It is further submitted that in order to have Trust worthiness and transparency and also proper check and balance and considering the high profile national dedicated fund, it is necessary to direct the respondents to appoint-nominates as many as two Board of Trustees from the Opposition Parties at Loksabha and Rajya Sabha.

12) It is most humbly and respectfully submitted that the main objectives of the "PM Cares Fund", is as under

- 1) To undertake and support relief or assistance of any kind relating to a public health emergency or any other kind of emergency, calamity or distress, either man-made or natural, including



the creation or upgradation of healthcare and pharmaceutical facilities, other necessary infrastructure, funding relevant research or any other type of support.

- 2) To render financial assistance, provide grants of payments of money or take such other steps as may be deemed necessary by the Board of Trustees to the affected population.
- 3) To undertake any other activities, which is not inconsistent with the above objects.

13) It is submitted that after the lockdown due to spread of Corona Virus (Covid 19) in India Lakhs of Migrant Labourers were stranded in various part of the country and were suffered a lot and in that process number of innocent labourers and there families were have to lost there lives for want of food and due to non-availability of transport mechanism to reach them to native places. It is further submitted the recent horrifying incident which occurred at Aurangabad-Jalana Railway Track on 08.05.2020 claims lives of more than 15 labourers and number of such incidence happened in various part of the country since the lockdown was declared by the Union Government. It is

thus submitted that despite having Lakhs and Crores of rupees in the "PM Cares Fund", the most unprivileged class of the country, which is having population of than 50% was not taken proper care of. It is submitted that the people of the country, organization, corporations employees had generously donated to the "PM Cares Fund", but as per objectives of the trust and more particularly the objective no. 2 it seems that the trust failed to provide necessary assistance to the affected population of the country.

14) It is thus submitted that considering the facts of the petition, it is necessary to immediately further direct the respondents to make public the amount generated in PM Cares Fund by uploading the data on the official website of pmcares.gov.in, in order to strengthen the Trust, Confidence and Trust worthiness, because due to Lapse of number of days, no such data in respect of accumulation of amount in total from all sources were not declared by the respondents, more particularly the Board of Trustees of the "PM Cares Fund", and as earlier stated till date 3 imminent Trustees was not nominated by the Board, from these circumstances, the confidence of the General Public of the country is being loosening and therefore, it is necessary

at the same time for the respondents too, to clear the doubts of the general public by appointing/nominating three board of trustees and at least two essentially from the opposition parties leadership of the country.

15) That, the petitioner for the purpose of this petition has already stated is relying on the material collected from the certain official website and the print media. That, copies the material collected from the concerned official website for the purpose of the present Public Interest Litigation is annexed herewith including the cheque furnished by the petitioner in the fund and marked as ANNEXURE – A (Collectively) uploaded from March to May 2020. That, copies of certain news items published in daily newspapers circulated within the region from March to May 2020 are also annexed with this petition as ANNEXURE – B (Collectively).

16) It is further submitted that considering the facts and prayer in the petition in the respect of making public the PM Cares Fund accumulated amount. It is further necessary to direct the respondent to regularly upload the updates in respect of received donations and the expenditures therefrom at least once in a week and make them available in the public domain i.e. official website/circular etc.

17) It is further submitted that after going through the data generated from the websites and also the statements made by the authorities of the respondents, it is not made clear that the audit of the "PM Cares Fund", is to be made by the independent auditors nominated by the Board of Trustees. It is submitted that the Comptroller and Auditor General of India (CAG) is empowered to audit all expenses from the combined fund of the Union and State and is the top most Auditor Agency of the Country having credential and trust worthiness and therefore, to nominate independent auditors in place of top most agency of the Government will amount to degrading the authority of the top most audit body of the country and therefore, respondent be directed to consider this prayer positively and also considering the high profile national dedicated fund created for the combat the Corona Virus Pandemic in India.

18) It is submitted that as gathered from the concerned websites, it was noted that as on date as many as 20 Nodel Branches of the Bank were permitted to collect the "PM Cares Fund", and each bank was having separate bank account for their collections, which includes State Bank of India, Central Bank of India, Indian Overseas Bank, Axis Bank, IDBI Bank, HDFC, IDFC, ICICI, Indian Bank, Canera

Bank, Yes Bank, Kotak Mahindra, IndusInd, Bank of Maharashtra, Standard Chartered, Federal, Bandhan, Jan Small Finance, RBL, Equitas Small Finance etc. having their branches at New Delhi, but the transfer of all amount and accumulation to one account i.e. "PM Cares Fund", is still beyond the reach of common citizen of the country and therefore, necessary directions as prayed in the petition is most urgent and necessary considering the facts and more particularly, the fund created for the extreme emergent assistance to the citizen of country i.e. Welfare of the Common man and every citizen of the country and therefore, the directions very much emergent and necessary in to strengthen the trust worthiness as well as transparency in the whole process of "PM Cares Fund", and its maintenance by the respondents.

19) Therefore, this Public Interest Litigation is being filed in the extreme urgent situation and for extreme urgent direction in respect of PM Cares fund to strengthen the confidence of the general public of the country on this high profile National Dedicated fund and therefore, the under the extra ordinary jurisdiction and considering the public trust necessary directions required to be made under Article 226 of the Constitution of India R/w Public Interest Litigation

Rules framed by the Bombay High Court and the petitioner has no other option than to approach this Hon'ble Court, in the extra ordinary situation for the extra ordinary emergent reliefs in the interest of pure public of the country and the petitioner has no interest except the public Interest and the interest of the country.

20) It is submitted that the present petition is being instituted on purely pro bono publico purpose and in respect of the emergency fund created by the respondents considering the Corona Virsus Pandemic in India and the petitioner is the public spirited citizen of India and also legal practitioner.

21) It is submitted that the cause of action for the public interest litigation was firstly occurred on 28.03.2020, when the PM Cares Fund was created by the respondents and the respondents started demanding financial assistances from the all walks of life within India and abroad and the petitioner is also one of the small doner issued cheque of Rs. 1111/- from Nagpur to the PM Cares Fund under the respondents and being the citizen of the country, the petitioner is claiming transparency in high profile fund created by the respondent by way of specific directions as prayed in the petition. It is submitted that if the directions

as prayed in the petition is not urgently made by this Hon'ble Court, there is possibility that the high profile fund may be mishandled without any check and balance and in that case, the said huge amount donated by the people of the country with full confidence on the respondents and the people and citizen may loose faith on the respondents and there may be heavy loss if the directions as prayed is not granted at this stage, because this is the appropriate state were the directions as prayed is most urgently required.

22) It is submitted that the petitioner has no personal gain, private motive or any other oblique reason in filing the present Public Interest Litigation. That, the petitioner is ready to follow the directions issued by the Court considering the Public Interest Litigation Rules, 2010 and further the petitioner in person will maintain the decoram of the court during the course of hearing via video conferency or in regular course.

23) The petitioner has not preferred any writ petition or appeal as regards to the subject matter of present petition before this Hon'ble Court or before Hon'ble Apex Court.

24) That petitioner craves leave to add amend delete any of the above referred Para with prior permission of this Hon'ble Court.

25) The petitioner undertake to supply English translation of the Marathi documents as and when so directed by this Hon'ble Court and also the petitioner undertakes to file hard copy of the petition with affidavit and appropriate court fees, in the office of Bombay High Court, Nagpur Bench after starting of Regular Working of the Court by Lifting of Lockdown by the appropriate government.

26) That the petitioner has not received any caveat in the matter.

Hence this petition.

PRAYER : It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may kindly be pleased to issue appropriate writ, order or direction to the respondents and thus be pleased to :

- i) Issue appropriate directions to the respondents to immediately appoint-nominate other three trustees on the public trust created by union



cabinet-through deed name and styled as "PM CARES FUND" created to fight emergent health situation and crises created by corona virus (covid 19) in India;

- ii) further appropriate directions be issued to the respondents to appoint-nominate at least two trustees (Out of 3) from the opposition parties from Lok Sabha and Rajya Sabha in order to have proper check and balance and also to strengthen the confidence of general public of the country and for transparency about the high profile National Dedicated Fund called as PM Cares Fund;
- iii) further appropriate directions be issued to compulsorily audit the funds of "PM Cares Fund" a public charitable trust, through the office of Comptroller and Auditor General of India instead of independent auditors as decided by the concerned board of trustees of the PM Cares Fund" in order to honour and respect trust worthiness of the top most institute of the country created by the Constitution of India;

- iv) further issue appropriate directions to immediately make public the entire funds received as on date, whether domestically or from overseas i.e. from NRI's and foreign nationals and/or organization on the official websites of the "PM Cares Fund" in order to strengthen trust and confidence of the general public of the country who donated there hard earned money to the said national dedicated fund called as "PM Cares Fund" and also give directions to updates the donations received and expenditure incurred from the said account on its official websites by at least every seven days in order to have transparency;
- v) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the case, in the interest of justice and general public of India.

NAGPUR  
DATED : 09/05/2020

PETITIONER-IN-PERSON  
(Adv. Arvind K. Waghmare)